



AGENDA

Thursday, January 22, 2015 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2015-04

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. 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 meeting. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

II. 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.)*

1. Board Order No. _____ Boundary Change Proposal CL 14-006, Annexation to Clackamas County Rural Fire Protection District No. 1 (Chris Storey, County Counsel, Ken Martin, Boundary Change Consultant)
2. Board Order No. _____ Boundary Change Proposal CL 14-005, Annexation to Clackamas County Service District No. 1 (Chris Storey, County Counsel, Ken Martin, Boundary Change Consultant)
3. Board Order No. _____ Boundary Change Proposal CL 14-008, Annexation to Sunrise Water Authority (Chris Storey, County Counsel, Ken Martin, Boundary Change Consultant)

III. DISCUSSION ITEM *(The following items will be individually presented by County staff or other appropriate individuals. Citizens wishing to comment on a discussion item must fill out a blue card provided on the table outside of the hearing room prior to the beginning of the meeting.)*

Department of Transportation & Development

1. Approval of the Clackamas County Planning & Zoning Division 2015-2016 Work Program (Mike McCallister, Planning Director)

IV. 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. Department of Transportation & Development

- 5 1. Board Order No. _____ to Acknowledge SE Sunnybrook Blvd. as a County Road, County Road No. 3418

B. Elected Officials

- 6 1. Approval of Previous Business Meeting Minutes – BCC

C. Administration

- 7 1. Approval and Adoption of Affirmative Action Hiring Goals – *Diversity, Equity & Inclusion*

D. Department of Employee Services

- 8 1. Approval of an Amendment to the Clackamas County Health Care Flexible Spending Account Plan Document
- 9 2. Approval of Agreements with Providence Health Plan and Unified Life Insurance Company for Administrative Services for Clackamas County's Self-Funded Medical Benefits
- 10 3. Approval of the Labor Contract between Clackamas County and the Clackamas County Peace Officers Association (CCPOA)

V. NORTH CLACKAMAS PARKS & RECREATION DISTRICT

- 11 1. Approval of an Oregon Parks and Recreation Department Recreational Trails Program Agreement, RT14-021, Sunnyside Village Trail

VI. COUNTY ADMINISTRATOR UPDATE

VII. 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.*



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

January 22, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Approval of Annexation to Clackamas County Rural Fire Protection District # 1

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Safety Impact	Not Applicable
Duration	Perpetual
Previous Board Action	None
Contact Person	Chris Storey, Assistant County Counsel Ken Martin, Boundary Change Consultant
Contract No.	Not Applicable

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a rural fire protection district. Clackamas County Rural Fire Protection District # 1 (Clackamas County R.F.P.D # 1) is such a district.

Proposal No. CL 14-006 is a proposed annexation to Clackamas County R.F.P.D. # 1.

State statute requires the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 500 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation.

This proposal was initiated by a consent petition of the owners of all of the property to be annexed. The petition meets the requirement for initiation set forth in ORS 198.857 and ORS 198.750 (section of statute which specifies contents of petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally on the southern edge of the District. The territory contains 204 acres, 1 single family dwelling and is valued at \$246,960.

REASON FOR ANNEXATION

The property owners desire to construct one home on the property and the County requires proof of availability of fire protection in order to issue the building permit.

CRITERIA

Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-14-006, annexation to Clackamas County R.F.P.D. # 1.

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

In the Matter of Approving
Boundary Change Proposal
No. CL 14-006



ORDER NO.

This matter coming before the Board at this time, and it appearing that all of the owners of the land in the territory to be annexed have petitioned to annex the territory to Clackamas County Rural Fire Protection District # 1;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report; and

It further appearing that this matter came before the Board for public hearing on January 22, 2015 and that a decision of approval was made on January 22, 2015;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 14-006 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Rural Fire Protection District # 1 as of January 22, 2015.

ADOPTED this 22nd day of January, 2015.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

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

Exhibit A
Proposal No. CL-14-006



FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 204 acres, 1 single family dwelling and is valued at \$246,960.
2. The property owners desire to construct one home on the property and the County requires proof of availability of fire protection in order to issue the building permit.
3. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."
4. The Plan is considered in Finding 5 below. There are no agreements between the District and a "local government" which relate to annexation of this property.
5. The area is designated Forest on the Clackamas County Non Urban Area Comprehensive Plan and is zoned Timber (TBR). The County has determined that a single family dwelling is allowable providing proof of availability of fire protection is provided.

The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Support a sufficient level of fire safety and prevention in all areas of the County in order to minimize the risk of fire damage to the life and property of all residents

6. There are no public sewers in this rural area.
7. There is no public water district in this rural area.
8. The area receives police service from the Clackamas County Sheriff's Department.

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

Exhibit A
Proposal No. CL-14-006



9. The territory is adjacent to Clackamas County R.F.P.D. # 1 on the west and Estacada R.F.P.D on the east. Clack. Co. R.F.P.D # 1 has reviewed the proposed annexation and concluded that it can provide a rural level of service to the area.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. ORS 198 requires the Board to consider the applicable local comprehensive plan and any service agreements affecting the area. The local comprehensive plan was considered as noted in Finding No. 5 above. The level of service will be essentially rural and similar to the level which is available to adjacent areas already within the District. Therefore the proposed action appears to be consistent with the applicable section of the County Comprehensive Plan.
2. As noted in Finding 4 there are no agreements between the District and a local government affecting this proposed annexation.

EXHIBIT B

DESCRIPTION FOR ANNEXATION

A TRACT OF LAND LOCATED IN THE N.W. AND S.W. 1/4 OF SECTION 7 AND THE N.W. 1/4 OF SECTION 18, T.4S., R.4E., ALSO IN THE N.E. AND S.E. 1/4 OF SECTION 12 T.4S., R.3E., W.M., CLACKAMAS COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

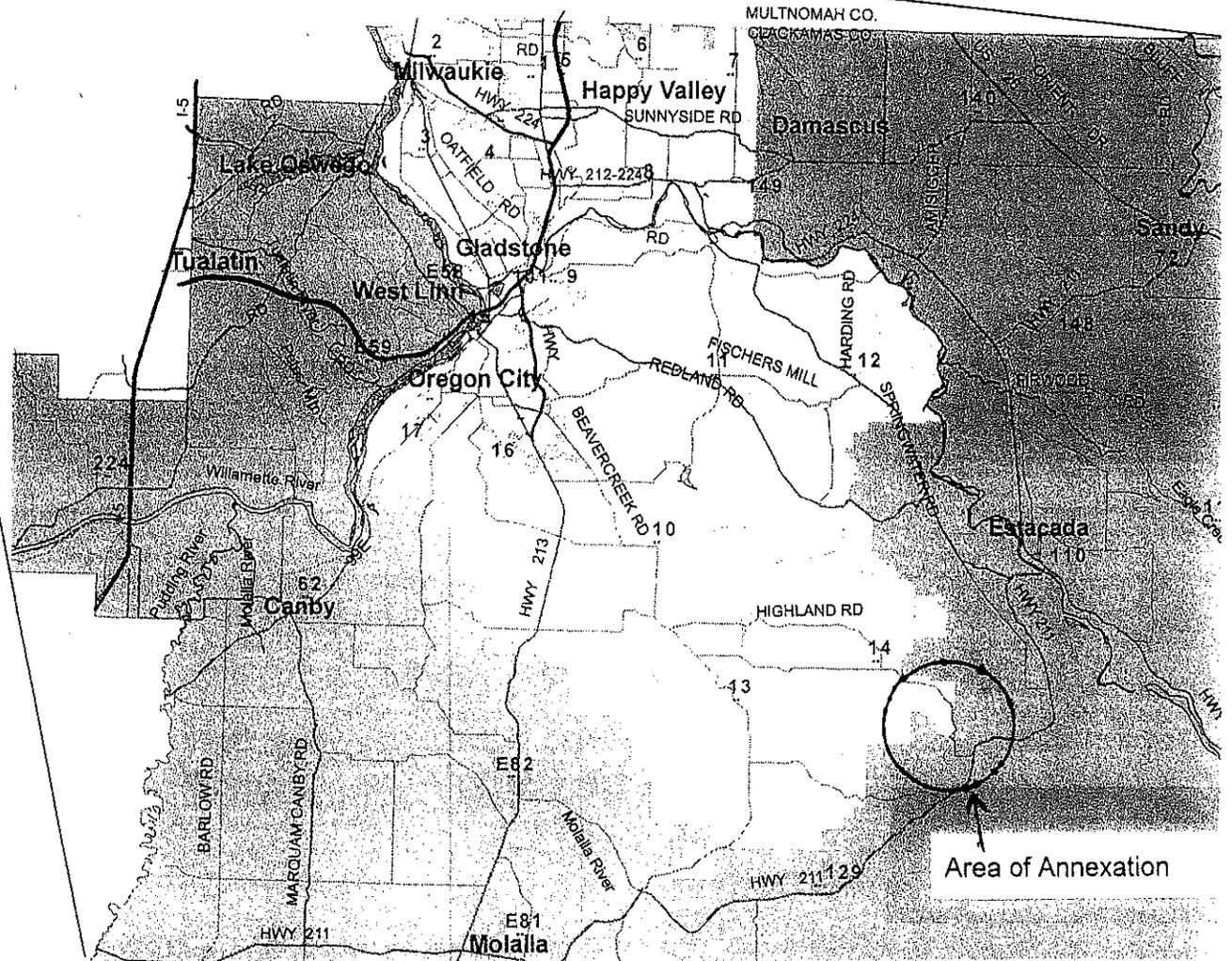
BEGINNING AT THE CORNER COMMON TO SECTIONS 7 AND 18, T.4S, R.4E, AND SECTIONS 12 AND 13, T.4S, R.3E., W.M., CLACKAMAS COUNTY, OREGON; THENCE S00°24'00"W, ALONG THE WEST LINE OF SAID SECTION 18, A DISTANCE OF 1,328.50 FEET TO THE S.W. CORNER OF THE N.W. 1/4 OF THE N.W. 1/4 OF SAID SECTION 18; THENCE S89°19'00"E, ALONG THE SOUTH LINE OF SAID N.W.1/4 SECTION, A DISTANCE OF 626.52 FEET TO THE S.E. CORNER OF THE WEST 1/2 OF THE N.W. 1/4 OF THE N.W. 1/4 OF SAID SECTION 18; THENCE N00°19'36"E ALONG THE EAST LINE OF SAID WEST 1/2, A DISTANCE 1,319.13 FEET TO THE SOUTH LINE OF SAID SECTION 7, ALSO BEING THE S.E. CORNER OF THE WEST 1/2 OF THE S.W. 1/4 OF THE S.W. 1/4 OF SAID SECTION 7; THENCE N00°30'30"W ALONG THE EAST LINE OF SAID WEST 1/2, A DISTANCE OF 1,329.90 FEET TO THE N.E. CORNER OF SAID WEST 1/2, ALSO BEING ON THE SOUTH LINE OF THE N.W. 1/4 OF THE S.W. 1/4 OF SAID SECTION 7; THENCE S88°32'00"E ALONG SAID SOUTH LINE, A DISTANCE OF 648.35 FEET TO A 5/8" IRON ROD; THENCE S88°32'00"E CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 50.00 FEET MORE OR LESS TO THE THREAD OF CLEAR CREEK; THENCE ALONG THE THREAD OF SAID CLEAR CREEK, A DISTANCE OF 400.00 FEET MORE OR LESS TO A POINT WHICH BEARS S88°32'00"E, A DISTANCE OF 50.00 FEET FROM A 5/8" IRON ROD: THENCE N88°32'00"W, A DISTANCE 50.00 FEET TO SAID IRON ROD; THENCE CONTINUING N88°32'00"W, A DISTANCE OF 172.28 FEET TO A 5/8" IRON ROD: THENCE N00°21'38"W, A DISTANCE OF 941.32 FEET TO A 5/8" IRON ROD ON THE SOUTH LINE OF THE N.W. 1/4 OF SAID SECTION 7; THENCE S88°32'02"E ALONG SAID SOUTH LINE, TO THE THREAD OF CLEAR CREEK: THENCE NORTHEASTERLY ALONG THE THREAD OF SAID CLEAR CREEK TO THE EAST LINE OF THE N.W. 1/4 OF SAID SECTION 7: THENCE ALONG SAID EAST LINE TO THE N.E. CORNER OF THE S.E. 1/4 OF THE N.W. 1/4 OF SAID SECTION 7; THENCE N87°40'58"W ALONG THE NORTH LINE OF SAID S.E.1/4, A DISTANCE OF 1,314.10 FEET TO THE S.E. CORNER OF THE N.W. 1/4 OF THE N.W. 1/4 OF SAID SECTION 7; THENCE N00°14'56"E ALONG THE EAST LINE OF SAID 1/4 SECTION, A DISTANCE OF 1,326.74 FEET TO THE NORTH LINE OF SAID SECTION 7;

THENCE N87°36'13"W ALONG SAID NORTH LINE, A DISTANCE OF 1,251.77 FEET TO THE N.W. CORNER OF SAID SECTION 7; THENCE S00°13'00"W ALONG THE WEST LINE OF SAID SECTION 7, A DISTANCE OF 2,617.44 FEET TO A 3/4" IRON PIPE MARKING N.E. CORNER OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 73-021099, CLACKAMAS COUNTY DEED RECORDS; THENCE; S83°45'00"W LEAVING SAID SECTION LINE, ALONG THE NORTH LINE OF SAID TRACT, A DISTANCE OF 907.20 FEET MORE OR LESS TO THE CENTER OF MARKET ROAD NO. 21 (UPPER HIGHLAND ROAD)(WHERE AT 872.6 FEET AN IRON PIPE SET IN THE EASTERLY RIGHT OF WAY LINE OF SAID MARKET ROAD 21); THENCE SOUTHERLY, TRACING THE CENTERLINE OF SAID MARKET ROAD 21 TO THE NORTH LINE OF THE S.E. 1/4 OF THE S.E. 1/4 OF SAID SECTION 12; THENCE S04°43'06"W, CONTINUING TO FOLLOW THE CENTERLINE OF SAID MARKET ROAD NO. 21, A DISTANCE OF 338.43 FEET TO A POINT; THENCE N89°36'17"E, A DISTANCE OF 85.00 FEET TO A POINT; THENCE S10°48'16"E PARALLEL WITH THE CENTERLINE OF SAID MARKET ROAD NO. 21; A DISTANCE OF 480.00 FEET TO A POINT; THENCE S89°36'17"W, A DISTANCE OF 85.00 FEET TO THE CENTERLINE OF SAID MARKET ROAD NO. 21; THENCE S11°00'38"E FOLLOWING SAID CENTERLINE, A DISTANCE OF 276.97 FEET MORE OR LESS TO THE NORTHERLY BOUNDARY OF THAT TRACT OF LAND CONVEYED TO ROY C. SMITH AND WIFE, BY DEED RECORD IN BOOK 438 PAGE 320, CLACKAMAS COUNTY DEED RECORDS; THENCE N89°30'22"E , ALONG SAID NORTH LINE, A DISTANCE OF 347.40 FEET TO THE WEST LINE OF SAID SECTION 7; THENCE S00°03'43"E ALONG SAID WEST LINE, A DISTANCE OF 247.50 FEET TO THE POINT OF BEGINNING.

THIS DESCRIPTION IS FOR ANNEXATION PURPOSES ONLY AND NOT TO BE USED FOR TITLE OWNERSHIP TRANSFER.

Fig. 1

Clackamas Co. Fire





2

OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

January 22, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Approval of Annexation to Clackamas County Service District No. 1

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Safety Impact	Not Applicable
Duration	Perpetual
Previous Board Action	None
Contact Person	Chris Storey, Assistant County Counsel Ken Martin, Boundary Change Consultant
Contract No.	Not Applicable

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 14-005 is a proposed annexation to Clackamas County Service District No. 1.

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of the owners of all of the property to be annexed. The petition meets the requirement for initiation set forth in ORS 198.855, ORS

198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally on the eastern edge of the District within the City of Happy Valley. The territory contains 30.52 acres, three vacant single family dwellings and is valued at \$2,836,638.

REASON FOR ANNEXATION

The property owners desire annexation to provide sewer service to facilitate development of a 66 lot planned unit development.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the section below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-14-005, annexation to Clackamas County Service District No. 1.

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

In the Matter of Approving
Boundary Change Proposal
No. CL 14-005



ORDER NO.

This matter coming before the Board at this time, and it appearing that all of the owners of the land in the territory to be annexed have petitioned to annex the territory to Clackamas County Service District No. 1;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on January 22, 2015 and that a decision of approval was made on January 22, 2015;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 14-005 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of January 22, 2015.

ADOPTED this 22nd day of January, 2015.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

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

Exhibit A
Proposal No. CL-14-005



FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 30.52 acres, three vacant single family dwellings and is valued at \$2,836,638.
2. The property owners desire annexation to provide sewer service to facilitate development of a 66 lot planned unit development.
3. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the Findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

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

Exhibit A
Proposal No. CL-14-005



To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The original public facility plan for this area does call for service by the District. The proposal is consistent with the Comprehensive Plan as stated in Finding 6 below. No concept plans cover this area.

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

Exhibit A
Proposal No. CL-14-005



4. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

5. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

6. The City of Happy Valley's Comprehensive Plan identifies this area as Single Family – R-15 & R-20. Land use approvals for the 66 lot Planned Unit Development were granted by the City of Happy Valley July 8, 2014.
7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no

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

Exhibit A
Proposal No. CL-14-005



urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.

8. The District has an 8 inch sewer line available to serve the area in Nicholas Drive at the west edge of the area to be annexed.
9. The territory to be annexed is adjacent to the Sunrise Water Authority and a separate annexation to that entity is being pursued. The District has water lines in S.E. Nicholas Drive and south of the property in S.E. Vradenburg Road.
10. The area receives police service from City of Happy Valley which contracts with the Clackamas County Sheriff's Department.
11. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
12. The area to be annexed is within the North Clackamas County Parks & Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 3 & 7 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.

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

Exhibit A
Proposal No. CL-14-005



3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County's Comprehensive Plan and Happy Valley's Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District has service available to the area to be annexed as noted in Finding No. 8. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050(B)(2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



AKS ENGINEERING & FORESTRY, LLC
 12965 SW Herman Road, Suite 100, Tualatin, OR 97062
 P: (503) 563-6151 F: (503) 563-6152

AKS Job #3786

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM, OR

EXHIBIT B

Annexation Description

A tract of land located in the Southeast One-Quarter of Section 25, Township 1 South, Range 2 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon and being more particularly described as follows:

Beginning at the southwest corner of Parcel 1 of Partition Plat Number 1990-96, also being the Southeast One-Sixteenth corner of said Section 25, thence along the north line of the Southwest One-Quarter of the Southeast One-Quarter of said section 25, being the north line of Deed Book 489 Page 698, North 87°14'39" West 109.16 feet to a point on the easterly right-of-way line of Vradenburg Road (30.00 feet from centerline) and the **True Point of Beginning**; thence continuing along said north line North 87°14'39" West 1204.54 feet to a point on the north-south centerline of said section 25; thence along said north-south centerline and Clackamas County Service District #1 Boundary North 01°28'53" East 982.06 feet to the southwest corner of Document Number 95-035007; thence leaving Clackamas County Service District #1 Boundary and along the south line of said Deed South 87°44'51" East 1401.21 feet to a point on the easterly right-of-way line of Vradenburg Road (30.00 feet from centerline); thence along said easterly right-of-way line South 05°01'48" West 288.86 feet to a point; thence along a curve to the left with a Radius of 542.96 feet, Delta of 8°58'00", Length of 84.97 feet, and a Chord of South 00°32'48" West 84.89 feet to a point; thence South 03°56'12" East 72.33 feet to a point; thence along a curve to the right with a Radius of 316.49 feet, Delta of 29°44'59", Length of 164.33 feet, and a Chord of South 10°56'17" West 162.49 feet to a point; thence South 25°48'48" West 338.27 feet to a point; thence along a curve to the left with a Radius of 256.48 feet, Delta of 17°45'25", Length of 79.49 feet, and a Chord of South 16°56'05" West 79.17 feet to the **True Point of Beginning**.

The above described tract of land contains 30.52 acres, more or less.

06/24/2014

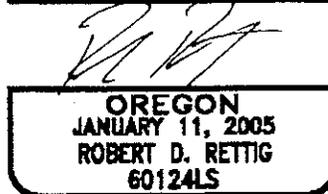
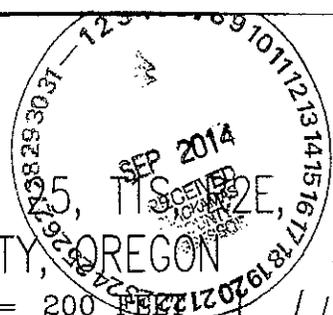


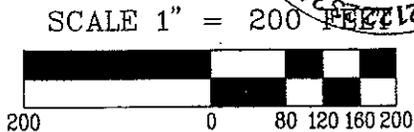
EXHIBIT C

MAP OF ANNEXATION

A TRACT OF LAND LOCATED IN THE SE 1/4 OF SEC. 15, T15S, R12E, W.M., CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



DOC. NO.
95-035007
S87°44'51"E 1401.21'



DOC. NO.
85-37430

S05°01'48"W 288.86'

DOC. NO.
90-12614

AREA:
30.52 ACRES±

S03°56'12"E 72.33'

C2 L=164.33'

NICHOLAS DRIVE

VRADENBURG ROAD

PARCEL 1
DOC. NO.
87-53192

PARCEL 2
DOC. NO.
87-53192
C3 L=79.49'

TRUE POINT OF BEGINNING

N87°14'39"W 1204.54'

NORTH-SOUTH CENTERLINE SECTION 25

DEED BOOK 489
PAGE 698

NORTH LINE OF THE SW 1/4 OF THE SE 1/4

N87°14'39"W
109.16'

POINT OF BEGINNING
SW CORNER PARCEL 1
PP NO. 1990-96
(SE 1/16 CORNER)

DATE: 06/24/2014

PREPARED FOR
HOLT GROUP, INC.
2601 NE 163RD COURT
VANCOUVER, WA 98687
06/24/2014

REGISTERED PROFESSIONAL LAND SURVEYOR

CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	542.96'	8°58'00"	84.97'	S0°32'48"W 84.89'
C2	316.49'	29°44'59"	164.33'	S10°56'17"W 162.49'
C3	256.48'	17°45'25"	79.49'	S16°56'05"W 79.17'

LEGEND

CLACKAMAS COUNTY SERVICE DISTRICT #1 BOUNDARY

ROCK CREEK MEADOWS

DRAWN BY: MSK | CHECKED BY: RDR | DWG: 3786ANNEX-WES | JOB: 3403
AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD SUITE 100
TUALATIN, OR 97062 www.aks-eng.com
PHONE: 503.563.6151 FAX: 503.563.6152



OREGON
JANUARY 11, 2005
ROBERT D. RETTIG
60124LS
RENEWS: 12/31/14



3

OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

January 22, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Approval of Annexation to Sunrise Water Authority

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Safety Impact	Not Applicable
Duration	Perpetual
Previous Board Action	None
Contact Person	Chris Storey, Assistant County Counsel Ken Martin, Boundary Change Consultant
Contract No.	Not Applicable

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a water authority. Sunrise Water Authority is such a district.

Proposal No. CL 14-008 is a proposed annexation to Sunrise Water Authority.

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of the owners of all of the property to be annexed. The petition meets the requirement for initiation set forth in ORS 198.857, ORS

198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally on the eastern edge of the District within the City of Happy Valley. The territory contains 30.52 acres, three vacant single family dwellings and is valued at \$2,836,638.

REASON FOR ANNEXATION

The property owners desire annexation to provide water service to facilitate development of a 66 lot planned unit development.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Sunrise Water Authority is the provider of water service to the City of Happy Valley.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the section below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-14-008, annexation to Sunrise Water Authority.

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

In the Matter of Approving
Boundary Change Proposal
No. CL 14-008



ORDER NO.

This matter coming before the Board at this time, and it appearing that all of the owners of the land in the territory to be annexed have petitioned to annex the territory to Sunrise Water Authority;

It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on January 22, 2015 and that a decision of approval was made on January 22, 2015;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 14-008 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Sunrise Water Authority as of January 22, 2015.

ADOPTED this 22nd day of January, 2015.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

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

Exhibit A
Proposal No. CL-14-008



FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 30.52 acres, three vacant single family dwellings and is valued at \$2,836,638.
2. The property owners desire annexation to provide water service to facilitate development of a 66 lot planned unit development.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Sunrise Water Authority is the provider of water service to the City of Happy Valley.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

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

Exhibit A
Proposal No. CL-14-008



To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Finding 6 below. No concept plans cover this area.

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

Exhibit A
Proposal No. CL-14-008



4. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall "... ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195." ORS 197.015 says "Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

5. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Water

* * *

- 15.0 Require water purveyors in urban areas to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers, and storm drainage facilities, necessary to serve additional lands.

6. The City of Happy Valley's Comprehensive Plan identifies this area as Single Family – R-15 & R-20. Land use approvals for the 66 lot Planned Unit Development were granted by the City of Happy Valley July 8, 2014.
7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which

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

Exhibit A
Proposal No. CL-14-008



8. governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
9. An annexation to Clackamas County Service District # 1 is in progress. The District has an 8 inch sewer line available to serve the area in Nicholas Drive at the west edge of the area to be annexed.
10. The territory to be annexed is adjacent to the Sunrise Water Authority and the Authority has water lines in S.E. Nicholas Drive and south of the property in S.E. Vradenburg Road.
11. The area receives police service from City of Happy Valley which contracts with the Clackamas County Sheriff's Department.
12. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
13. The area to be annexed is within the North Clackamas County Parks & Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 3 & 7 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.

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

Exhibit A
Proposal No. CL-14-008



2. The Metro Code calls for consistency between the Board decision and any “applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services.” The Board notes that the balance of the City of Happy Valley is served by the Sunrise Water Authority and no other entity has the capability of serving this site.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County’s Comprehensive Plan and Happy Valley’s Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District has service available to the area to be annexed as noted in Finding No. 9. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



AKS ENGINEERING & FORESTRY, LLC
 12965 SW Herman Road, Suite 100, Tualatin, OR 97062
 P: (503) 563-6151 F: (503) 563-6152

AKS Job #3786

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM, OR

EXHIBIT B

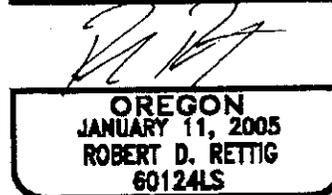
Annexation Description

A tract of land located in the Southeast One-Quarter of Section 25, Township 1 South, Range 2 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon and being more particularly described as follows:

Beginning at the southwest corner of Parcel 1 of Partition Plat Number 1990-96, also being the Southeast One-Sixteenth corner of said Section 25, thence along the north line of the Southwest One-Quarter of the Southeast One-Quarter of said section 25, being the north line of Deed Book 489 Page 698, North 87°14'39" West 109.16 feet to a point on the easterly right-of-way line of Vradenburg Road (30.00 feet from centerline) and the **True Point of Beginning**; thence continuing along said north line North 87°14'39" West 1204.54 feet to a point on the north-south centerline of said section 25; thence along said north-south centerline and Clackamas County Service District #1 Boundary North 01°28'53" East 982.06 feet to the southwest corner of Document Number 95-035007; thence leaving Clackamas County Service District #1 Boundary and along the south line of said Deed South 87°44'51" East 1401.21 feet to a point on the easterly right-of-way line of Vradenburg Road (30.00 feet from centerline); thence along said easterly right-of-way line South 05°01'48" West 288.86 feet to a point; thence along a curve to the left with a Radius of 542.96 feet, Delta of 8°58'00", Length of 84.97 feet, and a Chord of South 00°32'48" West 84.89 feet to a point; thence South 03°56'12" East 72.33 feet to a point; thence along a curve to the right with a Radius of 316.49 feet, Delta of 29°44'59", Length of 164.33 feet, and a Chord of South 10°56'17" West 162.49 feet to a point; thence South 25°48'48" West 338.27 feet to a point; thence along a curve to the left with a Radius of 256.48 feet, Delta of 17°45'25", Length of 79.49 feet, and a Chord of South 16°56'05" West 79.17 feet to the **True Point of Beginning**.

The above described tract of land contains 30.52 acres, more or less.

06/24/2014



RENEWS: 12/31/14



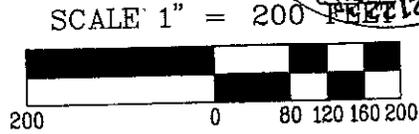
EXHIBIT C

MAP OF ANNEXATION

A TRACT OF LAND LOCATED IN THE SE 1/4 OF SEC. 5, T13S, R12E, W.M., CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



DOC. NO.
95-035007
S87°44'51"E 1401.21'



DOC. NO.
85-37430

S05°01'48"W 288.86'

DOC. NO.
90-12614

AREA:
30.52 ACRES±

S03°56'12"E 72.33'

C2 L=164.33'

NICHOLAS DRIVE

VRADENBURG ROAD

DOC. NO.
2011-021761

PARCEL 1
DOC. NO.
87-53192

PARCEL 2
DOC. NO.
87-53192
C3 L=79.49'

TRUE POINT
OF BEGINNING

N87°14'39"W 1204.54'

NORTH-SOUTH
CENTERLINE
SECTION 25

DEED BOOK 489
PAGE 698

NORTH LINE OF THE SW
1/4 OF THE SE 1/4

N87°14'39"W
109.16'

POINT OF
BEGINNING
SW CORNER PARCEL 1
PP NO. 1990-96
(SE 1/16 CORNER)

DATE: 06/24/2014

PREPARED FOR
HOLT GROUP, INC.
2601 NE 163RD COURT
VANCOUVER, WA 98687
06/24/2014

REGISTERED
PROFESSIONAL
LAND SURVEYOR

CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	542.96'	8°58'00"	84.97'	S0°32'48"W 84.89'
C2	316.49'	29°44'59"	164.33'	S10°56'17"W 162.49'
C3	256.48'	17°45'25"	79.49'	S16°56'05"W 79.17'

LEGEND

CLACKAMAS COUNTY
SERVICE DISTRICT #1
BOUNDARY

ROCK CREEK MEADOWS

DRAWN BY: MSK | CHECKED BY: RDR | DWG: 3786ANNEX-WES | JOB: 3403

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD SUITE 100
TUALATIN, OR 97062 www.aks-eng.com
PHONE: 503.563.6151 FAX: 503.563.6152



RENEWS: 12/31/14

OREGON
JANUARY 11, 2005
ROBERT D. RETTIG
60124LS

EXHIBIT B

DESCRIPTION FOR ANNEXATION

A TRACT OF LAND LOCATED IN THE N.W. AND S.W. 1/4 OF SECTION 7 AND THE N.W. 1/4 OF SECTION 18, T.4S., R.4E., ALSO IN THE N.E. AND S.E. 1/4 OF SECTION 12 T.4S., R.3E., W.M., CLACKAMAS COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER COMMON TO SECTIONS 7 AND 18, T.4S, R.4E, AND SECTIONS 12 AND 13, T.4S, R.3E., W.M., CLACKAMAS COUNTY, OREGON; THENCE S00°24'00"W, ALONG THE WEST LINE OF SAID SECTION 18, A DISTANCE OF 1,328.50 FEET TO THE S.W. CORNER OF THE N.W. 1/4 OF THE N.W. 1/4 OF SAID SECTION 18; THENCE S89°19'00"E, ALONG THE SOUTH LINE OF SAID N.W.1/4 SECTION, A DISTANCE OF 626.52 FEET TO THE S.E. CORNER OF THE WEST 1/2 OF THE N.W. 1/4 OF THE N.W. 1/4 OF SAID SECTION 18; THENCE N00°19'36"E ALONG THE EAST LINE OF SAID WEST 1/2, A DISTANCE 1,319.13 FEET TO THE SOUTH LINE OF SAID SECTION 7, ALSO BEING THE S.E. CORNER OF THE WEST 1/2 OF THE S.W. 1/4 OF THE S.W. 1/4 OF SAID SECTION 7; THENCE N00°30'30"W ALONG THE EAST LINE OF SAID WEST 1/2, A DISTANCE OF 1,329.90 FEET TO THE N.E. CORNER OF SAID WEST 1/2, ALSO BEING ON THE SOUTH LINE OF THE N.W. 1/4 OF THE S.W. 1/4 OF SAID SECTION 7; THENCE S88°32'00"E ALONG SAID SOUTH LINE, A DISTANCE OF 648.35 FEET TO A 5/8" IRON ROD; THENCE S88°32'00"E CONTINUING ALONG SAID SOUTH LINE, A DISTANCE OF 50.00 FEET MORE OR LESS TO THE THREAD OF CLEAR CREEK; THENCE ALONG THE THREAD OF SAID CLEAR CREEK, A DISTANCE OF 400.00 FEET MORE OR LESS TO A POINT WHICH BEARS S88°32'00"E, A DISTANCE OF 50.00 FEET FROM A 5/8" IRON ROD: THENCE N88°32'00"W, A DISTANCE 50.00 FEET TO SAID IRON ROD; THENCE CONTINUING N88°32'00"W, A DISTANCE OF 172.28 FEET TO A 5/8" IRON ROD: THENCE N00°21'38"W, A DISTANCE OF 941.32 FEET TO A 5/8" IRON ROD ON THE SOUTH LINE OF THE N.W. 1/4 OF SAID SECTION 7; THENCE S88°32'02"E ALONG SAID SOUTH LINE, TO THE THREAD OF CLEAR CREEK: THENCE NORTHEASTERLY ALONG THE THREAD OF SAID CLEAR CREEK TO THE EAST LINE OF THE N.W. 1/4 OF SAID SECTION 7: THENCE ALONG SAID EAST LINE TO THE N.E. CORNER OF THE S.E. 1/4 OF THE N.W. 1/4 OF SAID SECTION 7; THENCE N87°40'58"W ALONG THE NORTH LINE OF SAID S.E.1/4, A DISTANCE OF 1,314.10 FEET TO THE S.E. CORNER OF THE N.W. 1/4 OF THE N.W. 1/4 OF SAID SECTION 7; THENCE N00°14'56"E ALONG THE EAST LINE OF SAID 1/4 SECTION, A DISTANCE OF 1,326.74 FEET TO THE NORTH LINE OF SAID SECTION 7;

THENCE N87°36'13"W ALONG SAID NORTH LINE, A DISTANCE OF 1,251.77 FEET TO THE N.W. CORNER OF SAID SECTION 7; THENCE S00°13'00"W ALONG THE WEST LINE OF SAID SECTION 7, A DISTANCE OF 2,617.44 FEET TO A 3/4" IRON PIPE MARKING N.E. CORNER OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 73-021099, CLACKAMAS COUNTY DEED RECORDS; THENCE; S83°45'00"W LEAVING SAID SECTION LINE, ALONG THE NORTH LINE OF SAID TRACT, A DISTANCE OF 907.20 FEET MORE OR LESS TO THE CENTER OF MARKET ROAD NO. 21 (UPPER HIGHLAND⁴ ROAD)(WHERE AT 872.6 FEET AN IRON PIPE SET IN THE EASTERLY RIGHT OF WAY LINE OF SAID MARKET ROAD 21); THENCE SOUTHERLY, TRACING THE CENTERLINE OF SAID MARKET ROAD 21 TO THE NORTH LINE OF THE S.E. 1/4 OF THE S.E. 1/4 OF SAID SECTION 12; THENCE S04°43'06"W, CONTINUING TO FOLLOW THE CENTERLINE OF SAID MARKET ROAD NO. 21, A DISTANCE OF 338.43 FEET TO A POINT; THENCE N89°36'17"E, A DISTANCE OF 85.00 FEET TO A POINT; THENCE S10°48'16"E PARALLEL WITH THE CENTERLINE OF SAID MARKET ROAD NO. 21, A DISTANCE OF 480.00 FEET TO A POINT; THENCE S89°36'17"W, A DISTANCE OF 85.00 FEET TO THE CENTERLINE OF SAID MARKET ROAD NO. 21; THENCE S11°00'38"E FOLLOWING SAID CENTERLINE, A DISTANCE OF 276.97 FEET MORE OR LESS TO THE NORTHERLY BOUNDARY OF THAT TRACT OF LAND CONVEYED TO ROY C. SMITH AND WIFE, BY DEED RECORD IN BOOK 438 PAGE 320, CLACKAMAS COUNTY DEED RECORDS; THENCE N89°30'22"E , ALONG SAID NORTH LINE, A DISTANCE OF 347.40 FEET TO THE WEST LINE OF SAID SECTION 7; THENCE S00°03'43"E ALONG SAID WEST LINE, A DISTANCE OF 247.50 FEET TO THE POINT OF BEGINNING.

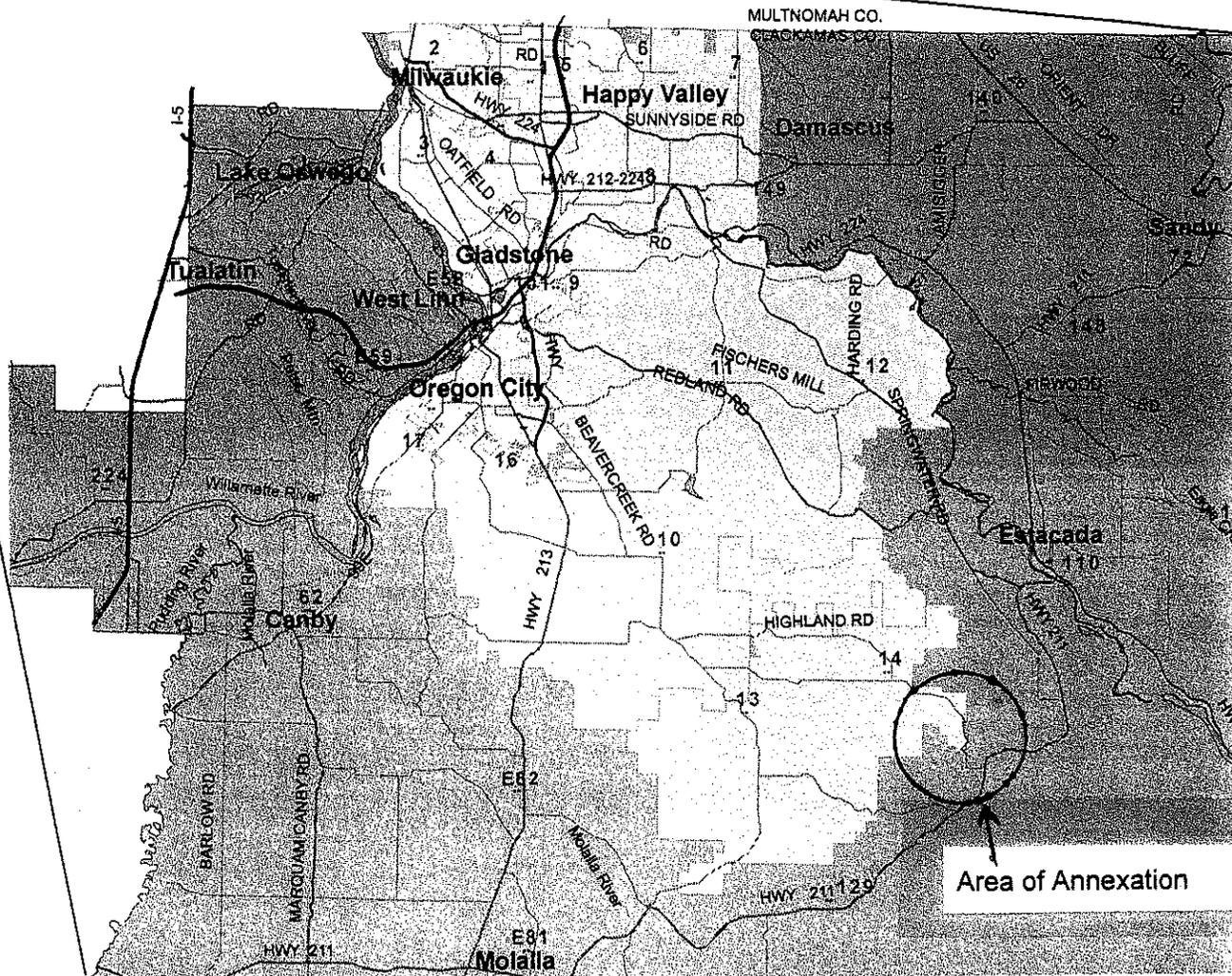
THIS DESCRIPTION IS FOR ANNEXATION PURPOSES ONLY AND NOT TO BE USED FOR TITLE OWNERSHIP TRANSFER.

EXHIBIT C

Proposal No. CL-14-006

Fig. 1

Clackamas Co. Fire





4

MIKE McCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

January 22, 2015

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of the Planning and Zoning Division 2015 -2016 Work Program

Purpose/Outcomes	Staff requests the Board to consider and adopt the Planning and Zoning Division Work Program for 2015 – 2016
Dollar Amount and Fiscal Impact	The projects identified in the work program are anticipated to be included in the Planning and Zoning Divisions 2015-2016 budget.
Funding Source	General Fund
Safety Impact	None
Duration	July 1, 2015 – June 30, 2016
Previous Board Action/Review	In 2012, the Board approved a five-year audit of the ZDO to update, streamline and clarify the County's land use regulations. If approved, next year 2015-2016 will mark the fourth year of the five-year audit.
Contact Person	Mike McCallister, Planning Director – DTD Planning and Zoning Division 503-742-4522

BACKGROUND:

Every year the Planning and Zoning Division develops an annual work program for the following year that includes projects to complete that year. The approved work program only includes a list of "projects." It does not identify the divisions other routine programs and responsibilities, including processing land use applications, providing public service in the permits lobby, intergovernmental coordination, contract planning services for other cities, staffing projects in other divisions and other day-to-day activities. Adoption of the Work Program will provide a basis for the upcoming budget requests for 2015 – 2016.

The Planning and Zoning Division completed public outreach to solicit projects for consideration in the Work Program. A list of the public outreach efforts is included in Attachment 1. The public outreach included a notice to submit comments in writing and / or to attend and testify before the Planning Commission at a December 8, 2015 public hearing.

A list of the projects being considered for the 2015 – 2016 Work Program is identified in the Table in Attachment 2. The table includes the origin, funding source and summary for each project. The projects recommended by staff are included in Section I. Project recommendations received in response to public outreach are included in Section II.

The Planning and Zoning Division recommended to the Planning Commission approval of the following projects for the 2015 – 2016 Work Program:

1. Project I.1: Phase 4 Work associated with the 5 Year Audit of the Comprehensive Plan and ZDO.
2. Project I.2: ZDO Annual Housekeeping Amendments
3. Project I.3: ZDO Natural Resource Zoning District Updates
4. Project I.4: Adoption of Medical and Recreational Marijuana Regulations

CLACKAMAS COUNTY PLANNING COMMISSION RECOMMENDATION:

The Clackamas County Planning Commission conducted a public hearing on December 8, 2014 to consider the Work Program. The Planning Commission considered the Planning staff recommendation, projects identified in writing and further testimony from the public on the work program. The Planning Commission recommended to the BCC the following projects and considerations for the work program:

1. Project I.1: Phase 4 Work associated with the 5 Year Audit of the Comprehensive Plan and ZDO.
2. Project I.2: ZDO Annual Housekeeping Amendments
3. Project I.3: ZDO Natural Resource Zoning District Updates
4. Project I.4: Adoption of Medical and Recreational Marijuana Regulations
5. Consideration of a Park Avenue Station Area Plan based on additional coordination with community representatives to identify the scope of the project and scaling back the scope of the Phase 4 work associated with the ZDO Audit accordingly.

OPTIONS:

The BCC has complete discretion to decide the scope (which projects and how many projects) of the 2015 – 2016 Work Program. Adoption of the final Work Program will require consideration of the Planning and Zoning Divisions ability to complete projects given the limited budget (all projects rely on general fund dollars) and staffing resources. Other considerations include on-going work on the implementation of marijuana legislation and on-going discussions with the BCC regarding the urban growth report, upcoming urban growth boundary decision, urban / rural reserves remand and adequacy of employment land. The BCC options for the Work Program include but are not limited to the following:

1. Adopt the Planning Staff recommendation to include Phase 4 of the 5 Year Audit of the ZDO. **Projects I (1-4)**. Like the on-going Phase 3 work of the ZDO Audit being completed this year, this is again an ambitious scope of work that is stretching staffing resources, but can be accomplished with existing staff.
2. Adopt the Planning Commission Recommendation which includes work on a Park Avenue Station Area Plan (scope and scale to be determined) and scaling back the scope of work in Phase 4 of the 5 Year Audit of the ZDO. Existing staff resources are not adequate to complete all these projects. If the BCC agrees to move forward with the Park Avenue Station Plan, the work in the Phase 4 audit of the ZDO would need to be scaled back significantly or eliminated based on the scope of work required for the Park Avenue Station Area Plan.

3. Adopt the Planning Staff recommendation identified in paragraph no. 1 above and direct the staff to continue conversations with stakeholders interested in a Park Avenue Station Area Plan. Report back to the BCC before the end of the current fiscal year (July 2015) on the progress of those conversations and interest of the affected property owners and community to consider changes to the Comprehensive Plan and Zoning and Development Ordinance. At that time the BCC could reconsider and make changes to the Work Program based on the scope, staffing resources and cost of the project.

4. A combination of any other projects.

Respectfully submitted,

A handwritten signature in black ink that reads "Mike McCallister". The signature is written in a cursive style with a large initial "M".

Mike McCallister, Planning Director
Planning and Zoning Division



MIKE McCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Public Outreach and Request for Work Program Projects:

The Planning and Zoning Division completed the following public outreach to solicit projects for the 2015-2016 work program.

October 23, 2014: Written and email notice was sent to all active CPOs, hamlets, and villages, and email notice was sent to Clackamas County cities, County Divisions, and other interested parties to inform them of the public hearing on December 8th and to request suggestions for work program projects.

October 28, 2014: Staff attended the Community Leaders Meeting and shared information about the work program and provided opportunity to suggest projects and/or to attend and testify at the Planning Commission public hearing.

October, 2014: Notice in Citizen News.

November 18, 2014: Staff sent a "reminder" follow up email to all CPOs, hamlets, and villages of the opportunity to suggest projects for the work program.

December 3, 2014: All Planning Commission hearing materials were posted on the Planning and Zoning Division web page and emailed to all active CPOs, hamlets, and villages.

December 8, 2014: Planning Commission public hearing.

December 30, 2014 Public notice of the January 22, 2015 BCC public meeting to consider the work program was mailed and emailed to all active CPOs, hamlets, and villages, and emailed to County Divisions, Clackamas County cities, and other interested parties.



MIKE McCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

2015-2016 DRAFT Planning & Zoning Division Work Program
(Updated 1-14-2015)

I. PLANNING & ZONING DIVISION PROPOSED PROJECTS

1. PROJECT DESCRIPTION: 5 Year Audit of the Comprehensive Plan and ZDO – Phase 4 Work

ORIGIN SOURCE	FUNDING SOURCE	PROJECT SUMMARY
<p>Planning and Zoning Division</p>	<p>General Fund</p>	<p>Year 4 of the 5 Year Audit includes:</p> <ol style="list-style-type: none"> 1. Consolidate, simplify and revise special use standards in Section 800 of the ZDO. Currently there are 33 categories of special uses (e.g., nursing homes, service stations, home occupations, and wireless telecommunication facilities). 2. Revisit Statewide Planning Goal 5 and related environmental overlay zones to consider eliminating redundancies and ineffective standards and processes. Consider coordinating with Oregon Dept. of Forestry to regulate forest practices in stream and wetland buffers. Consider overhauling Open Space provisions in the Comprehensive Plan and ZDO. Consolidate, simplify and revise environmentally sensitive area and natural hazards development standards, Open Space zones, and overlay zones. <ul style="list-style-type: none"> • Protection of Natural Features • Hazards to Safety • Historic Protection • Open Space and Parks • Open Space Review • Open Space Management District • Floodplain Management District • River and Stream Conservation Area • Willamette River Greenway • Habitat Conservation Area District • Historic Landmark, Historic District and Historic Corridor

		<ul style="list-style-type: none"> • Mineral and Aggregate Overlay District • Water Quality Resource Area District • Sensitive Bird Habitat District • Government Camp Open Space Management District • Private Use Airport & Safety Overlay Zone • Public Use Airport & Safety Overlay Zones <p>3. Review and amend the Parks standards in the Plan and ZDO, with emphasis on resolving conflicts between those standards and the North Clackamas Parks and Recreation District's master plan.</p> <p>Required Action: Comprehensive Plan and ZDO text amendments.</p> <p>Estimated Completion Date: June 2016</p>
2. PROJECT DESCRIPTION: ZDO Annual Housekeeping Amendments		
<p>ORIGIN SOURCE</p> <p>Planning and Zoning Division</p>	<p>FUNDING SOURCE</p> <p>General Fund</p>	<p>PROJECT SUMMARY</p> <p>Identify and complete priority housekeeping amendments to the ZDO, <u>if</u> needed.</p> <p>Required Action: ZDO text amendments.</p> <p>Estimated Completion Date: June 2016</p>
3. PROJECT DESCRIPTION: ZDO Natural Resource Zoning District Updates		
<p>ORIGIN SOURCE</p> <p>Planning and Zoning Division</p>	<p>FUNDING SOURCE</p> <p>General Fund</p>	<p>PROJECT SUMMARY</p> <p>Update Natural Resource Zoning Districts (EFU, TBR and AG/F) to incorporate new law adopted in 2015 legislative session and other housekeeping amendments, if necessary.</p> <p>Required Action: ZDO Text Amendments.</p> <p>Estimated Completion Date: June 2016</p>
4. PROJECT DESCRIPTION: Adoption of Medical and Recreational Marijuana Regulations		
<p>ORIGIN SOURCE</p> <p>Planning and Zoning Division</p> <p>Also See Exhibit 9. Letter from Erika Spooner</p>	<p>FUNDING SOURCE</p> <p>General Fund</p>	<p>PROJECT SUMMARY</p> <p>Medical and Recreational Marijuana – coordinate with County Counsel on new code language to address time, place and manner (TPM) restrictions for medical and recreation marijuana businesses, including growing, manufacturing, wholesaling and retailing.</p>

		<p>Required Action: Clackamas County Code or ZDO text amendments.</p> <p>Estimated Completion Date: June 2016</p>
II. OTHER PROPOSED PROJECTS		
1. PROJECT DESCRIPTION: Amendment to ZDO Tree Protection and Removal Standards		
<p>ORIGIN SOURCE</p> <p>North Clackamas Urban Watersheds Council (NCUWC) Board Member Dick Shook</p> <p>Pat Russell and Barbara Kemper</p> <p>See Exhibits 1, 2, 3 and 5</p>	<p>FUNDING SOURCE</p> <p>General Fund</p>	<p>PROJECT SUMMARY</p> <p>Amend Subsection 1002.04(A) of the Clackamas County ZDO: The first sentence states that "Existing wooded areas, significant clumps or groves of trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible." We would suggest that this requirement be further expanded to specifically state that trees and vegetation outside of the construction foot print be incorporated as part of the development plan.</p> <p>Required Action: ZDO text amendments.</p> <p>Estimated Completion Date: June 2016</p>
2. PROJECT DESCRIPTION: Changes to Code Enforcement Coordination and Public Service Lobby Hours		
<p>ORIGIN SOURCE</p> <p>Beavercreek Hamlet</p> <p>See Exhibit 4.</p>	<p>FUNDING SOURCE</p> <p>General Fund</p>	<p>PROJECT SUMMARY</p> <p>Code Enforcement to work closely with Planning.</p> <p>Require Planning and Zoning Division to send copies of home occupation and temporary permit for care renewal letters to the appropriate CPO, Hamlet or Village.</p> <p>Increase public service lobby hours from 6am to 6pm Monday through Friday.</p> <p>Require all departments to attend pre-application meetings.</p> <p>Required Action: These projects are administrative in nature and do not require Comprehensive Plan and ZDO text amendments.</p> <p>Estimated Completion Date: June 2016</p>

3. PROJECT DESCRIPTION: ZDO Amendments to Various Procedural Standards and Definitions

ORIGIN SOURCE	FUNDING SOURCE	PROJECT SUMMARY
<p>Jennings Lodge CPO</p> <p>See Exhibit 5.</p>	<p>General Fund</p>	<p>Amend the procedural standards to allow appeal of a hearings officer decisions to the BCC.</p> <p>Define “Significant Development” as subdivisions over 25 lots and lot increase by 50% or more fronting surrounding streets.</p> <p>Limit rezone and subdivision of properties if it increases the density and character of the area.</p> <p>Create language that further defines “Neighborhood Character” to help guide staff when taking neighborhood character into consideration.</p> <p>Revise the term “Urban Low Density” for R-2.5, R-5 and R-7 districts.</p> <p>Create district and neighborhood planning agreements.</p> <p>Change the Subsection 1002.04(A) and the use of “feasible” to address preservation of trees. Clarify and strengthen the language of Subsection 1002.04(A) to protect and preserve trees.</p> <p>Notify CPOs of pre-application conferences.</p> <p>Allow a longer notification period to CPO/Hamlets/Village for development in Willamette Greenway, Habitat Conservation and other special overlay areas.</p> <p>Required Action: Comprehensive Plan and ZDO text amendments.</p> <p>Estimated Completion Date: June 2016</p>

4. PROJECT DESCRIPTION: Develop Community Design Plan and Standards for the Park Avenue Station Area

ORIGIN SOURCE	FUNDING SOURCE	PROJECT SUMMARY
<p>Oak Grove Community Council & Jennings Lodge Communities</p>	<p>General Fund</p>	<p>Coordinate with the community to develop design standards that address zoning densities, building heights, uses, transportation connectivity, open spaces/greenways, tree preservation and enhance</p>

<p>See Exhibit 6.</p>		<p>tree canopy, lighting, preservation of residential neighborhoods, character and history, and development of public spaces and community centers.</p> <p>Design standards should address cluster density and activities in focused areas, create zoning language to allow mix-use, income diversity developments, public spaces, and cultural activity spaces, set performance goals and measurements, establish incentives for preservation of assets and contributes to community and habitat, provide potential design review and administrative review amendments.</p> <p>Tasks will include several meetings with community and MAP-IT Committee to coordinate efforts, finalize plans, and conduct outreach.</p> <p>Required Action: Comprehensive Plan and ZDO text amendments.</p> <p>Estimated Completion Date: June 2016</p>
<p>5. PROJECT DESCRIPTION: Develop an area along McLoughlin Blvd to serve as the “catalyst project” in the corridor.</p>		
<p>ORIGIN SOURCE</p> <p>Pat Russell – Citizen, MAPIT, eco-infrastructure</p> <p>See Exhibit 7.</p>	<p>FUNDING SOURCE</p> <p>General Fund</p>	<p>PROJECT SUMMARY</p> <p>Refer to the MAP-IT efforts and documents to define locations along the McLoughlin Blvd corridor to develop a catalyst project that will serve to strengthen the economic environment along the corridor.</p> <p>Required Action: Unknown</p> <p>Estimated Completion Date: June 2016</p>
<p>6. PROJECT DESCRIPTION: Develop policy and regulations for permitted uses.</p>		
<p>ORIGIN SOURCE</p> <p>Roger Hollingsworth – Citizen</p> <p>See Exhibit 8.</p>	<p>FUNDING SOURCE</p> <p>General Fund</p>	<p>PROJECT SUMMARY</p> <p>Establish policy and regulations to notify neighbors and regulate development that is allowed as a permitted use and add regulations to the land use review process.</p> <p>Required Action: ZDO text amendments.</p> <p>Estimated Completion Date: June 2016</p>



MIKE McCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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PLANNING AND ZONING DIVISION WORK PROGRAM

**SUMMARY OF THE ZDO AUDIT AND STAFF REPOSENSE TO PROPOSED
PROJECTS FROM THE PUBLIC**

***5 Year Audit of the ZDO: Completed, Proposed and Planned Projects
See Section I of the Work Program***

ZDO Audit –Year 1 and 2 Projects

The following is a summary of the projects completed in Phase 1 and Phase 2 of the ZDO Audit:

Year 1 -2012/2013:

1. Establish a new numbering system for the Comprehensive Plan.
2. Repeal/amend obsolete and conflicting provisions of the Comprehensive Plan.
3. Develop tables of allowed uses in various classes of zoning districts.
4. Consolidate, simplify and revise industrial zones.

Year 2 - 2013/2014:

1. Consolidate, simplify and revise urban residential (single family and multi-family) and commercial zoning districts.
 2. Evaluate and refine application processing standards.
-

ZDO Audit – Current Year 3 Projects In Progress:

The following is a summary of the projects that are currently being worked on and will be completed in Year 3 of the ZDO Audit:

Year 3 - 2014/2015:

1. Consolidate, simplify, and revise rural commercial and residential zones, including Government Camp and Mt. Hood zones.

2. Consolidate, simplify and refine general development standards in Section 1000 (excluding environmentally sensitive area and natural hazards standards).
3. Refine development review process standards in Section 1100 and criteria for discretionary permits in Section 1200.
4. Consolidate, simplify and revise special use standards in Section 800. *
5. Consider revisions to the ZDO definition of “kennel.”
6. Review and amend the Parks standards in the Plan and ZDO, with emphasis on resolving conflicts between those standards and the North Clackamas Parks and Recreation District’s Master Plan.*

***The scope of work for this year is overly ambitious and will be recommending that the work on “special uses”, as well as the work on parks, be moved to next fiscal year (Year 4).**

ZDO Audit – Proposed Year 4 Projects

The following is a summary of the projects that are proposed for Year 4 of the ZDO Audit:

Year 4 – 2015/2016

1. Consolidate, simplify and revise special use standards in Section 800 (carry over from year 3).
2. Consolidate, simplify, and revise the environmentally sensitive areas and natural hazards development standards and the overlay zones in Section 700.
3. Revisit Goal 5 related standards and processes, and coordination with state and federal agencies to revise the ZDO and Plan.
4. Review and amend the Parks standards in the Plan and ZDO, with emphasis on resolving conflicts between those standards and the North Clackamas Parks and Recreation District’s Master Plan (carry over from year 3).
5. Develop and adopt code language that addresses time, place, and manner regulations for medical and / or recreational marijuana (may need to be prioritized in later part of year 3 or early year 4).

ZDO Audit - Planned Year 5 Projects:

The following is a summary of the projects planned for Year 5 of the ZDO Audit:

Year 5 - 2016/2017:

1. Carry over from prior years.
 2. Final editing and organization.
 3. Review whether to include all of the County’s discretionary development review provisions into the Zoning and Development Ordinance.
-

Other Proposed Projects – See Section II of the Work Program Table

The following information provides a more detailed summary and staff response to the other projects requested from CPOs and other interested parties.

Project II.1: Request to amend and strengthen the tree protection and removal standards in Section 1002 of the ZDO. This request originated from the North Clackamas Urban Watersheds Council, Pat Russell, Barbara Kemper, and Jennings Lodge CPO. See Exhibit 1, 2, 3 and 5.

Planning Staff Response: In 2009 / 2010 the County created a tree task force to consider tree protection and removal standards. The tree task force met for over one year. The County adopted the current tree protection and removal standards after review and consideration of the tree task force recommendations and planning commission hearings. The issue was contentious and resulted in the current provisions which allow some limited tree cutting, attempts to balance tree cutting and development and established a moratorium on certain development activities for 5 years in cases of excessive tree cutting.

Planning Staff and Planning Commission Recommendation: Year 4 of the 5-Year ZDO Audit will include a review of Section 1002 which includes the tree protection and removal standards. The staff does not anticipate wholesale changes to these standards. However, any changes proposed by interested parties can be considered during the hearing process for these amendments.

Project II.2: This request originated from the Hamlet of Beavercreek. See Exhibit 4. Proposed projects include:

1. Improved coordination between Code Enforcement and the Planning and Zoning Division.
2. Provide copies of home occupation and temporary permit renewals letters to the applicable CPO, Hamlet and / or Village.
3. Increase public service lobby hours from 6 am to 6 pm.
4. Require all departments to attend pre-application conferences.

Planning Staff Response: Planning and Code Enforcement regularly engage in coordination efforts and will continue to do so. The Planning Staff is committed to providing copies of renewal letters to the appropriate CPO, Hamlet or Village for temporary permit renewals and possibly home occupation permit renewals. DTD policy is to invite and require attendance of other Divisions at pre-application conferences. DTD continues to monitor the lobby schedule and hours to ensure they are meeting customer needs.

Planning Staff and Planning Commission Recommendation: These projects are all administrative in nature. The Planning Staff and Planning Commission did not recommend these projects be included in the Work Program.

Project II.3: This request originated from the Jennings Lodge CPO. See Exhibit 5. Proposed projects include:

1. Revise Section 1307 of the ZDO to allow a local appeal process for all Hearings Officer appeals instead of having appeals directed to the Land Use Board of Appeals (LUBA).
2. Define or redefine terminology (“significant development”, “neighborhood character”, “urban low density”, “feasible”) in the ZDO to give clarity and intent.
3. Limit rezoning and subdivision of properties if it increases the density and character of the area.
4. Create district and neighborhood planning agreements.
5. Request to amend and strengthen the tree protection and removal standards in Section 1002 of the ZDO.
6. Require notification of pre-application conferences to the appropriate CPO, Hamlet and / or Village.
7. Allow longer notification periods to CPO’s, Hamlet and Villages to comment on development applications in the Willamette River Greenway, Habitat Conservation Areas, and other special overlay zones.

Planning Staff Response: Significant amendments to Section 1307 were completed in year 2 of the ZDO audit, including consideration of the BCC accepting appeals of a decision by the hearings officer. The Board declined to do so and staff does not recommend this be considered again. It is important to note that such a change would likely jeopardize the County’s ability to issue final decisions within the required 120-150 day time frame as required by State law.

In year 5 of the 5-Year ZDO Audit, staff will revisit the changes made throughout the 5-Year Audit process and make any necessary refinements, clarifications, or clean-up of the ZDO. At this time staff can consider changes to the requested definitions, redefine terminology used, and address the notification process in the ZDO.

In regards to creating district and neighborhood planning agreements, staff does not believe that concept and the scope of work required to create such agreements should rise to a priority in the work program.

The request to amend and strengthen the tree protection and removal standards is addressed in Project II.1 above.

Notice of pre-application conferences to CPO’s, Hamlets and Villages is also a recurring issue. Staff does not recommend notice be provided to CPO’s, Hamlets and Villages. The purpose of the pre-application conference is to provide a venue for conversation between a developer / property owner and staff. In almost all cases, the development proposal discussed in a pre-application conference may not be indicative of a final proposal. In some cases, pre-application conferences do not include specific development proposals.

The rezoning (upzoning) in the urban low density residential districts in the Jennings Lodge CPO area is a recurring issue. The Planning Staff does not recommend approval of this project at this time. If the BCC is interested in initiating this project, staff would recommend it be considered for year 5 of the ZDO Audit. Otherwise the overall scope of the work program would need to be reduced to accommodate this project.

Year 2 of the ZDO Audit included amendments to Section 1307 of the ZDO to increase the minimum comment period from 15 days to 20 days for Type II applications (Planning Director Review). Public notice for development proposals requiring a public hearing is provided to the CPO, Hamlet or Village at least 35 days prior to the hearing. Staff does not recommend any other changes to the notice requirements at this time.

Planning Staff and Planning Commission Recommendation: The Planning Staff and Planning Commission did not recommend this list of projects be included in the Work Program.

Project II 4: This request was initiated by the Oak Grove Community Council and Jennings Lodge CPO. See Exhibit 6. The request is for the County to revisit the Park Avenue Station Area Plan to address a number of design features. In 2012, the BCC did not make a decision on the Park Avenue Station Area Plan. Instead, they directed the community to work to find a solution that would be agreeable to the property owners and community as a whole. The community is still working toward this goal.

Planning Staff Response: The staff has encouraged the community members to further define the scope of the project, identify general planning goals and directly engage the affected property owners to engage interest and support. The outcome of these efforts should be the basis for including this project in the work program.

Planning Staff and Planning Commission Recommendation: The Planning staff did not recommend approval of this project in the work program. The Planning Commission recommended that staff coordinate with the community members prior to the BCC meeting to consider the work program to flush out the scope of this project. Subsequent to the Planning Commissioner meeting, the Planning Director met with two community representatives to discuss the scope of the project, provided a map and list of property owners in the general location of the Park Avenue Station. Thus far there is interest in a plan to address a limited geographic area around the Park Avenue Light Rail Station and Parking Garage and to adopt higher performance design standards and possibly require mixed use developments. More information may be forthcoming prior to or at the public meeting for the Work Program. The staff report includes a list of options for the Board to consider relative to this project request.

Project II.5: This request originated from Pat Russell, a citizen and member of the MAP-IT eco-infrastructure committee. See Exhibit 7. This proposed project would adopt the MAP-IT efforts to a "catalyst project" on McLoughlin Boulevard corridor consistent with the Map-IT efforts to help strengthen economic growth along the corridor.

Planning Staff Response: Staff finds that the scope of this project is not developed sufficiently, nor is there a known willing property owner or developer interested in a “catalyst” project on McLoughlin Blvd.

Planning Staff and Planning Commission Recommendation: The Planning Staff and Planning Commission did not recommend this project be included in the Work Program.

Project II.6: This project originated from Roger Hollingsworth. See Exhibit 8. The proposed project requests that the County have an additional review process for all development with respect to visual, privacy, or weather impacts to adjacent parcels.

Planning Staff Response: There is a review process in place for development which requires approval of a land use permit. Uses and development allowed as a permitted use within the zone district is not subject to a review and notification process. The development standards of the zoning districts and overlay districts are used to guide development that occurs on a property.

Planning Staff and Planning Commission Recommendation. The Planning Staff and Planning Commission did not recommend this project be included in the Work Program.

EXHIBIT 1
pg. 1 of 2

Gonzales, Lorraine

From: dicksallyshook@juno.com
Sent: Thursday, November 20, 2014 8:09 AM
To: Gonzales, Lorraine
Subject: ZDO Public Hearing

To: Lorraine Gonzales, Senior Planner
Clackamas County Planning and Zoning Division

Regarding your notice of Public Hearing dated 10/23/14 and request for comments or suggestions to the proposals, the members of the "Issues and Opportunities" Committee (IOC) of the North Clackamas Urban Watersheds Council (NCUWC) would like to make these comments regarding ZDO1002.04 (A).

The first sentence states that "Existing wooded areas; significant clumps or groves of trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible." We would suggest that this requirement be further expanded to specifically state that trees and vegetation outside of the construction foot print be incorporated as part of the development plan.

Thanks you for the opportunity to review the ZDO proposals and comment on them.

Dick Shook
NCUWC Board Member

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EXHIBIT 1

pg. 2 of 2

**North
Clackamas**
Urban Watersheds Council



North Clackamas Urban Watersheds Council

1900 SE Milport Rd, Suite C • Milwaukie, OR 97222
info@ncuwc.org • www.ncuwc.org

The NCUWC advocates for the protection and enhancement of the watersheds' fish and wildlife habitat and improvements in water quality.

EMAILED December 8, 2014 VIA LorraineGo@clackamas.us

December 8, 2014

Clackamas County Planning Commission
c/o Lorraine Gonzales, Senior Planner
Department of Transportation and Development
150 Beaver Creek Road
Oregon City, OR 97045

RE: Planning Commission Work Program 2015-2016
PUBLIC TESTIMONY for December 8, 2014 Public Hearing

Dear Planning Commission,

The North Clackamas Urban Watersheds Council supports efforts to legislate policy and undertake programs to protect, restore, and maintain urban tree canopy within the county's Urban Growth Boundary (UGB), especially the North County area. During the Commission's discussion of its Proposed Work Program for FY 2015-16, we encourage consideration of ways to update the Zoning and Development Ordinance (ZDO) and related policies/programs that will achieve the above purposes.

The Council's mission is to advocate for the protection and enhancement of the watersheds' fish and wildlife habitat and improve water quality through partnership with public and private entities, habitat restoration projects, community education and outreach, and strategic planning.

The Council's Streamside Stewards Program (SSP) is one way the Council advocates and practices tree protection—by reaching out to property owners within riparian corridors and sensitive areas to restore and maintain streamside areas under contract, promoting resident "ownership" and local stewardship.

Extensive studies by CCSD#1, Oak Lodge Sanitary District, and our cities—culminating in Watershed Action Plans (WAPs)—have demonstrated a significant loss of tree canopy due to a high percentage of impervious surface—roads and urban development, resulting in impaired watersheds. However, our existing low density neighborhoods do provide opportunities to actually increase the canopy percentage, if the existing canopy is protected. Measures must be put in the code that strongly encourage property owners to care for and preserve existing large trees. Finding a fair exchange between new development stormwater retention requirements and preserving heritage-sized trees should be a specific topic of discussion in 2015-16 hearings.

We hope you will take the opportunity to prioritize tree canopy policy in your next ZDO Audit effort.

Respectfully,

Executive Committee, North Clackamas Urban Watersheds Council

Terry John Gibson

Terry John Gibson, Council Chair

Pat Russell
15989 SE Bilquist Circle
Milwaukie, OR 97267
503-656-9681
ppearussell@gmail.com

EMAILED NOVEMBER 20, 2014 VIA LorraineGo@clackamas.us

November 20, 2014

Clackamas County Planning Commission
c/o Lorraine Gonzales, Senior Planner
Department of Transportation and Development
150 Beaver Creek Road
Oregon City, OR 97045

RE: Planning Commission Work Program 2015-2016
PUBLIC TESTIMONY for December 8, 2014 Public Hearing

Dear Commissioners,

As Secretary for the North Clackamas Citizens Association (CPO) and the Clackamas CPO (merged CPOs as of January 2013), I have advocated for:

- effective citizen involvement;
- fair development review processes (including advanced notice from the pre-application stage);
- accountable appeal process where the final decision locally is the county's Board of Commissioners, not the cumbersome, intimidating state LUBA (Land Use Appeals Board);
- protection of our established residential neighborhoods from urban infill and upzoning (not required by Metro, but required in county codes and never changed—the 80% rules); and
- protection of our natural and sensitive areas (not exploit them), especially our native tree canopy;
- sensible transportation options (but not big-wide streets and freeways).

Our CPO strength seems to come during the NIMBY development applications where neighbors feel threatened and uninformed; our CPO membership has tended to feel that "you can't fight City Hall" or that their concerns are not taken seriously during development review and code application, and during legislation. One example would be the tree protection ordinance policies developed in 2010 that to this day still fail to protect native tree canopy and specimen trees; it seems that the cry of the CC Urban Green group from the north urban area of the county was ignored. Metro Title 13 implementation in the county is minimalist and fails to address salmon recovery in our ESA-listed urban streams like within the Kellogg-Mt. Scott Urban Watershed. Many members don't understand the literal interpretation of policy by staff of our County's Comprehensive Plan and Zoning and

Development Ordinance. Where discretionary guidance is provided, the interpretations mostly fall in the favor of the applicant, neighborhood input disregarded, including mitigation measures.

I support the comments you may be considering from the Jennings Lodge CPO within your meeting packet.

To give you a more in-depth view of many of our concerns, I have am attaching two documents to illustrate current concerns about the ZDO's and tree ordinance:

-Pat Russell to Clackamas CPO, Memo, dated April 17, 2014 re: Recommendations to the County Zoning & Development Ordinance Audit, Phase 2;

-Memo from CC Urban Green to BCC dated November 16, 2009 (regarding the tree ordinance process and recommended provisions)

-CC Urban Green Recommended Tree Ordinance draft Fall 2009 (colored markup version)

I believe that the ZDO's can do a better job in protecting/sustaining our neighborhoods, especially our R-10 zoned areas, along with protecting and restoring our designated natural areas, especially our urban salmon streams. I encourage the Planning Commission to commit to a re-examination of the policy that I and the Jennings Lodge CPO have highlighted, along with a strengthened tree protection policy and more effective urban salmon habitat protection and restoration mandate and capital improvement initiatives.

Thanks for listening.

Pat Russell

Secretary, Clackamas CPO

Member of MAPIT (and MAP I & II)

Founding Board Member, North Clackamas Urban Watersheds Council

Clackamas River Water Budget Committee Member

Bilquist PTA, former Secretary

ATTACHMENTS:

Russell Memo, dated April 17, 2014

CC Urban Green Letter to BCC, November 16, 2009 (Tree Ordinance info)

CC Urban Green Tree Ordinance (marked up in colors), September 10, 2009

Memo

To: Clackamas CPO Members, Officers/Area Reps

From: Pat Russell

RE: Recommendations to the County Zoning & Development Ordinance Audit, Phase 2

Date: April 17, 2014, amended July 15, 2014 (#7)

The Clackamas County Dept. of Transportation and Development (CPO) plans to issue proposals in May for the Phase 2 Audit of the Zoning & Development Ordinance (ZDO) and begin public hearings in June. Our CPO has experienced disappointments as a result of ZDO standards either being too lax or not strong enough, when dealing with development applications and rezonings. We have an opportunity to raise our concerns about some of the general topics. Most long-time members can remember that the greatest neighborhood turnout is usually when a proposal is not acceptable to the neighborhood, including County Comprehensive Plan changes (CCP).

1. PLANNING and DEVELOPMENT APPLICATION PROCESS
 - a. PRE-APPLICATION REVIEW, EARLY NOTICE to CPO NEEDED, also to Neighborhood; CPO needs to have a place at table with the various public agencies when discussing conceptual planning and expectations/issues to address/consider.
 - b. APPLICATION Filing—Share Immediately with CPO, NOT until “completeness of application” is determined (often taking up to 30 days); CPO should have right to provide input as to “completeness” within 30 days of application filed.
 - c. POSTING NOTICES should be required on the site in question to alert the neighborhood/passersby
 - d. AVAILABILITY OF INFORMATION ON-LINE NEEDED
 - Application materials
 - Staff Report
2. UPZONING
 - a. ELIMINATE SUBDIVIDERS LOT YIELD pushing the “envelop” with vague, lax zoning/Comp Plan criteria; need more focus on neighborhood protection, compatibility and sustainability. Typical developer effort to rezone R-10 property to R-8.5 to gain a few more lots is unacceptable and creates fragmented zoning patterns and impacts neighborhood character and long term sustainability, and leads to encouraging others to do the same
 - b. RESTRICT SPECULATIVE DEVELOPMENT due to freeway, expressway access/visibility (strengthen zoning conversion criteria near the Expressway and freeway in our residential neighborhoods to reduce erosion of the residential area, considering speculative upzoning by developers, speculators with coming Sunrise Freeway improvements (the last significant “fight” was the Comfort Suites project at the SR 213/224 interchange on I-205)

3. DENSITY Yields in the R-10 and R-15 residential zones
 - a. MINIMUM Density would NOT be required to meet 80% Metro Rule except in centers and regional corridors. Some sites deserve fewer lots in keeping with abutting housing character and to fit into the existing neighborhood.
 - b. REQUIRE FULL 10,000 sf lot (exclusive of access/street easements or arterial right of way dedication, major utility easements, marginally or undevelopable areas [wetlands, 100 year floodplain, steep slopes, hazardous lands, HCA designated and Title 3 stream areas, including buffers—conservation easements]). This also means that Private road easements also need to be deducted from properties to result in a full 10,000 sq ft buildable lot.
 - c. Allow FLEXIBLE LOT Subdivision subtracting roads/easements and marginal/undevelopable lands noted above, but under Conditional Use Permit (burden on applicant).
 - d. PLANNED UNIT DEVELOPMENTS would ONLY be permitted under Conditional Use Permit; DENSITY calculated by subtracting public and private roads and easements, undevelopable lands noted above—i. e. for example, R-10 zone would divide “net” site area (minus roads/r-w, undevelopable lands) by 10,000 sf to arrive at number of permitted units. Major native trees would be protected unless formal variance process finds hardship. If not attached housing units, detached or semi-detached housing would have to be on lots that blend with and are compatible with the surrounding land use pattern. For example, 2,500 sf lots would likely be unacceptable if the site is surrounded by single family homes on 10,000 sf lots!

4. ROAD EXTENSIONS, “CONNECTIVITY”
 - a. The neighborhood should have strong say on whether additional dwellings, development could use existing access routes, especially if the site is accessible to a major through street (JOSEPHINE ESTATES).
 - b. Street extensions (public or private) through sensitive lands shall be avoided without variance process to demonstrate hardships (DEWPOINT Subdivision).

5. DUPLEXES in the Single Family Zone (such as R-10) are problematic;
 - a. There should be strong controls so that second dwellings are restricted;
 - b. Size limits is one way, such as max 600 sf floor area for accessory dwellings, or guest dwellings, or “granny units”—whatever the unit might be labeled.
 - c. Traditional limits are no kitchens (wet bars, microwaves, frigs are one thing—full kitchen with stoves and gas hookups are another; no separate meters for power or gas is another). Perhaps there should be a permit system that requires yearly renewal (with inspection).
 - d. Requiring separate parking for a guest or granny should not be required—as it encourages permanence. However, for single family homes there should be at least two (2) parking spaces existing (preferably within a garage or carport which is also set AT LEAST 20 feet from a street (public or private).

6. DESIGN REVIEW, OUT-of-SCALE Structures; TRANSITION between Residential and Non-residential

- a. Structures (whether primary dwelling or accessory structures in residential zones need to be in scale with existing residential structures, especially where square footage exceeds that around it).
- b. Transition from residential areas to commercial or industrial areas should respect residential privacy, views (where possible), architectural style and scale and land use (i.e. parking, drives, loading, outdoor storage, outdoor activities should not be adjacent to residential yards without a buffer, such as buildings or preferably landscaping, coupled with walls, fencing). Often privacy is the first concern raised--due to building design with windows, loading or parking areas next to a home, minimal landscape or fencing treatment, etc.

7. PROTECTION OF NATURAL RESOURCES

- a. Habitat Conservation Areas (especially salmon habitat) are inadequate and allow too compromise; destroyed habitat area (ie areas without vegetation near streams , for example) Isn't even protected or required to be restored (example: Josephine Estates).
- b. Upland forested areas aren't protected or their fragmentation (and need for forest infill).
- c. Floodplains and wetlands (especially within the 100 year flood delineation) are not protected, especially from non-habitat uses, like parking lots, off-leash dog run areas, roads and utilities, manicured play areas, group structures, playfields.
- d. The Willamette Greenway consists mostly of privately held properties.
- e. No one county department or local agency is responsible for local salmon recovery efforts and Metro's model ordinances and policies reflect a state policy (Goal 5) that isn't recognized by NOAA/NMFS as an adequate recovery strategy along with bond measures to acquire and improve open space,

Chair Lynn Peterson
Commissioners Bob Austin, Jim Bernard, Charlotte Lehan, and Ann Lininger
Steve Wheeler, Acting Administrator
Mike McAllister, Acting Manager, Planning Department

November 16, 2009

This binder has been prepared for your study and reference. Urban Green and The Audubon Society have made further changes to the Majority Draft. We request that the Board of County Commissioners:

- Instruct the Planning Department staff to use the Majority Draft (with Urban Green's and Audubon's additional changes) as the ordinance presented to the Planning Commission;
- Establish a Tree Mitigation Fund to provide revenue for implementation of the Tree Conservation Ordinance, on-going costs, public education, and urban tree canopy enhancement activities;
- Create an Urban Tree Commission to (e.g.) administrator, monitor the ordinance, monitor the canopy, and make recommendations for improving the ordinance over time. Additionally, this Commission will be tasked with addressing the "parking lot" issues, especially those omitted from the Tree Task Force/Staff list of issues dealing with the sustainability action plan, underlying assumptions, and ecological function.

Urban Green and Audubon have made further or different recommendations to the Majority Draft that strengthen the protection of the tree canopy. These changes are necessary to bring the tree ordinance into compliance with the Forest Practices Act and other public policies, and also reflect provisions of effective and viable ordinances found in Oregon and nationally throughout cities and counties. We welcome the Board's and Staff's close scrutiny of the materials provided.

This binder is divided into sections. These are:

1. **Summary of Recommended Changes to the Draft Task Force/Staff Tree Ordinance made by the Majority Draft Ordinance**
2. **Majority Draft Tree Ordinance.** This draft is an amended version of the original Task Force/Staff draft ordinance. Seven of the 12 Task Force members endorsed, by consensus, this Majority Draft. **The original Staff/Task Force Draft Ordinance is in black font. The Majority Draft language is in red font. Urban Green's changes are in green font; Audubon's added changes are in blue font.**
3. **Costs of Implementation and Net Benefits of the Tree Canopy**
4. **Urban Forestry Commission/Parking Lot issues**
5. **Compliance Measures: Oregon Department of Forestry; Measures 49 and 57**
6. **Supporting Policy Documents or Statements** for enactment of a tree ordinance that include excerpts from Clackamas County Comprehensive Plan pertaining to Natural Resources and Energy, Forest Policy; Natural Resources and Energy; Wildlife Habitats and Distinctive Resources Areas; Oregon's Statewide Planning Goals and Guidelines: Goal 5; Clackamas County Sustainability Goal and Action Plans, Oregon Department of Forestry, Forest Practices Act; National Association of Home Builders.
7. **Supportive Community Organizations** representing 5000 Clackamas County members
Originally submitted to the BCC on 2-17-08
8. **Bibliography and Resources**

Respectfully Submitted,

Clackamas County Urban Green Founding Members: Anatta Blackmar, Catherine Blosser, Bob Murch, Chips Janger, Sue Marshall, Ed Riddle, Susan Shawn, Charlie Stephens

COST CONSIDERATIONS FOR ADMINISTERING A TREE CONSERVATION ORDINANCE

"Cities that have excessive amounts of roads, sidewalks, buildings, and utility infrastructure work against the natural cycle of air and water, and therefore, are more expensive to manage." Urban "green infrastructure is sacrificed to growth and development based on an incomplete set of facts and a lack of understanding of the value of natural capital." (Funders' Network for Smart Growth and Livable Communities at www.fundersnetwork.org, accessed January 13, 2008)

Costs

Throughout the surrounding metro areas of Portland we find examples of effective urban forestry programs that have developed out of various forms of tree preservation ordinances. A common denominator for all of these programs is that they all grew out of the recognition that preserving the urban tree canopy afforded a cost-benefit return that exceeded that of losing such a resource.

Each jurisdiction has unique opportunities and challenges; the administration expense of the beginning program is difficult to determine with precision, but is low. In turn, revenue and costs generated from the ordinance cannot be estimated with any accuracy because variables to revenue include:

- amount of land development activities
- permit numbers
- permit fees charged
- violation fines
- mitigation fees

Many jurisdictions share staff with their Parks Department and cross train. Costs for ordinance implementation are anticipated to include:

- education of counter staff
- employment a contract arborist, until such time as the County can hire licensed staff for cross training
- training volunteer Citizen Participation Organizations to actively monitor tree removal and protection activities during development that are permitted; the CPOs merely report concerns to County staff. Monitoring is also done by on-site inspectors during their routine inspections
- setting up electronic monitoring system for ordinance (e.g. itree [in the public domain] or Citygreen)
- staff cost to input data into computer program
- education of the public regarding the new ordinance

Benefits to Taxpayers and County

Jurisdictions with urban forestry programs realize a significant rate of return on the public's invested dollar in the form of:

- “value of the program per cost of tree” is \$438 as opposed to the estimated annual savings of \$1.8 million due to the benefits from trees” (City of Vancouver, personal communication, 10/26/09)
- generation of grants and sponsorships of \$67,000 per year from the local community (City of Vancouver, as above)
- \$2 billion in stormwater facility construction realized by preserving and maintaining existing trees over a 25 year period (American Forests,)
- Home energy savings of up to 40% when a home is shaded by trees (Vancouver Urban Forestry Commission)
- \$582 million dollars avoided in health care costs due to lower air pollution (study done for Charlotte, South Carolina and Knoxville, Tenn; American Forests, 2004)
- Over \$13 million in property resale value is attributable to the presence of trees in the adjacent rights-of-way; 10-23% increase in real estate value to commercial or residential property when trees are on site (Technical Guide to Urban and Community Forestry, Values of Urban Trees,).
- Treed businesses realize an increase of approximately 11% in sales as opposed to treeless business districts selling the same products (Vancouver Urban Forestry Commission)
- Portland’s street/park trees provide about four times more in benefits than cost to manage (for every dollar spent to maintain a street tree, a return of \$3.61 is realized; park trees return \$4.28) (Implications for Urban Forest Management,).
- Diversified wildlife habitat
- Improved water quality
- 50% decrease in ambient noise
- The benefits that trees offer for surface water management and habitat protections, create opportunities for financial support from surface water management agencies and potential partnerships (e.g. Garden Clubs of America, Arbor Day Foundation, Home Depot Foundation, Toyota Tree Campus USA)

FACT: The current urban forest canopy within unincorporated Clackamas County (within the UGB) is among the lowest in the METRO area at 23.9%.¹ According to American Forests, this area should have a canopy density of 40-50%.²

Clackamas County's inherent urban forest, or "green," infrastructure is being lost, along with the financial ecosystem services it provides, thereby costing taxpayers more and more in costly "gray" infrastructure^{3,4} and remedial costs for public health, habitat, and energy. The urban canopy is an asset that provides largely untapped opportunities to reduce costs.

WE REQUEST OF THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS:

1. The Board of County Commissioners instruct the Planning Department Staff to use the Majority Draft as the proposed ordinance for their study session on November 24, 2009 and that it be the ordinance presented to the Planning Commission;
2. The Board of County Commissioners establish a Tree Mitigation Fund;
3. The Board of County Commissioners add the *Action Plan for a Sustainable Clackamas County*, underlying assumptions, and ecological function back into the list of unresolved "parking lot" issues;
4. The Board of County Commissioners create an Urban Tree Commission with tasks that include addressing the unresolved "parking lot" issues.

¹. *State of the Watersheds Report*, April 2009 commissioned by METRO and Audubon Society

². American Forests is a pioneer in the science and practice of urban forestry, and a primary communicator of the benefits of trees and forests; goals focus on assisting communities in planning and implementing tree and forest actions to restore and maintain healthy ecosystems and communities. See www.americanforests.org.

³. Wolf KL: *Public Value of Nature: Economics of Urban Trees, Parks and Open Space*. In Miller, D & JA Wise (eds). *Design with Spirit: Proceedings of the 35th Annual Conference of the Environmental Design Research Association*. Edmond, OK. 2004.

⁴. "Gray" infrastructure comprises roads, sewers for service water runoff, bridges, water treatment plants

Clackamas County Trees Task Force
Draft Proposed Tree Ordinance
September 10, 2009
1020 TREES

1020.01 VALUE OF TREES

Clackamas County is unique in Oregon, having both a large rural and growing urban environment. Natural growth of trees and the historical planting of trees by residents have produced significant innumerable environmental, social, economic, property value and aesthetic benefits to communities throughout the County. These benefits, particularly those related to the environmental quality, are extraordinarily important during this time of significant global climate change. A healthy urban forest, especially one having mature trees, is essential to maintaining a healthy community and a vibrant functioning ecosystem. A balance between population growth and conservation of our important natural resources, for current and future generations, is necessary to protect the vital resource of our urban forest. Responsible land development focusing on conservation of trees is the foundation for this Ordinance.

1020.01 02 PURPOSE

Section 1020 is adopted to:

- A. ~~Balance the goal of maintaining, preserving, and enhancing the urban tree canopy with the reasonable removal of trees for development, solar access, view easement protection, and safety;~~
- A. Promote tree conservation by emphasizing preservation, maintenance and enhancement of the urban tree canopy while accommodating development, solar access, view easement, protection, public health, and safety;
- B. Advance the County's sustainability objectives by protecting wildlife habitat, air and water quality, and ground water recharge, controlling surface water run-off, and reducing the urban heat island effect, and supporting community sense of place and neighborhood identity;

- ~~C. Preserve trees for their contribution to property values, and for their natural beauty and historical significance;~~
- C. Preserve trees for their contribution toward enhancing aesthetic, cultural, historic, and property values of homes, businesses, and neighborhoods, as well as protecting individual and groves of trees that have historical significance;
- ~~D. Encourage mitigation of negative impacts of authorized tree removal to maintain and enhance the tree canopy in urban unincorporated Clackamas County;~~
- D. Provide mitigation plans for trees impacted by development or that were the subject of unauthorized removal. Any such plans must focus on preserving and enhancing the tree canopy within the urban growth boundary of unincorporated Clackamas County.
- E. Contribute to County compliance with federal, state, and regional environmental regulations;
- ~~F. Increase public awareness of the benefits of a healthy urban tree canopy;~~
- F. Develop a public education program to:
 - 1. Increase public awareness of the benefit of trees and a healthy urban tree canopy.
 - 2. Inform citizens and businesses about the ordinance and its purpose.
- G. Allow farming practices and farm uses in zoning districts where agricultural uses are a primary use;
- H. Allow the continued management of commercial forestlands for forest uses, including the harvesting of forest tree species; and
- I. Implement the Oregon Forest Practices Act in certain areas inside the Portland Metropolitan Urban Growth Boundary.

1020.02 03 AREA OF APPLICATION

Section 1020 applies to all land inside the unincorporated area of Clackamas County within the Urban Growth Boundary, including rights-of-way and easements, and properties within designated Habitat Conservation Areas and/or the Willamette Greenway. Under all circumstances, property having a Heritage Tree, as designated in the Clackamas County Heritage Tree Program, will be subject to protections under this Ordinance. The following property will not be subject to this Ordinance:

A. A lot of record that is:

1. Located in an urban low density residential zoning district;
2. Developed with a single-family dwelling; and
3. Not divisible. A lot of record is "not divisible" if:
 - a. It is not divisible due to zoning restrictions under Section 1012; or
 - b. It is not divisible because division is prohibited by a deed restriction, or by conditions, covenants, or other restrictions.

B. Land that is receiving a farm or specially assessed forestland property tax deferral, or a lot of record that complies with Subsections 1020.02(A)(1), and (2) but does not comply with Subsection 1020.02(A)(3), provided that:

1. If a tree that would otherwise be regulated under Section 1020 is removed pursuant to this exemption, no application for a partition, subdivision, or conditional use shall be approved on the subject property for a period of 10 years after the last such tree is removed, and the property shall be prohibited from being developed with anything other than a single-family dwelling, or a ~~(use accessory)~~ garage or other building structure that is an assist ~~(the term "use accessory" is not clear. I thought we had discussed the concept of building structures such as a garage or storage building)~~ to a single-family dwelling, for a period of 10 years after the last such tree is removed; and

2. In a case where a tree has been removed in violation of the Ordinance, the property owner shall record a deed restriction acknowledging these development limitations," and be subject to provisions covered in Section 1020.11 and 1020.12.
~~Prior to the removal of a tree that would otherwise be regulated under Section 1020, the property owner shall record a deed restriction acknowledging these development limitations.~~

1020.03 04 DEFINITIONS

Unless specifically defined in Subsection 1020.03, words or phrases used in Section 1020 shall be interpreted to give them the same meaning as they have in common usage and to give Section 1020 its most reasonable application.

- A. Caliper: A tree's diameter at six inches above grade. On multi-stem trees, the largest diameter stem shall be measured.
- B. Christmas Tree: A tree of a marketable species and evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control, and one or more of the following practices: basal pruning, fertilizing, insect and disease control, and soil cultivation.
- C. Critical Root Zone: The area where a tree's roots are located. This root zone is generally the area surrounding a tree trunk at a distance equal to one foot for every inch of d.b.h. This area is described as the radius of a circle around the tree.
- D. Diameter Breast Height (d.b.h.): A tree's diameter measured by diameter tape at four and one-half feet above grade. On multi-stem trees, the largest diameter stem shall be measured.
- E. Ecological functions: A tree's contribution to the microclimate and shade, water storage, water flow moderation, bank stabilization and sediment/pollution control, habitat area, connectivity of habitat to water and other habitat areas, presence of unique habitat types.
- F. Emergency: Any manmade or natural event or circumstance causing or threatening loss of life, or injury to person or property.

- G. Hazardous Tree: A tree that, by reason of disease, infestation, age, or other condition, presents a known or immediate hazard to people or property.
- H. Nuisance Tree: Any tree of the following species: single seed hawthorn (*Crataegus monogyna*), English holly (*Ilex aquifolium*), plums (*Prunus* hybrids), sweet cherry (*Prunus avium*), English laurel (*Prunus laurocerasus*), and Portuguese laurel (*Prunus lusitanica*).
- I. Orchard Tree: A fruit or nut tree.
- J. Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose, probable social impact, and probable impact on ecological functions.
- K. Solar Energy System: Any solar collector or other solar energy device or any structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating, or for electricity.
- L. Tree: Any woody plant with at least one well-defined stem of at least eight inches d.b.h., or any woody plant with at least one well-defined stem and planted as a mitigation requirement of Subsection 1020.08.
- M. Tree Removal: The act of removing a tree by digging up or cutting down, or the effective removal through damage to a tree or its root system. Effective removal shall include any procedure the natural result of which is to cause the death or substantial destruction of a tree, including topping and severe cutting back of limbs to such a degree as to destroy or adversely affect the normal growth pattern of the tree. Tree removal does not include routine pruning or trimming.
- H. N. Tree Canopy: The outermost edge of a tree's branches : when delineating the drip line on the ground, it will appear as an irregularly shaped circle defining the canopy's perimeter.
- O. Heritage Tree: A Heritage Tree is defined as any tree that has been designated as a Heritage Tree within the Heritage Tree Program of Clackamas County.

1020.04 05 EXEMPT TREES

The following trees are exempt from the requirements of Section 1020:

- A. ~~Two trees on a lot of record, or 10 percent of the total number of trees on a lot of record, whichever is greater, per two year period. The two year period shall commence with the removal of the first tree. Trees exempt under Subsection 1020.04(A) shall be in addition to any that are exempt under Subsections 1020.04(B) through (L). However, this exemption shall not apply to tree removal by a utility company in a utility easement;~~

{The comments made at the last Board meeting shows concern for the number of trees that can be removed in the two year time period. This concern can be remedied by extending the time from 2 year to 5 years. So in 10 years one could remove only 4 trees, while under the proposed time frame they could remove 10 trees. We recommend removing the 10% amount because there will be difficulty determining the qualifying trees and this will add to the administrative costs. Also for a large lot with many trees the 10% could amount to many trees removed unnecessarily.}

(Recommended Change)

- A. Two trees, with a d.b.h. of eight inches or greater, on a lot of record per 5 year period. The two year period shall commence with the removal of the first tree. Trees removed in this Subsection will require filing a Tree Removal Permit and mitigation as per Section 1020.09 (Mitigation for Removed Trees) . Trees exempt under (A) of this Subsection shall be in addition to any that are exempt under Subsections 1020.04 (B) through (L). However, this exemption shall not apply to tree removal by a utility company in a utility easement;

Urban Green recommends removal of the entire paragraph above in order to better ensure preservation of the existing urban tree canopy. The above paragraph opens a loophole that essentially allows the clear cutting of developable property, without first filing a development permit, over a period of years.

- B. Trees with a d.b.h. of less than eight inches. However, this exemption shall not apply to trees planted either to remedy a violation pursuant to Subsection 1020.10 or as part of a mitigation

plan approved pursuant to Subsection 1020.08;

- C. Trees required to be removed by state or federal law or regulation, or by a fire official;
- D. Orchard trees;
- E. Christmas trees;
- F. Trees planted on the site of a commercial nursery and grown for commercial purposes;
- G. Nuisance trees as defined in this Ordinance;
- H. Dead trees, where death resulted from an accident or non-human cause;
- I. Diseased or hazardous trees, where the condition resulted from an accident or non-human cause, if the property owner first submits a tree removal permit application and provides a report to the County Planning Division from an International Society of Arboriculture (ISA) Certified Arborist verifying that the tree qualifies under this exemption. If a hazardous tree is removed in response to an emergency, the property owner may provide the required arborist's report, or other credible evidence that the tree was hazardous, within 30 days after the tree's removal;
- J. Trees to be removed by a public utility company in order to maintain, repair, or replace an existing utility line, if the utility company first provides credible written evidence to the County Planning Division of the need for tree removal; and submits a public utility tree removal application identifying the tree or trees to be removed and a mitigation plan to replace the trees proposed for removal.
- K. Trees to be removed by a public agency in order to maintain, repair, or replace an existing road located in a public right-of-way, if the public agency first provides a tree removal permit that includes credible written evidence to the County Planning Division of the need for tree removal. This exemption shall not apply to the

widening of an existing road.* All trees proposed for removal will be subject to a mitigation plan for replacement of all trees removed.

~~* The Task Force members who were present for the vote were evenly split on a vote of five for and five against on the question of whether to require utilities and public agencies to mitigate for trees removed to maintain utility lines and roads. This draft does not include a requirement for mitigation, but one easily could be added.~~

- L. Trees required to be removed by the terms of a view easement established prior to the adoption of Section 1020, if the property owner first submits a tree removal permit and provides a copy of the easement document to the County Planning Division.

1020.05 06 TREE REMOVAL PERMIT REQUIRED

- A. No tree shall be removed without a Tree Removal Permit (TRP), unless such removal is exempt pursuant to qualified exemptions in Subsection 1020.04 .05. All trees approved for removal will be subject to the mitigation requirements in section 1020.08 of this Ordinance.
- B. No building or grading permit shall be issued prior to the approval of a TRP if the proposed development requires removal of a nonexempt tree.
- C. Section 1020 shall be applied to an application for design review (commercial and multi-family), a subdivision, a partition, or a conditional use. If a TRP is approved as a result of this review, it shall be issued as part of the design review, subdivision, partition or conditional use approval.
- D. Except as provided in Subsection 1020.05(C), a TRP requested on the basis of Subsection 1020.07(A), (B), or (C) shall be subject to Planning Director Review pursuant to Subsection 1305.02. Except as provided in Subsection 1020.05(C), a TRP requested on the basis of Subsection 1020.07(D), (E), or (F) shall be subject to Planning Staff Review pursuant to Subsection 104.01(C).

- E. A TRP shall be valid for two years from the date of the final written decision, except that if a TRP is approved as part of a design review, subdivision, partition, or conditional use approval, it shall be valid for the same period of time as that approval, including any time extension thereof. If the tree is not removed prior to the expiration of the TRP, removal shall require the filing of a new TRP application.

1020.06 07 TREE REMOVAL PERMIT APPLICATION SUBMITTAL REQUIREMENTS

An application for a Tree Removal Permit shall include:

- A. A completed land use application on a form provided by the County Planning Division;
- B. A site plan of the subject property, drawn approximately to scale and identifying the following as relevant:
1. Location and type of existing and proposed development, including but not limited to, building footprints, roads, driveways, parking areas, utilities, onsite sewage disposal systems, wells, landscaping, and filling or grading. Label each element as existing or proposed;
 2. Location and width of existing adjacent roads and road rights-of-way;
 3. Location and purpose of existing or proposed easements;
 4. Location of any rivers, streams, wetlands, or areas of special flood hazard;
 5. The site ingress and egress proposed to be used by construction vehicles; and
 6. Proposed equipment and material staging and stockpile areas;
- C. A statement explaining why tree removal is necessary and addressing one or more of the approval criteria identified in Subsection 1020.07;

- D. A mitigation plan that addresses the requirements of Subsection 1020.08 ~~to the extent applicable~~;
- E. A tree protection and maintenance plan that addresses the requirements of Subsection 1020.09; and
- F. For a TRP requested on the basis of Subsection 1020.07(A), a tree survey:
1. Where three or fewer trees are proposed for removal, the tree survey shall include, as part of the required site plan, the location of the trees proposed for removal and a brief description of those trees, including common name, approximate height, d.b.h., and apparent health.
 2. Where more than three trees are proposed for removal, the tree survey shall be prepared by an International Society of Arboriculture (ISA) Certified Arborist. The tree survey shall include an accurate map of the subject property that locates all trees and identifies their common name, botanical name, approximate height, approximate canopy spread, d.b.h., health, and condition. It also shall identify the tree(s) proposed for removal. The tree survey shall include an accurate topographic survey stamped by a surveyor or engineer registered in the State of Oregon. Where a stand of five or more contiguous trees exists on the subject property and the applicant proposes neither removal of any of those trees nor construction in proximity to those trees, the tree survey may be simplified to accurately show only the perimeter area of that stand of trees, including its drip line.

1020.07 08 TREE REMOVAL PERMIT APPROVAL CRITERIA

For any tree removal permit to be approved, the applicant must provide information to demonstrate compliance with protections for natural resources, conserving scenic and historic areas, preservation of wildlife habitat, and providing for water quality and erosion control as required within the Oregon Administrative Rules Statutes, OAR 660-015-0000 (5) and OAR 660-015-0000 (6) and comply with the ecological functions criteria under the definition of "practicable."

In any situation where an application for tree removal has been filed for removal of trees from Forest Land within the UGB, the provisions of the Oregon Forest Practices Act (OAR Chapter 629) are adopted by this ordinance, and the County Planning Director will assume responsibility to see that the property owner complies with the following provisions:

- 620.625 – Road Construction
- 620.630 - Harvesting
- 629.610 – Reforestation Stocking Standards
- 629.615 – Treatment of Slash

In addition to the above requirements, the Tree Removal Permit shall be approved if the applicant provides evidence substantiating compliance with at least one of the following additional criteria, and an appropriate mitigation plan is submitted as proscribed in section 1020.08 of this Ordinance:

- A. Tree removal is necessary for the construction of a structure or other improvement, including landscaping within ~~(50 feet)~~ 25 feet of a single-family dwelling, and there is no *practicable* location alternative on the subject property—or, in the case of tree removal in a public right-of-way, elsewhere in the right-of-way—for the proposed structure or other improvement. In ~~(considering)~~ determining whether tree removal is necessary, factors that may be considered include whether the tree is located within the footprint of the proposed structure or other improvement, whether it is too close to the proposed structure or other improvement, and whether it will violate the corner vision standards of this Ordinance or obstruct required sight distance under the County Roadway Standards. If tree removal is proposed in conjunction with an application for a subdivision or partition, it also must be demonstrated that there is no *practicable* criteria, reasonable access, utility, or lot design alternative.

Urban Green's alternative language:

- A. Tree removal is necessary for the construction of a structure, garage, or other building structure that is an assist ~~or other improvement, including landscaping within (50 feet) 25 feet of~~ to a single-family dwelling, and there is no *practicable* location alternative on the subject property—or, in the case of tree removal in a public right-of-way, elsewhere in the right-

of-way—for the proposed structure or other improvement. In (eonsidering) determining whether tree removal is necessary, factors that may be considered include whether the tree is located within the footprint of the proposed structure or other improvement, whether it is too close to the proposed structure or other improvement, and whether it will violate the corner vision standards of this Ordinance or obstruct required sight distance under the County Roadway Standards. If tree removal is proposed in conjunction with an application for a subdivision or partition, it also must be demonstrated that there is no practicable and reasonable access, utility, or lot design alternative.

1. In applying Subsection 1020.07(A), any alternative that would result in tree removal must focus on minimizing the significance of the tree loss.” ~~In applying Subsection 1020.07(A), alternatives that also would result in tree removal shall be preferred where such alternatives would minimize the significance of the tree loss.~~ Factors in determining relative significance of the existing trees include such characteristics as number of trees to be removed, tree health, tree size (i.e. height, trunk diameter, canopy spread), historic value of the trees to be removed, erosion prevention, preservation of wildlife habitat, and maintaining a diversity of tree species with an emphasis on retaining native trees appropriate to the proposed construction.
2. Application of Subsection 1020.07(A) shall not require a reduction of the square footage of a proposed structure or a reduction in the number of lots or dwelling units that would otherwise be permitted.

Urban Green and Audubon recommend the following additional provision:

3. Application of Subsection 1020.07(A) will take into consideration opportunities that utilize innovative design techniques that effectively integrate existing trees into new development or redevelopment (i.e. use lower impact designs).
- B. Appropriate arborist report documenting the need to remove a tree that interferes with the healthy growth of other trees, unless such trees are nuisance trees, as defined in this Ordinance, and it is not practicable to preserve the tree.
~~The tree proposed for removal interferes with the healthy growth of~~

~~other trees, unless such trees are nuisance trees, and it is not practicable to preserve the tree.~~

- C. The tree proposed for removal is located too close to an existing structure or other improvement, and it is not practicable to preserve the tree.
- D. The tree proposed for removal interferes with existing utility service or drainage, and it is not practicable to preserve the tree.
- E. The tree proposed for removal violates the corner vision standards of this Ordinance; or obstructs required sight distance under the County Roadway Standards, and it is not practicable to preserve the tree.
- F. Tree removal is reasonably necessary to allow solar access for the efficient operation of a solar energy system. The applicant shall provide supporting documentation from a solar energy system installer, a government agency with expertise in solar energy systems, or another credible source (e.g. Energy Trust of Oregon, an architect registered to practice architecture in the State of Oregon, an engineer registered to practice engineering in the State of Oregon).

1020.08 09 MITIGATION FOR REMOVED TREES

If a Tree Removal Permit is approved pursuant to Subsection 1020.07, compliance with the following mitigation standards shall be required.

- A. To the extent practicable, the replacement tree shall be planted on the subject property and within the same general area as the removed tree. In determining whether such planting is practicable, consideration shall be given to such factors as terrain, difficulty of replacement, and impact on adjacent property.

Urban Green and Audubon recommend the following changes to the above paragraph:

- A. Mitigated trees should be above and beyond standard landscaping. To utilize the energy savings benefits of trees, ~~To the extent practicable,~~ some replacement tree(s) shall be planted on the south, southwest, and/or

west side of the subject property and within the same general area as the removed tree. In determining whether such planting is practicable, consideration shall be given to such factors as terrain, difficulty of replacement, and impact on adjacent property. The replacement trees should be chosen for their site and root characteristics; energy savings value; benefit to wildlife (including their potential as nesting sites); and species.

B. When it is not practicable to relocate or replace the tree on the subject property, the applicant shall:

1. Relocate or replace the tree at another location approved by the Planning Director. The alternate location shall be within the portion of the County that is inside the Portland Metropolitan Urban Growth Boundary; or

Urban Green and Audubon recommend the following changes to the above paragraph:

1. Relocate or replace the tree at another location approved by the Planning Director. The alternate location shall be within the same ecological sub-hydrologic basin area portion of the County that is inside the Portland Metropolitan Urban Growth Boundary; or
2. Pay into the County Tree Fund, which fund is hereby created, an amount of money established by separate order of the Board of County Commissioners.
 - a. The County shall use the County Tree Fund within the portion of the County that is inside the Portland Metropolitan Urban Growth Boundary for planting trees; and for producing, maintaining, and preserving wooded areas and heritage trees; for monitoring the viability of mitigated replacement trees
 - b. In addition, and as funds allow, the County Tree Fund shall provide educational materials to assist with tree planting, mitigation, and relocation.

C. Except as provided in Subsection 1020.08(C)(2), each tree approved for removal shall be replaced as follows:

1. If the tree to be removed has a d.b.h. of less than 16 inches, ~~one~~ (2) replacement tree shall be planted.
2. If the tree to be removed has a d.b.h. of at least 16 inches but less than 24 inches, ~~two~~ (3) replacement trees shall be planted.
3. If the tree to be removed has a d.b.h. of 24 inches or greater, ~~three~~ (4) replacement trees shall be planted.

Urban Green and Audubon recommend substitution of 1-3 above and adoption of Oregon City's tree replacement ratios:

1. If the tree to be removed is less than 8" d.b.h., 1 replacement tree
2. If the tree to be removed is 8" – 12" d.b.h., 2 replacement trees
3. If the tree to be removed is 13" - 18" d.b.h., 3 replacement trees
4. If the tree to be removed is 19" – 24" d.b.h., 4 replacement trees
5. If the tree to be removed is 25" – 30" d.b.h., 5 replacement trees
6. If the tree to be removed is 31" and over d.b.h., 8 replacement trees

D. When it is not practicable to relocate or replace the tree on the subject property, the applicant shall:

1. Relocate or replace the tree at another location approved by the Planning Director. The alternate location shall be within the portion of the County that is inside the Portland Metropolitan Urban Growth Boundary; or
2. Pay into the County Tree Fund, which fund is hereby created, an amount of money established by separate order of the Board of County Commissioners.
 - a. The County shall use the County Tree Fund within the portion of the County that is inside the Portland Metropolitan Urban Growth Boundary for deferring the administration cost of this Ordinance, supporting a community tree education program, and planting trees and for producing, maintaining, and preserving wooded areas and heritage trees.
 - b. In addition, and as funds allow, the County Tree Fund shall Provide educational materials to assist with tree planting,

mitigation, and relocation.

- E. A replacement tree shall be appropriately chosen for the site from an approved tree species list supplied by the County. Diversity of tree species shall be maintained where essential to preserving a wooded area or other habitat.
- F. A replacement tree shall have a minimum caliper of two inches or a minimum height of eight to ten feet by nursery industry standards.
- G. A replacement tree shall be staked, fertilized, and mulched. The property owner will be responsible to guarantee that any mitigation replacement tree survives for 2 years; any tree that dies within this time period must be replaced. Any trees planted as part of a mitigation plan cannot be removed without filing a TRP.
- H. Planting of required replacement tree(s) shall occur within one year of tree removal, and the property owner is responsible to notify the Planning Department that the mitigation planting has been completed in accordance with this Ordinance. Failure to do so will be deemed a violation of this Ordinance and subject to penalties as proscribed.
- ~~I. A replacement tree shall be guaranteed by the applicant for two years after the planting date. A guaranteed tree that dies, or acquires a disease that necessitates removal, shall be replaced, and that replacement tree shall in turn be guaranteed by the applicant for two years after the planting date.~~

1020.09 10 TREE PROTECTION DURING CONSTRUCTION

If a Tree Removal Permit (TRP) is approved pursuant to Subsection 1020.07(A), or if construction is authorized on the subject property pursuant to the approval of an application for design review, a subdivision, a partition, or a conditional use, compliance with the following tree protection standards shall be required.

- A. Unless a tree is exempt pursuant to Subsection 1020.04 or has been authorized for removal by a TRP, it shall be protected. If no trees that require protection pursuant to this provision exist on the subject property, the provisions of Subsection 1020.09 are not applicable.

- B. Trees that require protection shall be clearly labeled as such for the duration of construction activity.
- C. Construction activity likely to be injurious to a tree designated to remain, including, but not limited to, placing solvents, building material, construction equipment, or depositing soil, or placing irrigated landscaping, within the drip line, shall be prohibited, unless a plan for such construction activity has been approved by the Planning Director based upon the recommendations of an arborist.
- D. Notwithstanding the requirement of Subsection 1020.09(B), no device or wire shall be attached to any protected tree unless needed for tree protection.
- E. Prior to the commencement of construction activity, the applicant shall erect and maintain readily visible protective tree fencing along the outer edge of the tree drip line and completely surrounding the critical root zones of all protected trees or groups of trees. Fences shall be constructed ~~of chain-link and~~ at least four feet high, unless another type of fencing is authorized by the Planning Director. The protective fencing shall remain in place until the County authorizes its removal or issues a final certificate of occupancy, whichever occurs first. Protective fencing is required for all protected trees, except in the following cases:
1. Rights-of-Way and Easements. Street rights-of-way and utility easements may be cordoned by placing stakes a minimum of 50 feet apart and tying ribbon, plastic tape, rope, or similar material from stake to stake along the outside perimeters of areas to be cleared.
 2. Any property area separate from the construction or land clearing area and onto which no equipment will venture may also be cordoned off as described in Subsection 1020.09(E)(1), or by other reasonable means.
- F. The removal of or damage to a tree or trees otherwise requiring protection during construction will be deemed a violation of this ordinance and subject to fines, penalties and remedies as stipulated in this ordinance.

1020.11 VIOLATION OF ORDINANCE

- A. A violation shall be deemed to have occurred if it is determined that a tree, or trees, have been cut down or otherwise destroyed contrary to the specific requirements of this Ordinance. Evidence of such violation will be from the physical appearance of the land from which the tree or trees have been cut, as well as testimony from any witnesses. Removal of stump material that would otherwise prove or disprove a violation of this Ordinance will be deemed to be prima facie evidence that such a violation has happened. It will then be the landowner's burden to prove that an Ordinance violation has not occurred.
- B. If more than one non-exempt tree is removed without a TRP, each removed tree will constitute a separate violation.
- C. A violation of this Ordinance may result in any of the following actions by the County:
1. Denial of tree cutting application.
 2. Revocation of an approved tree-cutting permit.
 3. Revocation of an application for land development if there are violations of this Ordinance that were conditions of approval for any such land development application.
 4. Fines, injunctions, mitigation and other remedies as outlined in the "Remedy" section.
 5. A moratorium limiting future development on the subject property as per Subsection 1020.03 (B) (1) of this ordinance.

1020.12 Remedies

- A. A violation resulting from the removal of a non-exempt tree without first obtaining a TRP shall be remedied by all of the following:
1. Obtaining a TRP, in which case the TRP approval criteria will be applied as though the removed tree(s) were still in place; or
 2. Replacing the removed tree(s), subject to the following criteria:

- a. Twice as many trees shall be planted as would ordinarily be required by section 1020.08.
 - b. The County may use any reasonable means to estimate the number of trees removed if destruction of illegally removed trees prevents an exact count.
 - c. Except as modified by sections 1020.10(B)(a), compliance with Subsections 1020.08 and 1020.09 shall be required.
- B. Subsection 1020.10 applies in addition to any enforcement action the County may take pursuant to Chapter 2.07 of the County Code.

1020.13 Fines and Penalties

Each exempted tree removed without a permit will be considered a separate violation of this Ordinance, and each violation will be subject to any or all of the following fines or penalties :

- A. The value of the trees unlawfully removed based on the appraised value using the latest edition for Plant Appraisal (International Society of Arboriculture, Council of Tree and Landscape Appraisers).
- B. A fine will be assessed, as proscribed in the Clackamas County Code 20.7.120, appendix B, up to \$3,500 per violation.
- C. In addition to fines assessed, civil penalties may be imposed as proscribed in the Zoning and Development Ordinance 102.03. Those penalties may be as follows:
 1. A civil penalty for each day of violation, such penalty to be determined by resolution of the Board of County Commissioners.

1020.10 VIOLATIONS

- ~~A. Removal of a non-exempt tree without first obtaining a Tree Removal Permit (TRP) is a violation of this Ordinance. If more than one non-exempt tree is removed without a TRP, each removed tree shall constitute a separate violation.~~

~~B. A violation resulting from the removal of a non-exempt tree without first obtaining a TRP shall be remedied by:~~

- ~~1. Obtaining a TRP, in which case the TRP approval criteria will be applied as though the removed tree(s) were still in place; or~~
- ~~2. Replacing the removed tree(s), subject to the following criteria:
 - ~~a. Twice as many trees shall be planted as would ordinarily be required by Subsection 1020.08.~~
 - ~~b. The County may use any reasonable means to estimate the number of trees removed if destruction of the illegally removed tree(s) prevents an exact count.~~
 - ~~c. Except as modified by Subsection 1020.10(B)(2)(a), compliance with Subsections 1020.08 and 1020.09 shall be required.~~~~

~~C. Subsection 1020.10 applies in addition to any enforcement action the County may take pursuant to Subsection 102.03 of this Ordinance and Chapter 2.07 of the County Code.~~

Summary of Recommended Changes to the Draft Task Force/Staff Tree Ordinance by the Majority Draft Ordinance*

***Using the Majority Draft: The original Staff/Task Force Draft Ordinance is in black font. The Majority Draft language is in red font. Urban Green and Audubon have made further recommendations to several sections of the Majority Draft that strengthen the protection of the tree canopy. Urban Green and Audubon's comments are in green font.**

1. Section 1020.01: Value of Trees statement was added following task force discussion that left this topic unresolved. The statement in needed to express the County's concern for trees and set the direction and tone of the Ordinance. The better tree ordinances include a value statement.
2. Section 1020.02: The Purpose section needed revision to better describe the intent of the Ordinance and to comply with the charge and scope set by the Board.
3. Section 1020.03: The Area of Application was changed to protect Heritage Trees and to create a restrictive future development penalty for violation the Ordinance.
4. Section 1020.04: Definitions were added to clarify language within the Ordinance, specifically "ecological function," "heritage tree," "tree canopy," and "practicable."
5. Section 1020.05: Within the Exempt Trees section changes are recommended regarding the number of trees that can be removed without a permit from 2 per 2 year period to 2 per 5 year period. Also added was a requirement that a permit be obtained to monitor the number of trees removed, and a mitigation requirement to preserve the tree canopy. Utility companies will be required to comply with the tree removal permitting process, a process they comply with in other jurisdictions without difficulty.
6. Section 1020.06: Under Tree Removal Permit Required we recommended that language be added to require mitigation in all situations where trees are allowed to be removed.

7. Section 1020.08: The Tree Removal Permit Approval Criteria required revision to comply with the request from the Oregon Department of Forestry (ODF). This new language will allow the County to be in compliance with ODF rules under the Oregon Forest Practices Act. Approval criteria was strengthened to preserve trees within 25 feet of a proposed structure.

8. Section 1020.09: The mitigation section was proposing replacing removed trees with a stated number of trees that would not sustain the urban forest canopy. We recommend increasing the number of mitigated trees that would be more in line with what Oregon City has adopted.

We also added language that held property owners responsible to see that mitigation compliance is followed.

9. Sections 1020.11, 1020.12, 1020.13: The Violation, Remedies, and Fines sections were either non-existent or very inadequate to create a deterrent for Ordinance violation. Our recommended language puts teeth in the Ordinance and sends a clear message to all citizens that there are consequences when a violation occurs.

EXHIBIT 3
pg. 1 of 2

Gonzales, Lorraine

From: Barbara Kemper [barbkemper@yahoo.com]
Sent: Friday, November 21, 2014 12:37 PM
To: Patrick Russell; Gonzales, Lorraine
Cc: Terry Gibson; carol mastraade; Steve Berliner; 1cposton; Cyndi LewisWolfram; Kay Faure; daniel t blue; wichitacarnation@hotmail.com; Lori Phillips NCCA Neighbor; Al Rackley; Elaine Maxey; Eleanore Hunter
Subject: Re: PC Hrg Dec 8, 2014 Public Hearing Testimony, PC Annual Work Program 2015-16

Thank you, Pat, for including the CPO concerns here. These concerns are not only for our CPO ... I have heard them expressed throughout the community.

Barbara Kemper
barbkemper@yahoo.com
503-380-3544 Cell phone

From: Patrick Russell <ppeartrussell@gmail.com>
To: "Lorraine Gonzales," <lorrainego@co.clackamas.or.us>
Cc: Terry Gibson <tjgibson1@comcast.net>; carol mastraade <clm@spritone.com>; Steve Berliner <forcreeks@comcast.net>; 1cposton <cposton65@gmail.com>; Cyndi LewisWolfram <cyndilw52@gmail.com>; Barbara Kemper <barbkemper@yahoo.com>; Kay Faure <kay4@teleport.com>; daniel t blue <dantblue@msn.com>; "wichitacarnation@hotmail.com" <wichitacarnation@hotmail.com>; Lori Phillips NCCA Neighbor <phillips3plus1@hotmail.com>; Al Rackley <sandymoreno49@comcast.net>; Elaine Maxey <pandemaxev@comcast.net>; Eleanore Hunter <Eleanore@icloud.com>
Sent: Thursday, November 20, 2014 12:51 PM
Subject: PC Hrg Dec 8, 2014 Public Hearing Testimony, PC Annual Work Program 2015-16

In view of the County DTD's October 23, 2014 notice to county CPOs of the Planning Commission's scheduled public hearing on December 8, 2014 regarding their Annual Work Program discussion, I am submitting--via email--documents shown attached to this email.

I trust that they will be conveyed in the Planning Commissioner's packets for the hearing. Note that the CCUrban Green "draft" Ordinance Fall 2009 is 26 pages long, and the colored type is key to the Urban Green's arguments for strong tree protection language and policy. I am including this because many in the community feel that the tree protection policy adopted in 2010 was not strong enough and distinctions in the colored type illustrate the differences between staff, the Tree Task Force versions (with split support).

If you have any questions or that the attachments do not transmit properly, please advise.

EXHIBIT 3

pg. 2 of 2

Thank you for your time and dedication to our county planning needs (you are our unsung "heroes," really!).

Pat Russell
15989 SE Bilquist Circle
Milwaukie, OR 97267

ppeartrussell@gmail.com
Phone Message: 503-317-6456
Cell: 503-317-6456

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EXHIBIT 4
pg. 1 of 2

From: Tammy Stevens [tsr@bctonline.com]
Sent: Friday, November 21, 2014 9:30 AM
To: Gonzales, Lorraine
Cc: Bill Merchant; Bill Merchant; Cheryl Boffard; Christine Kosinski; Norm Andreen
Subject: FW: Reminder: Deadline for input on Planning Division Work Program

Good morning Lorraine,

Sorry for waiting until the last day to provide input, however, our Board met last night & I wanted to make sure all input was included.

Suggestions for Planning:

1. Code Enforcement working closely with Planning.
2. Hamlets, Villages & CPOs receiving copies of home occupation & temporary home for care permit renewal letters to assure renewals happens.
3. Pre-application conferences attended by ALL departments involved.
4. When completing a subdivision, my worst problem (for over 1 year) was getting the departments/people to work as a team. I finally had to pay my \$350 per hour attorney to attend a meeting of all departments involved to get a list of what had to be done, who was doing what & time commitments to get the project approved.

If you'd like to discuss any of the above in more detail, please give me a buzz (503.632.3552).

Thank you for this opportunity,

Tammy Stevens
The Hamlet of Beavercreek

From: Renhard, Darcy [mailto:DRenhard@co.clackamas.or.us]
Sent: Tuesday, November 18, 2014 5:22 PM
To: Tammy Stevens
Subject: RE: Reminder: Deadline for input on Planning Division Work Program

No problem! Actually, send your comments to Lorraine Gonzales. Her email & contact info is below.

I hope all is going well with you.

Darcy

From: Tammy Stevens [mailto:tsr@bctonline.com]
Sent: Tuesday, November 18, 2014 5:09 PM
To: Renhard, Darcy
Subject: RE: Reminder: Deadline for input on Planning Division Work Program

Hey Darcy,

Our Board meets Thursday evening... I'll get our input in to you Friday.

Thank you for the reminder!

EXHIBIT 4
Pg. 2 of 2

Tammy

From: Renhard, Darcy [<mailto:DRenhard@co.clackamas.or.us>]
Sent: Tuesday, November 18, 2014 11:21 AM
To: CPO-Aurora/Butteville/Barlow; CPO-Birdshill ; CPO-Boring (fitz@starollco.com); CPO-Bull Run ; CPO-Carus; CPO-Central Point; CPO-Clackamas (Cyndilw52@gmail.com); CPO-Clarkes/Highland; CPO-Colton; CPO-Eagle Creek/Barton ; CPO-Estacada ; CPO-Far West ; CPO-Firwood ; CPO-Forest Highlands; CPO-Government Camp ; CPO-Hamlet of Beavercreek; CPO-Hamlet of Molalla; CPO-Hamlet of Mulino (meyerjohn@yahoo.com); CPO-Holcomb/Outlook ; CPO-Jennings Lodge; CPO-Ladd Hill ; CPO-Molalla ; CPO-Mt. Hood Corridor; CPO-Oak Grove; CPO-Redland / Viola / Fischer's ; CPO-Rhododendron; CPO-Rosewood; CPO-Skylands; CPO-South Clackamas; CPO-Southgate; CPO-Southwood Park; CPO-Stafford Hamlet; CPO-Stafford/Tualatin Valley; CPO-Sunnyside ; CPO-Villages at Mt. Hood
Subject: Reminder: Deadline for input on Planning Division Work Program

Dear CPO, Hamlet, and Village Representatives,

This is a gentle reminder to send in your recommendations for the Planning & Zoning 2015-2016 work program. The deadline to submit your recommendations is Friday, November 21, 2014. At this point I have received comments from two community planning organizations. Please use this opportunity to share your community's planning interests and needs for the upcoming fiscal year.

I look forward to collecting your input and including it as part of the staff report for the December 8, 2014 Planning Commission hearing.

Please see the attachment that was handed out during the Community Leaders Meeting.

Lorraine Gonzales, Senior Planner
Clackamas County Planning & Zoning Division
150 Beavercreek Rd,
Oregon City, OR 97045
(503) 742-4541
lorrainego@co.clackamas.or.us

size=3 width="100%" align=center>

NOTE: This message was trained as non-spam. If this is wrong, please correct the training as soon as possible.

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From: JLCPO [jenningslodgecpo@gmail.com]
Sent: Thursday, November 13, 2014 12:52 PM
To: Gonzales, Lorraine
Subject: ZDO and Comp. Plan Proposals for Planning Commission

EXHIBIT 5
Pg. 1 of 5

To: Lorraine Gonzales, Senior Planner
Clackamas County Planning & Zoning Division

Lorraine,

The Jennings Lodge CPO Board is drafting some ZDO and Comp. Plan proposals for the Planning Commission to consider for next fiscal year's work program. We are wondering about the format we should use in submitting those ideas to you in writing by November 21st. Right now, they are written in goal-oriented concept form, describing the issue or what we would like to see achieved with a change. We haven't yet tried to address the language mechanics by identifying a particular ZDO and suggesting exact language, since there are probably a number of ways it could be done, depending now the County wanted to address those issues. But if it was necessary to be that specific, we could give it a try.

We would appreciate any suggestions and other help you can give, so that the CPO and the County can achieve what they want. (A number of other groups are aware that we intend to submit ideas, and have turned to us for any guidance WE can give, so any help you can give us will be passed on them, too.)

Thank you,
Karen Bjorklund, Vice-Chair
Jennings Lodge CPO Board
503-222-6493

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Gonzales, Lorraine

From: Tom & Leslie Weaver [jeslieandtom@gmail.com]
Sent: Thursday, November 20, 2014 11:40 PM
To: JLCPO
Cc: Gonzales, Lorraine
Subject: Re: Jennings Lodge CPO Comp. Plan and ZDO Proposals to Planning Commission

A giant step forward is a step in the right direction. On behalf of the board and the community T-H-A-N-K Y-O-U !!!

On Thu, Nov 20, 2014 at 3:56 PM, JLCPO <jenningslodgcpo@gmail.com> wrote:
To the Clackamas County Planning Commission
c/o Lorraine Gonzales, Senior Planner
Clackamas County Planning and Zoning Division

Thank you for the opportunity to suggest Zoning Ordinance and Comprehensive Plan proposals for consideration as part of the 2015-2016 Work Program. Both as members of a community planning organization board striving to represent the interests of our community, and as individual residents living in unincorporated Clackamas County, we have encountered various challenges in the Clackamas County land use process. Our proposals address some of those challenges, and some approaches for dealing with them. Carrying forward with these proposals and developing the needed language in the Zoning Ordinances and the Comprehensive Plan would enable community planning organizations and residents to more fully participate in the land use process, and implement a more shared vision for their communities.

Respectfully submitted by Karen Bjorklund for the Jennings Lodge CPO Board:
Carol Mastronarde, Karen Bjorklund, Tom Weaver, Dan Howard and Ed Gronke
jenningslodgcpo@gmail.com

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**Jennings Lodge CPO Board
11-2014 Comprehensive Plan & ZDO Proposals
for the Planning Commission to Consider for the Next Fiscal Year Work Plan**

1. **CPOs & Local Appeal Review Authority:**
According to ZDO Section 1307, the process for all land use decisions in which a Hearings Officer is the Initial Decision Review Authority has no local county appeal; they can only be appealed to the State Land Use Board of Appeals, an expensive and time-consuming process. This makes it almost impossible for a Community Planning Organization to effectively represent the feelings and wishes of its community in a disputed case. Community Planning Organizations should first be able to appeal locally and directly to the Board of County Commissioners for review and reconsideration before moving to a venue outside the County. Such a local appeal process should be incorporated into the land use procedures in Clackamas County, most logically in Section 1307.

2. **Local Appeal Review Authority for Significant Developments:**
Decisions on developments or other land use actions that have a significant impact on surrounding neighborhoods should not be left in their entirety to staff or to an individual hearings officer with no local appeal. As in Portland, significant land use decisions made by a hearings officer or staff should be able to be appealed to the local elected entity – in this case, the Board of County Commissioners. “Significant” could be developments over 25 lots, and proposed developments that would increase the number of lots on the surrounding streets by 50% or more. This could be done by creating a subdivision category of Type III land use permits in 1307.04 that is a step above the “major” subdivision (“major” defined in 1105.04 (A) as 11 or more lots). And then altering Table 1307-1, etc. so the Hearings Officer is the Initial Decision Maker and the Board of County Commissioners is the Appeal Review Authority for this new step in the Type III category.

3. **Re-Zoning Limitation and Re-Zoning Appeal Review Authority:**
If the current residential zoning overlay calls for lot sizes smaller than the majority of the existing neighborhood lots, no denser re-zoning should be allowed in that area. In addition, the Hearings Officer should be the Initial Decision Maker and the Board of County Commissioners the Appeal Review Authority in all residential re-zoning applications.

4. **Consideration of “Neighborhood Character” in Land Use Applications:**
“Neighborhood character” needs to be a consideration in ALL land use applications for residential subdivisions and planned unit developments, as well as multi-family developments, where the required sizes of the lots in the zoning overlay do not match (generally are smaller than) the majority of the existing lot sizes of the surrounding neighborhood. In-fill in these areas was meant to happen slowly and in small amounts to help the neighborhood’s transition. Developments do not achieve

this type of in-fill, and must be considered carefully from many aspects, including neighborhood character.

5. "Urban Low Density" & Lot Sizes per Zoning Designation:

Revise the use of the label "Urban Low Density Residential". R-2.5 is not low density. And while R-5 or R-7 may become low density in the future, they are not now. In addition, except for planned unit developments, lots should be no smaller than the zoning designations; so lots with R-10 zoning, for example, should be no smaller than 10,000 sf (not 80% of 10,000 sf as currently allowed in 1014.04 (B) Flexible-lot-developments).

6. District/Neighborhood Planning Agreements:

The Comprehensive Plan and resulting ZDOs should require smaller districting of the areas of unincorporated Clackamas County, and the creation of planning agreements with each district that outline an agreed-upon 20-year housing and transportation plan between County and area residents. This is in contrast to the current broader-based planning process that seeks input from residents, but administers without their agreement.

7. ZDO 1002.04 Definition of "Feasible":

The first sentence of ZDO 1002.04 (A) states that "Existing wooded areas, significant clumps or groves of trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible." The dictionary and common meaning of "feasible" is "capable of being accomplished", which has been used by staff in relation to road construction, and should also be applied to the preservation of trees. So if it's possible to create a development and leave trees ("capable of being accomplished"), that is what should be done, rather than allowing the clear cutting of trees. Examples of measures to incorporate trees and vegetation in a development plan should be made a part of the Zoning Ordinances.

8. True Balance of Tree Preservation with Development:

The second sentence of ZDO 1002.04 (A) states that "The preservation of these natural features shall be balanced with the needs of the development". This ZDO needs to be clarified and strengthened with regard to balancing the retention of trees with the needs of the development. Allowing clear cutting of all or most trees as part of a development, when applicants argue that is what is needed in order to preserve density, in no way creates balance. Under the current application of ZDOs in unincorporated Clackamas County, we will eventually need to go to the cities like Lake Oswego in order to see old growth trees, because such trees are protected there but not in unincorporated Clackamas County.

9. CPO Notice of Pre-Application Meetings:

Send Community Planning Organizations notification of pre-application meetings regarding contemplated land use changes in their areas, in addition to notification later on when completed applications are received.

10. Longer CPO Notice on Land Use Applications with Special Overlay Areas:

For land use applications involving Willamette Greenway, Habitat Conservation and other overlay areas, notify Community Planning Organizations and other interested parties at least 45 days in advance of a public hearing or comment deadline (rather than the 35 days required now). These more complex applications require more time to assess and develop responses.

11. CPOs at Disadvantage in Representing Communities when Applicant Attorneys Involved:

Community Planning Organizations are asked to be both advisory to the County *and* to represent their communities in land use proceedings and quasi-judicial hearings. Many times, the Community Planning Organization is the only party representing the community. In the case of subdivisions and PUDs, in particular, the applicant often has one or more attorneys and other professionals to represent their interests, which can be in direct opposition to the interests of the communities. This puts Community Planning Organizations at a distinct disadvantage in representing their communities. This inequity needs to be addressed, and a land use process created whereby citizens and organizations as well as developers would have an equal as well as transparent opportunity for input and consideration. Citizens and community organizations should also be given the opportunity for input earlier in the process, such as starting within a week after the pre-application meeting.

12. Informational Feedback to Staff:

After Planning and Transportation decisions are made by County staff, the staff may rarely be informed about problems and therefore problem-solving measures that builders and developers come up with on site, and how traffic flows and work-arounds develop in neighborhoods. This information gap needs to be addressed so that County staff have the most accurate data possible for future application, rather than needing to rely on assumptions.

13. Community Comment on Traffic Concerns:

Neighbors often have concerns which go beyond what traffic engineers anticipate. What looks fine on paper as far as volume to capacity ratio does not address issues such as a nearby school or a major pedestrian use of a roadway. In land use applications with school and pedestrian impacts, more weight should be given to neighbors and community member comments about concerns, and the community should be included earlier in the land use process.

Thank you for your consideration.

Respectfully submitted by the Jennings Lodge CPO Board: Carol Mastronarde, Karen Bjorklund, Tom Weaver, Dan Howard and Ed Gronke.

EXHIBIT 6
pg. 1 of 2

Gonzales, Lorraine

From: Nathan Burton [nathanb@serapdx.com]
Sent: Wednesday, November 26, 2014 3:04 PM
To: Eleanore Hunter; Gonzales, Lorraine
Subject: RE: response to quick question from Nate

Thanks Lorraine and Eleanore. Just to follow up a bit; one of the primary concerns of the citizens involved in the Park Avenue station is that the county create, as soon as possible, station area zoning in the area that was encompassed by the original TGM Grant. The idea of a zoning overlay has been discussed during the past year with all of the citizens and groups involved in the planning of the station, and appropriate guidelines for the new development that is sure to come is essential. As the station and parking garage near completion, we feel the creation of this zoning overlay is the top priority for the Planning and Zoning staff to implement for our community.

Thanks again,

Nathan

From: Eleanore Hunter [mailto:eleanore@cloud.com]
Sent: Wednesday, November 26, 2014 10:06 AM
To: Lorraine Gonzales
Cc: Nathan Burton
Subject: response to quick question from Nate

Lorraine -

This is coming from Nate, who has a very busy day with site work, and asked if I could forward you his response to your question.

thanks much

Eleanore

Lorraine, I totally understand that this is probably the most important thing for you to know in order to plan your department's time.

This is also the toughest for us to quantify due to the many unknowns involved in community process.

Here's our best guess of how it could play out for the year:

- Meet in January with Design Committee to outline our approach to the community and verify what constitutes community support for the County and discuss timeline
- Meet in February to work through some high level zoning concepts and opportunities to determine what policy and approval challenges we may face
- Community provides and reviews support to the County according to process and timeline requirements
- County Staff translates Community approved visuals into draft code
- Meet to work directly through planning and zoning intent toward the creation/adaptation of ZDO policy
- Concurrently, the community would like to work through some of the issues within existing residential zones that need increased protection and agency for community involvement. It is less clear what this entails, but it would likely include several meetings with your staff to talk about the issues presented and how they can be addressed through policy updates.

Thanks Lorraine - and happy coming holiday weekend!

Nathan

Dear Lorraine,

In response to strong and sustained support from the citizens of the Oak Grove and Jennings Lodge communities, I write to request that Development and Design Standards for the Park Ave Station area at the intersection of McLoughlin Blvd and SE Park Ave be included in the Planning Department's annual work program for the coming fiscal year.

The following items would likely be included in the proposed Development and Design Standards: (though terminology and other elements may be subject to change as we collaborate together to find the best approach to achieve the community's desired results):

- Zoning Densities
 - High/Medium density and Mixed use Core Zone
 - Medium density and Mixed use Support Zone
 - Medium/Low density Neighborhood Zone
 - Open Space and Connectivity Zone
- Buildings heights & Uses
 - Office
 - Housing
 - Retail
 - Mixed-Use
- Transportation & Connectivity
 - Roads
 - Bike/Ped-ways
- Open Space/Greenways
 - Bike/Ped-ways
 - Parks
 - Sidewalks
- Tree Canopy
- Lighting
- Maintaining Residential Neighborhoods
- Public services and resources like a community center

New Development and Design standards will focus on:

- Density/Activity clustered in designated areas
- Provide mixed use and income diversity
- Include public space and cultural activities
- Preserve open space, trees, history
- Set performance goals and measure results
- Incentives for preservation of assets and contributions to community and habitat
- Potential design review and/or administrative review adaptations

All of the above items will follow the community's design criteria detailed in Phase II of the McLoughlin Area Plan completed in December 2011.

The McLoughlin Corridor is 'over-retailed' and a change of zoning is critical to creating a stronger, more economically viable future for all members of our

EXHIBIT 7
pg. 1 of 2

Gonzales, Lorraine

From: Pat Russell [ppearussell@gmail.com]
Sent: Friday, November 21, 2014 8:10 AM
To: Nathan Burton
Cc: Gonzales, Lorraine; designlovegiveadamn@gmail.com; Eleanore Hunter (eleanore@icloud.com); Chips Janger; Ed Gronke (gronkee@msn.com); Jennifer Harding; Terry Gibson; Barth, Gary
Subject: Re: Clackamas County Planning - Work Plan - MAP-IT efforts

Nate,

This idea feeds nicely into conversations that took place at the MAPIT Eco-infrastructure Committee meeting yesterday, as Ed will know.

Gary Barth, our Community Business Dept. Director, shared some excellent thoughts, along with another staff member, working on Main Street programs and economic development strategies. Most agree that a catalyst project in the corridor would be a worthy goal, especially around one of our cluster areas advocated in concept in the MAP docs. Our McLoughlin lighting district formation is also looking good, with a BCC Work Session scheduled for Dec 16th. So we are continuing our March to little successes.

Please be sure to share "our" request to the Planning Commission (FY 2015-16 Work Program) with all our MAPIT members at our MAPIT meeting set for Tues, Dec 9th (per Jennifer). You might also be interested in knowing what REQUESTS to the PLNG Comm the Jennings Lodge CPO and members of the Clackamas CPO have submitted, dealing with neighborhood sustainability, development review processes and renewed focus on tree protection. I can forward what I have upon request. I have suggested that our CPOs share their proposals with MAPIT, also.

Pat Russell
15989 SE Bilquist Circle
Milwaukie, OR 97267

Ph: 503.656.9681
Cl: 503.317.6456

ppearussell@gmail.com

Sent from my iPad

On Nov 20, 2014, at 3:39 PM, Nathan Burton <nathanb@serapdx.com> wrote:

Lorraine,

Please see the attached letter to request some time and resources for your department in the upcoming year. I understand that you've had conversation with Eleanore Hunter in this regard and that the planning department is currently working through time and budget allocations for the coming year. To that end, we are submitting this formal request for your consideration.

I understand that there is not yet enough detail to help you fully plan for all aspects of these efforts throughout 2015, but we've attempted to give some definition to help you create a framework. The MAP-IT design committee will be working through the necessary steps to get the clear community buy-in requested by the County over the next few months; and we anticipate being able to begin working through some of the regulatory pieces and zoning overlay maps with you sometime in the first or second quarter of the year based on that direction. From there, you will have a much better idea of what's entailed for the planning department.

EXHIBIT 7
pg. 2 of 2

Please feel free to email back or give me or Eleanore a call if you have any questions or need further clarification.

Thank you for your consideration,

Nathan Burton, Reg Arch, LEED AP H, Cascadia
Project Architect
d: 503.445.7381
o: 503.445.7372

SERA
sustainable design for the built environment
serapdx.com
visit our new website at SERApdx.com

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<2014-1120 Proposal letter to County Planning - Zoning & Development Standards.pdf>

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EXHIBIT 8
pg. 1 of 1
DEC 01 2014

Lorraine Gonzales, Senior Planner
Clackamas County Planning & Zoning
150 Beaver Creek Rd.
Oregon City, OR 97045

Nov. 14, 2014

In regards to the article in the Citizens News about Ordinance Review, I would like to comment .I have been directly involved in a situation wherein the results have damaged my property value. Telephone calls prior to and during construction to several County entities were of no avail.

When you review a request for a new development, whether it be one building/house or several; is consideration given to the effect it will have on properties contiguous to it?

Will reduction of existing trees, hedges and other plantings change the aspect of the existing neighbors views, privacy or weather conditions? Will the neighbors be notified prior to the permits being granted? Will existing residents be interviewed and overall plans be explained? Will new construction overwhelm the existing ones? Will existing residents have any rights to comment, object or protect?

Thank you!


Roger W. Hollingsworth

15072 SE Robinette Ct.
Milwaukie, OR 97267-3209

Rogholly1@aol.com

503 784 0967

EXHIBIT 9
pg 1 of 3

Gonzales, Lorraine

To: McCallister, Mike
Subject: RE: Code/Ordinance Review Suggestion

-----Original Message-----

From: Erika Spooner [<mailto:erikaspooner@gmail.com>]
Sent: Sunday, December 07, 2014 6:36 PM
To: ZoningInfo; Gissel, Diane; DTD-CodeEnforcement; Hall, Andrea; Hughes, Jennifer; Renhard, Darcy
Subject: Code/Ordinance Review Suggestion

Dear members of the Clackamas County Planning Department:

It is my understanding that the county is in the process of a ordinance review.

Please consider putting the discussion of ordinances relating to the growing of marijuana on your agenda for your next planning session (or sooner if possible). Attached is a letter sharing the experience of living next to a grower from one residential neighborhood in Clackamas County. Please feel free to contact me with any questions.

Thank you,

Erika Spooner
503-422-1946

BEGIN-ANTISPAM-VOTING-LINKS

Teach CanIt if this mail (ID 01NoOzMeP) is spam:

Spam: <https://mhub.clackamas.us/canit/b.php?i=01NoOzMeP&m=e25693f9de81&c=s>

Not spam: <https://mhub.clackamas.us/canit/b.php?i=01NoOzMeP&m=e25693f9de81&c=n>

Forget vote: <https://mhub.clackamas.us/canit/b.php?i=01NoOzMeP&m=e25693f9de81&c=f>

END-ANTISPAM-VOTING-LINKS

Dear members of the Clackamas County Planning Department:

We live in a residential suburban neighborhood in unincorporated Clackamas County and would like to discuss the impacts of growing marijuana in our area. This summer, a household in the neighborhood grew marijuana in two greenhouses in the backyard. The greenhouses were temporary structures constructed from PVC pipe and plastic with fans for ventilation.

From late August until the plants were harvested in late October, a strong, constant, unpleasant odor that smelled like skunks could be detected at least 125 feet from the hoop houses. This neighborhood has a lot of walkers and the marijuana could be smelled when walking by as well as from inside a car when driving down the street. The odor was so bad, people living adjacent to the property could not tolerate spending time in their backyards or open their windows at night requiring them to use air conditioning—a waste of energy as well as increasing their electrical costs. For two months at the height of beautiful summer and fall weather, this one house's actions directly impacted at least four other households.

There is one homeowner in the neighborhood that cannot have more than six chickens due to the setback limits required and another with a home-based business that is not allowed to have a detectable odor off the property (according to ordinances 821.01 and 822.03). Yet there currently are no restrictions on growing marijuana on residential lots. When the plants were harvested and cut, a neighbor counted the stems and estimated that 12 plants were grown. If these tenants become registered growers for other patients (if they aren't already) in the Oregon Medical Marijuana Program, that number could be increased to 48 plants. If they become licensed growers under the recently passed legalized marijuana law, there appears to be no limits on the number of plants grown as long as they are not in view from the street.

If an estimated 12 plants can create this much odor for two solid months from a distance of at least 125 feet, how much odor could 48 or more plants create?

We ask that you please put this concern on the agenda for next year's planning session. We hope that you will create ordinances that will allow us, and other residents of Clackamas County living near future marijuana growers, to be able to enjoy an outdoors that doesn't stink.

Thank you for your consideration.

Phil + Erika Spooner SE Cordova Ct, 97267
Miranda Weigel SE Cordova Ct, 97267
Robert + Teresa Sklenicka SE Cordova Ct, 97267

WILL & THERESA BECKER 15712 SE CORDOVA CT. 97267

MARION & MARLYN McELHANNAY 15675 SE CORDOVA CT. 97267

ROBERT & RUTH JENKINS 15686 SE CORDOVA CT. 97267

JAN & MARY BRUCE 15646 SE CORDOVA CT. 97267

PAUL & SUE ROEGER 15702 SE CORDOVA CT. 97267



5 COPY

BARBARA M. CARTMILL
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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

January 22, 2015

Board of Commissioners
Clackamas County

Members of the Board:

**BOARD ORDER TO ACKNOWLEDGE SE SUNNYBROOK BLVD.
AS A COUNTY ROAD, COUNTY ROAD NUMBER 3418**

Purpose/Outcomes	Acknowledge SE Sunnybrook Blvd. as a County Road
Dollar Amount and Fiscal Impact	None
Funding Source	N/A
Safety Impact	Acknowledging SE Sunnybrook Blvd. as a County Road will affirm Clackamas County's full jurisdiction of the road
Duration	Permanent
Previous Board Action	N/A
Contact Person	Greg Petersen, Survey/CADD Supervisor 503-742-4672

BACKGROUND

Different portions of SE Sunnybrook Blvd. right of way have been accepted over the past 30 years by a variety of Board Orders and documents recorded in the Agreements and Contracts of the Clackamas County Clerk's Office. Based on certain language in those documents, the intent to accept SE Sunnybrook Blvd. as a County Road was unclear. It is in the best interest of the County to clarify that the County accepted SE Sunnybrook Blvd. as a County Road, and has always maintained it as such.

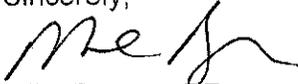
SE Sunnybrook Blvd. has been, and continues to be, classified as a major arterial that provides considerable benefit to the traveling public. It would appear to be in the best interest of the traveling public for Clackamas County to retain and affirm its full jurisdiction over SE Sunnybrook Blvd., and in fact has assumed full jurisdiction over SE Sunnybrook Blvd. since its original acceptance. The only other jurisdiction affected by this action in any way is Happy Valley. In the attached correspondence, Happy Valley's City Manager concurs with the County's characterization of the status of SE Sunnybrook Blvd. and supports the County's efforts to clarify the intent of the County's prior acceptance of SE Sunnybrook Blvd. as a County Road.

County Counsel has reviewed and approved this action.

RECOMMENDATION

Staff respectfully recommends that the Board adopt the attached Board Order to acknowledge SE Sunnybrook Blvd. as a County Road, County Road Number 3418, DTD Maintenance Number 22450.

Sincerely,



Mike Bezner, PE
Transportation Engineering Manager

For information on this issue or copies of attachments
please contact Greg Petersen at 503-742-4672.

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

In The Matter of Acknowledging SE Sunnybrook Blvd, Local Access Road Nos. L009 and L010, DTD Maintenance No. 22450 as a County Road and Becoming **SE Sunnybrook Blvd, County Road No. 3418, DTD Maintenance No. 22450**, Located in the NW 1/4 and NE 1/4 of Sec. 4, and NW 1/4 of Sec. 3, T2S, R2E and the SW 1/4 of Sec. 34, T1S, R2E, WM.

Board Order No.

Page 1 of 4

This matter coming before the Board of Clackamas County Commissioners (the "Board"), at this time and it appearing to the Board that, SE Sunnybrook Boulevard, DTD Maintenance No. 22450, has been identified in the records of the Transportation Engineering Division as Local Access Road Nos. L009 and L010, and which road is more particularly described as follows:

That public road, as depicted on Exhibit "A" attached herewith and by this reference made a part hereof, lying within Clackamas County in the NW 1/4 and NE 1/4 of Section 4, and the NW 1/4 of Section 3, Township 2 South, Range 2 East, and the SW 1/4 of Section 34, Township 1 South, Range 2 East of the Willamette Meridian and being comprised of the parcels and/or portions of parcels accepted as either SE Sunnybrook Boulevard or SE Sunnybrook Street, where applicable, by the following Clackamas County Board Orders:

Board Order No. 84-1718
Board Order No. 93-863
Board Order No. 93-1213
Board Order No. 2001-30
Board Order No. 2007-104
Board Order No. 2008-41

Board Order No. 85-747
Board Order No. 93-1212
Board Order No. 94-90
Board Order No. 2001-219
Board Order No. 2008-40
Board Order No. 2008-42

Also being composed of the parcels and/or portions of parcels accepted as either SE Sunnybrook Boulevard or SE Sunnybrook Street, where applicable, by the following documents recorded in the Agreements and Contracts of the Clackamas County Clerk's Office:

A/C No. 2000-3229
A/C No. 2001-4266
A/C No. 2010-4359

A/C No. 2000-3746
A/C No. 2008-3199

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

In The Matter of Acknowledging SE Sunnybrook Blvd, Local Access Road Nos. L009 and L010, DTD Maintenance No. 22450 as a County Road and Becoming **SE Sunnybrook Blvd, County Road No. 3418, DTD Maintenance No. 22450**, Located in the NW 1/4 and NE 1/4 of Sec. 4, and NW 1/4 of Sec. 3, T2S, R2E and the SW 1/4 of Sec. 34, T1S, R2E, WM.



Board Order No.

Page 2 of 4

It further appearing to the Board that, based on certain language which appears in the County Board Orders and in the Agreements and Contracts listed above, the intent to accept SE Sunnybrook Boulevard, or SE Sunnybrook Street as originally designated, as a county road, not a Local Access Road, was unclear; and

It further appearing to the Board that it is in the interest of the County to clarify the intent of the County to have accepted SE Sunnybrook Boulevard, or SE Sunnybrook Street as originally designated, as a county road; and

It further appearing to the Board that, SE Sunnybrook Boulevard has been, and continues to be, classified as a major arterial which provides considerable benefit to the traveling public; and,

It further appearing to the Board that it is in the best interest of the traveling public for Clackamas County to maintain full jurisdiction over SE Sunnybrook Boulevard, and in fact has maintained full jurisdiction over SE Sunnybrook Boulevard since acceptance; and,

It further appearing to the Board that, pursuant to ORS 368.016(2)(c), the County may by resolution or order make any public road within its jurisdiction a county road;

It further appearing to the Board that it was the original intent to have accepted SE Sunnybrook Boulevard, or SE Sunnybrook Street as originally designated, as a county road; now therefore,

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

In The Matter of Acknowledging SE Sunnybrook Blvd, Local Access Road Nos. L009 and L010, DTD Maintenance No. 22450 as a County Road and Becoming **SE Sunnybrook Blvd, County Road No. 3418, DTD Maintenance No. 22450**, Located in the NW 1/4 and NE 1/4 of Sec. 4, and NW 1/4 of Sec. 3, T2S, R2E and the SW 1/4 of Sec. 34, T1S, R2E, WM.

Board Order No.

Page 3 of 4

IT IS HEREBY ORDERED that, SE Sunnybrook Boulevard, identified as Local Access Road Numbers L009 and L010, DTD Maintenance Number 22450, shall now be identified as SE Sunnybrook Boulevard, County Road No. 3418, DTD Maintenance Number 22450; and,

IT IS FURTHER ORDERED that SE Sunnybrook Boulevard described above be acknowledged as part of the County Road System; and,

IT IS FURTHER ORDERED that this Board Order and its Exhibit "A" be recorded free of charge with the Clackamas County Clerk when presented; and,

IT IS FURTHER ORDERED that copies of this Board Order and its Exhibit "A" be distributed electronically by the Transportation Engineering Division to appropriate County departments, division, and/or offices; and

IT IS FURTHER ORDERED that a reference to County Road No. 3418 be entered in the County Road Register for Local Access Road Numbers L009 and L010 and that this Order be indexed in the County Road Register for County Roads under Road No. 3418; and,

IT IS FURTHER ORDERED that no area of land be added to the Finance Office/Fixed Asset Accounts for road right-of-way of SE Sunnybrook Boulevard, County Road Number 3418, as the area has been previously included in the road right of way assets of Clackamas County.

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

In The Matter of Acknowledging SE Sunnybrook Blvd, Local Access Road Nos. L009 and L010, DTD Maintenance No. 22450 as a County Road and Becoming **SE Sunnybrook Blvd, County Road No. 3418, DTD Maintenance No. 22450**, Located in the NW 1/4 and NE 1/4 of Sec. 4, and NW 1/4 of Sec. 3, T2S, R2E and the SW 1/4 of Sec. 34, T1S, R2E, WM.



Board Order No.

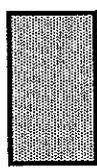
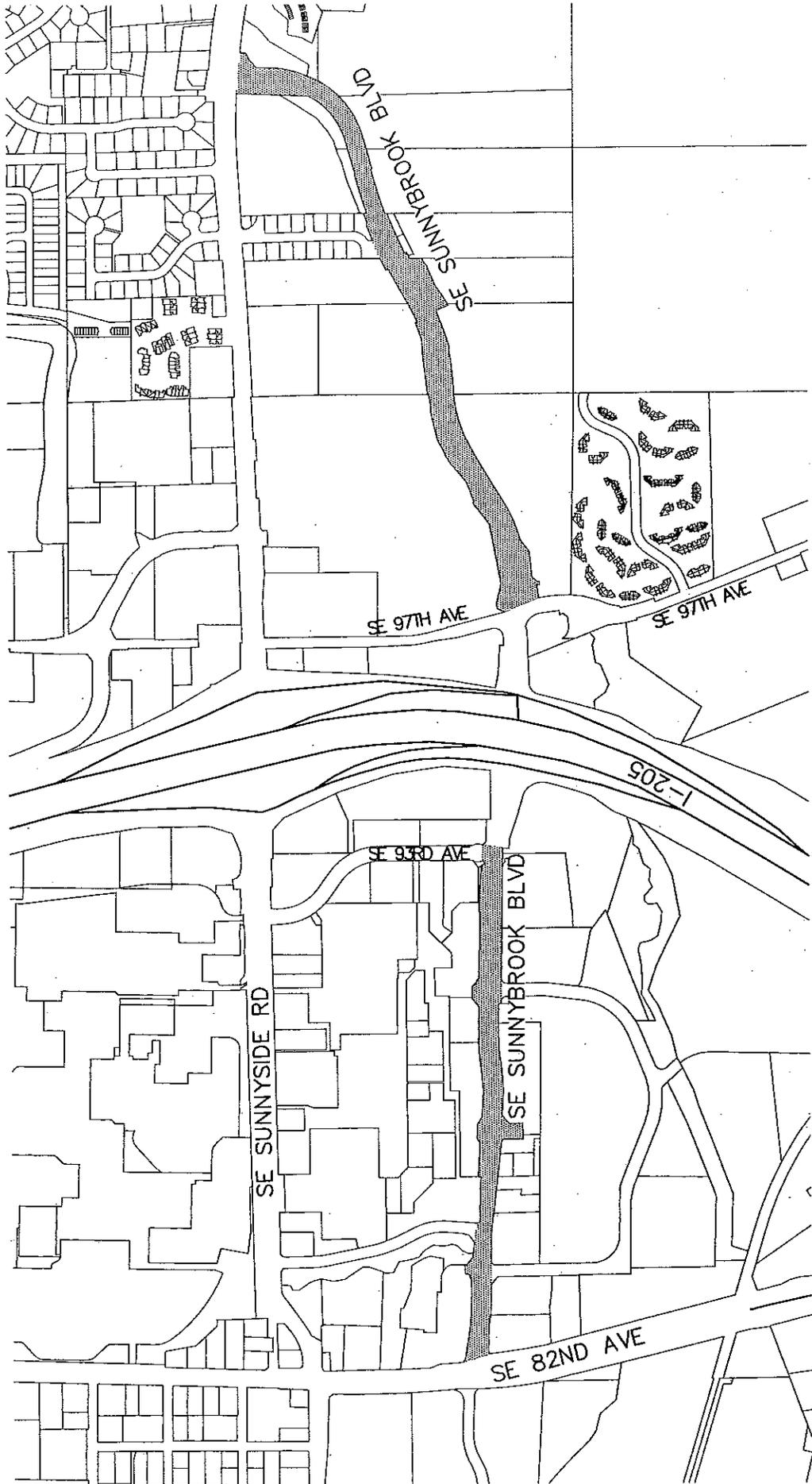
Page 4 of 4

ADOPTED this _____ day of _____, 2015.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary



SUNNYBROOK BLVD
TO BE ACKNOWLEDGED
AS COUNTY ROAD #3418



DEPARTMENT OF
TRANSPORTATION
AND
DEVELOPMENT

EXHIBIT "A"

PAGE 1 OF 1

SUNNYBROOK BLVD
TO BE ACKNOWLEDGED
AS COUNTY ROAD #3418

RD. FILE NO. CR 3418	DRAWN BY MAB	DESIGN BY	DATE 12-24-14
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Petersen, Greg

From: Jason Tuck [jasont@happyvalleyor.gov]
Sent: Wednesday, December 17, 2014 11:00 AM
To: Petersen, Greg
Cc: Chris Randall; Michael Walter, AICP
Subject: Sunnybrook Blvd

Greg

Thank you for contacting me this morning about Sunnybrook Blvd. As we understand it the County has designated the roadway a local access road (which was an error) but is designed as an arterial. The City of Happy Valley has annexed a few properties adjacent to Sunnybrook and our city limits extends into the roadway. The City of Happy Valley agrees with Clackamas County's understanding that SE Sunnybrook Boulevard is under the jurisdiction of the County. The City has never accepted this facility, maintained this facility, or otherwise sought to have jurisdiction over this facility. We support your board order to modify/fix its classification to reflect it as an arterial. Let me know if you need anything else. Thank you

Jason A. Tuck
City Manager
City of Happy Valley
16000 SE Misty Dr.
Happy Valley, OR 97086
Phone: 503-783-3800



Preserving and enhancing the safety, livability and character of our community.

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6

Approval of Previous Business Meeting Minutes:

January 8, 2015

(minutes attached)

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports of this meeting can be viewed at

<http://www.clackamas.us/bcc/business.html>

Thursday, January 8, 2015 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

Special Presentation – Chair Ludlow introduced Sheriff Craig Roberts to speak about Law Enforcement Appreciation Day. Sheriff Roberts introduced Deputy Damon Coates who was shot in the line of duty twelve years ago, and also introduced Damon's wife Tammy Coates. He shared Damon's long career with the Clackamas County Sheriff's office. Damon's story is a true example of the sacrifice and valor shown by our Law Enforcement personnel every day.

Chair Ludlow stated tomorrow, Friday, Jan.9 is Law Enforcement Appreciation Day, and encouraged everyone to show support to the hard working men and women in Law Enforcement.

I. PRESENTATION

1. Selection of the Board of County Commissioner's Vice Chair for 2015
Chair Ludlow asked for a motion for the selection for the Vice Chair for 2015.

MOTION:

Commissioner Smith: I move we select Commissioner Bernard to serve as the 2015 Vice Chair for the Board of County Commissioners.
Commissioner Schrader: Second.
Clerk calls the poll.
Commissioner Savas: Aye.
Commissioner Schrader: Aye.
Commissioner Smith: Aye.
Commissioner Bernard: Aye.
Chair Ludlow: Aye – the motion passes 5-0.

II. CITIZEN COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

1. Les Poole, Gladstone – misc. items including the importance of voting.
2. Stephen Bates, Boring – submitted a copy of a petition he submitted to the Oregon State Legislature for Boring's withdrawal from Metro. Asked for the Board's support.

~Board Discussion~

3. Mack Woods, Canby – stated the Cable Department does a good job.

III. PUBLIC HEARING

1. Second Reading of Ordinance No. 01-2015 Modifying the Moratorium on Medical Marijuana Dispensaries in Clackamas County and Declaring an Emergency, (*first reading was December 11, 2014*)

Dan Chandler, Strategic Policy Administrator presented the staff report.

Chair Ludlow opened the public hearing and stated there are some folks signed up to speak.

1. Abigail Wells, Milwaukie – Represents Vibrant Future & Oregon City Together, and speaking on behalf of Elizabeth Russell who is not here today. Spoke about some concerns from the Citizen Advisory Council. Also, the Medical Marijuana Task Force has developed some best practice guidelines for retailer's and hope the Board will also support and promote these guidelines.
2. Mario Mamore, West Linn – representing Maritime Café – spoke in support of the ordinance.
3. Les Poole, Gladstone – wanted to thank the Board and staff for their work on this ordinance.

~Board Discussion~

Chair Ludlow closed the public hearing and asked for a motion to read the ordinance by title only.

MOTION:

Commissioner Bernard: I move we read ordinance No. 01-2015 by title only.

Commissioner Schrader: Aye.

Clerk calls the poll.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – the motion passes 5-0.

The Clerk read Ordinance No. 01-2015 by title only.

~Board Discussion~

Commissioner Bernard asked to amend the ordinance changing the hours of operation. Then made the following motion.

MOTION:

Commissioner Bernard: I move we amend the ordinance to add the hours of operation from 10 AM to 9 PM.

Commissioner Savas: Second.

~Board Discussion~

Clerk calls the poll.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – the motion passes 5-0.

Chair Ludlow asked for a motion to adopt the ordinance as amended.

MOTION:

Commissioner Bernard: I move we adopt ordinance No. 01-2015 modifying the moratorium on medical marijuana dispensaries in Clackamas County **as amended** and declaring an emergency.

Commissioner Schrader: Second.

~Board Discussion~

Clerk calls the poll.

Commissioner Bernard: Aye.

Commissioner Smith: Aye.

Commissioner Schrader: Aye.

Commissioner Savas: Aye.

Chair Ludlow: Aye – the motion passes 5-0.

IV. DISCUSSION ITEMS

~NO DISCUSSION ITEMS SCHEDULED

V. CONSENT AGENDA

Chair Ludlow asked the Clerk to read the consent agenda by title – the then asked for a motion.

MOTION:

Commissioner Smith: I move we approve the consent agenda.
Commissioner Bernard: Second.
Clerk calls the poll.
Commissioner Savas: Aye.
Commissioner Schrader: Aye.
Commissioner Smith: Aye.
Commissioner Bernard: Aye.
Chair Ludlow: Aye – the motion passes 5-0.

A. Health, Housing & Human Services

1. Board Order No. **2015-01** Approval of Mental Health Director's Designee to Authorize a Custody Hold Under *ORS 426.233 – Behavioral Health*
2. Approval of Intergovernmental Subrecipient Agreement, Amendment No. 1 with the City of Lake Oswego/Lake Oswego Adult Community Center to Provide Social Services for Clackamas County Residents – *Social Services*

B. Department of Transportation & Development

1. Approval of the Five-Year Clackamas County Transportation Capital Improvement Program

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – *BCC*
2. Resolution No. **2015-02** Appointing Justice of the Peace Pro Tempore for the Clackamas County Justice of the Peace District – *Justice Court*

D. Technology Services

1. Approval of ORMAP Intergovernmental Agreement Contract No. 3150 with Oregon Department of Revenue for Digital GIS Tax Lot Conversion

VI. COUNTY ADMINISTRATOR UPDATE

<http://www.clackamas.us/bcc/business.html>

The following items were signed by Don Krupp, County Administrator during the two week BCC recess/break – December 22 – January 8, 2015– as authorized by Board Order No. 2014-123:

DEPARTMENT	ITEM
WES Via Purchasing	Contract between Clackamas County Service District No. 1 and Paul Brothers, Inc. for the Kellogg Creek Water Pollution Control Plant Landscaping Project – total cost \$195,618.86.
County Administration Via Purchasing	Software Contract with Managing for Results (MFR) for Web Base Performance Management Measurements and Reporting System – total cost \$164,170

VII. COMMISSIONERS COMMUNICATION

<http://www.clackamas.us/bcc/business.html>

MEETING ADJOURNED – 11:15 AM

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.

www.clackamas.us/bcc/business.html



OFFICE OF THE COUNTY ADMINISTRATOR

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

January 22, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Approval and Adoption of Affirmative Action Hiring Goals

Purpose/Outcome	To approve the new Affirmative Action hiring goals.
Dollar Amount and Fiscal Impact	None
Funding Source	N/A
Safety Impact	N/A
Duration	Effective upon adoption until revised in 2015
Previous Board Action/Review	The new Affirmative Action hiring goals were presented and discussed at the December 2, 2014 BCC Study Session.
Contact Person	Emmett Wheatfall, Diversity, Equity, and Inclusion Director 503.655.8291
Contract No.	N/A

BACKGROUND:

The Affirmative Action Committee (AAC) meets annually to evaluate the current year AAP. The AAC is comprised of County employees from various departments including directors, supervisors or their employee representatives.

The primary responsibility of the AAC is to review availability and underrepresentation figures and to recommend countywide hiring goals to the BCC. If underrepresentation is found, the County will undertake its best efforts to develop and implement procedures designed to increase the number of qualified women and minority candidates in the applicant pool. The AAC recommends hiring goals to correct underrepresentation in EEO Categories where there is significant statistical underrepresentation of women and/or minorities.

The AAC recognizes that a BCC adopted hiring goal in a job category triggers an opportunity to refer additional candidates from eligibility registers under the County's Personnel Ordinance. Hiring goals are generally reserved for situations of significant underrepresentation based on availability. The County Affirmative Action Officer (the Diversity, Equity, and Inclusion Director in County Administration) oversees the County's Affirmative Action program and ensures compliance with the plan's policies.

RECOMMENDATION:

The Affirmative Action Committee (AAC) respectfully recommends that the Board of County Commissioners approve new hiring goals in following EEO Categories.

EEO CATEGORIES	2014/2015 POTENTIAL NEW HIRES	PROPOSED HIRING GOALS
EEO 2 - Professionals	75	10 Minorities
EEO 3 - Technicians	20	3 Minorities
EEO 4 - Protective Services	52	13 Females
EEO 4 - Protective Services	52	7 Minorities
EEO 7 - Skilled Craft	10	3 Minority
EEO 8 - Service/Maintenance	15	5 Minorities

Respectfully submitted,

Emmett Wheatfall
Diversity, Equity, and Inclusion Director
County Administration
Email: ewheatfall@clackamas.us
Phone: 503.655.8291

3

NANCY DRURY
DIRECTOR



DEPARTMENT OF EMPLOYEE SERVICES

January 22, 2015

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Amendment to the Clackamas County
Health Care Flexible Spending Account Plan Document

Purpose/Outcomes	Make a change to the County's Health Care Flexible Spending Account Plan to add an annual carryover feature
Dollar Amount and Fiscal Impact	None
Funding Source	N/A
Safety Impact	None
Duration	Effective January 1, 2015 until further amended
Previous Board Action	The changes received preliminary approval from the Board of County Commissioners at a study session on October 21, 2014
Contact Person	Carolyn Williams, Employee Services, 503.742.5470
Contract No.	N/A

BACKGROUND:

The Clackamas County Flexible Benefits Program and related components are regulated by the U.S. Departments of Treasury and Labor. The Internal Revenue Service has provided recent guidance that allows for a carryover of up to \$500 in Health Care FSA accounts at the end of the plan year. The Benefits Review Committee recommended the addition of the carryover feature and the Board of County Commissioners approved this change in study session on October 21, 2014.

RECOMMENDATION:

Staff recommends the Board approval of the amendment to the plan document.

Respectfully submitted,

Carolyn Williams, Benefits Manager

Clackamas County

Health Care Flexible Spending Account Plan

*A Component Plan of the
Clackamas County
Flexible Benefits Program*

AMENDED AND RESTATED

Effective January 1, 2015

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PREAMBLE

THIS HEALTH CARE FLEXIBLE SPENDING ACCOUNT PLAN (hereinafter referred to as the "Plan" and known as the Clackamas County Health Care Flexible Spending Account Plan) is amended and restated effective January 1, 2015, by Clackamas County (hereinafter "Employer").

WHEREAS, the Employer established this Plan effective July 1, 1985, to allow Employees who become covered under the Plan to elect to receive reimbursement of medical expenses that are excluded from gross income under Section 105(b) of the Internal Revenue Code of 1986, as amended (hereinafter "Code"), as provided herein and in the terms of the Clackamas County Flexible Benefits Program (hereinafter "Program"); and

WHEREAS, this Plan is a Component Plan of the Program and, except to the extent otherwise expressly provided herein, is governed by the terms of that Program; and

WHEREAS, the Employer last amended and restated the Plan effective January 1, 2014 and

WHEREAS, the Employer desires to again amend and restate the Plan to effect certain changes and to reflect changes in applicable law; and

WHEREAS, this Plan is intended to qualify as a self-insured medical expense reimbursement plan within the meaning of Code Section 105(h) and comply with any other applicable provisions of law; and

NOW, THEREFORE, the Employer does hereby amend and restate the Plan as set forth in the following pages, effective January 1, 2015, except as otherwise specifically stated herein.

SECTION 1 — DEFINITIONS

The terms when used herein that are defined in Section 1 of the Program shall have the same meaning as therein defined, and the following additional terms shall have the following meanings unless a different meaning is plainly required by the context. Capitalized terms are used throughout the Plan text for terms defined by this and other sections.

1.1 Dependent

“Dependent” means with respect to any Participant, such Participant’s (1) legal spouse, or (2) any child of the Participants who as of the end of the taxable year has not attained age 27, and (3) any child of the Participant who receives over half of his or her support from the Participant (or the Participant and spouse combined) for the tax year in which medical expenses are incurred (or in the case of a divorced or legally separated Participant, the child receives over half his or her support from either or both parents combined) and who meets one of the following descriptions:

- (a) child who is physically or mentally incapable of self-support due to a mental or physical disability that arose prior to the child’s attaining age twenty-one (21); or
- (b) child for whom the Participant or the Participant’s spouse is a court appointed guardian.

A child adopted by a Participant shall be regarded as a child of the Participant for all purposes herein. A stepchild of a Participant shall be regarded as a child of the Participant if the Plan Administrator determines, with sole discretion, that such stepchild is in good faith treated by the Participant as a child and such stepchild lives with the Participant or would live with the Participant but for such stepchild’s resident attendance at an accredited educational institution.

1.2 Medical Expense

“Medical Expense” means an Eligible Expense for which documentation approved by the Plan Administrator has been provided and that is incurred prior to the date participation in the Plan terminates, by a Participant on behalf of himself or herself, or a Dependent:

- (a) that would have been paid directly or reimbursed pursuant to another Employer-sponsored health policy, plan or program, but for the application of a deductible or copayment, dollar or other specific limitation on amount of coverage; or
- (b) that is paid for the diagnosis, cure, mitigation, treatment or prevention of disease or for the purpose of affecting any structure or function of the body, or for transportation for or essential to any of the foregoing, as these terms are used in Code Section 213(d) and amplified or explained by regulations and rulings promulgated under Code Section 213.

Notwithstanding the foregoing, a "Medical Expense" shall not include premium payments for long-term care coverage, expense payments for long-term care services, premium payments for other health care coverage, or expenses that have been reimbursed or are reimbursable under any other health care coverage. A Medical Expense is incurred at the time that the service giving rise to the expense is performed.

1.3 Plan

"Plan" means the Clackamas County Health Care Flexible Spending Account Plan as amended from time to time.

1.4 Program

"Program" means the Clackamas County Flexible Benefits Program as amended from time to time.

SECTION 2 — BENEFITS

2.1 Reimbursement Options

Subject to the conditions and limitations set forth in the Plan and the Program, each Participant who elects to participate in the Plan may designate any amount from a minimum of \$5 per pay period to a maximum of \$2500 during the Plan Year for reimbursement of Medical Expenses.

2.2 Election of Reimbursement

A Participant elects to participate in this Plan by submitting an Annual Electronic Enrollment to the Plan Administrator as provided in Section 4.2 of the Program and may claim reimbursement by submitting a Request for Reimbursement to the Plan Administrator. A Participant may submit a Request for Reimbursement at any time and at the end of the Plan Year regardless of the claim amount. In the event that a Participant does not qualify for reimbursement of the amount elected during the Plan Year, the difference greater than \$500 between the amount elected and actual reimbursement shall be forfeited. The unreimbursed amount up to \$500 may be carried over to the following plan year.

In the event of a Participant's death, the surviving spouse or the administrator or executor of a deceased Participant's estate may claim reimbursement of Medical Expenses incurred, provided that the claim is submitted within ninety (90) days after the end of the Plan Year.

2.3 Payment of Reimbursements

The Plan Administrator shall reimburse Medical Expenses that are properly documented to the extent that the Medical Expenses do not exceed the total annual amount of reimbursement elected by the Participant, plus any carryover.

Notwithstanding Section 4.5 of the Program, a Medical Expense may be reimbursed at any time during the Coverage Period even if the portion of the Participant's account balance that is designated for such option at the time of reimbursement is less than the requested reimbursement; provided, however, that the total Plan reimbursements for the Coverage Period shall not exceed the total amount of Plan coverage elected by the Participant for such Coverage Period, plus any carryover.

The Plan Administrator shall reimburse a Participant who is entitled to a reimbursement as soon as practical after processing the Participant's Request for Reimbursement. No Participant shall have any rights or be entitled to any benefits under the Plan unless a Request for Reimbursement is submitted. The Plan Administrator will review each Request for Reimbursement submitted to determine whether (i) the expenses for which reimbursement is sought are reimbursable Eligible Expenses and (ii) the Request for Reimbursement is accompanied by the required documentation. Each Request for Reimbursement must include the following, and any other information that may be required by the Plan Administrator:

- (a) a written statement from an independent third party that the expense has been incurred, the date it was incurred, and the amount of the expense; and
- (b) a written statement from the Participant that the expense has not been reimbursed and is not reimbursable under any other health plan.

2.4 Maximum Reimbursements

Reimbursements during a Plan Year shall not exceed the lesser of:

- (a) the total annual amount designated on an Annual Enrollment Form for Medical Expenses for such Plan Year plus any carryover; or
- (b) the amount of Eligible Expenses for which reimbursement is properly requested.

2.5 Qualified Reservist Distribution (QRD)

A Participant who is a reservist in the armed forces and is called to active duty for a period of at least 180 days or for an indefinite period may request payment of the balance of the Participant's account as taxable wages:

- (a) the Participant must submit a Request for QRD to the Plan Administrator;
- (b) the QRD will be equal to the amount contributed to the health FSA as of the QRD request, minus the amount of any qualified Requests for Reimbursements received as of the date of the QRD request;
- (c) the Participant will not be allowed to submit any additional Requests for Reimbursement after the QRD for the remainder of the Plan year.

SECTION 3 — CONTINUATION OF COVERAGE

3.1 Continuation of Coverage

Notwithstanding any other Plan provision regarding termination of coverage, in the event that participation would terminate due to one of the following events, a Participant and any covered Dependents may elect to continue coverage on an after-tax, self-pay basis as provided in this section. The terms and conditions of this continuation coverage shall be the minimum necessary to satisfy the requirements of COBRA Continuation Coverage.

With respect to a Participant or covered Dependent, if participation would terminate due to (i) a termination of employment (for reasons other than gross misconduct), (ii) a reduction of hours, or (iii) the end of an FMLA leave of absence (without regard to whether coverage was maintained during the leave), such individual may continue coverage for the remainder of the calendar year in which the qualifying event occurred.

The Clackamas County Health Care Account Plan is amended and restated by Clackamas County effective January 1, 2015.

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed on this _____ day of _____, 2015.

FOR CLACKAMAS COUNTY

By the Board of County Commissioners:

Chair

Recording Secretary



NANCY DRURY
DIRECTOR

DEPARTMENT OF EMPLOYEE SERVICES

January 22, 2015

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

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Agreements with Providence Health Plan and Unified Life Insurance Company
for Administrative Services for Clackamas County's Self Funded Medical Benefits

Purpose/Outcomes	To enter into agreement with Providence Health Plan and Unified Life Insurance Company for claims administration and related medical plan services for self-insured medical benefits.
Dollar Amount and Fiscal Impact	Estimated annual cost in 2015 is \$2,897,484.
Funding Source	Premiums paid from operating budgets of County departments into the Benefits Self Insurance Fund 760.
Safety Impact	None
Duration	Effective January 1, 2015 until further amended
Previous Board Action	The agreement received preliminary approval from the Board of County Commissioners at a study session on October 21, 2014.
Contact Person	Carolyn Williams, Employee Services, 503.742.5470
Contract No.	N/A

BACKGROUND:

At a study session on October 21, 2014, the Board of County Commissioners approved self-funding the medical plans currently insured with Providence Health Plan and to enter into an Administrative Services Agreement with Providence for claims administration and related medical plan services.

County Counsel has reviewed and approved the agreement.

RECOMMENDATION:

Staff recommends the Board approval of the Administrative Services Agreement with Providence Health Plan.

Respectfully submitted,

Carolyn Williams, Benefits Manager

ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement ("Agreement") between Providence Health Plan ("Providence") and Clackamas County ("Plan Sponsor") is effective January 1, 2015 ("Effective Date"). This Agreement covers the services Providence providing to Plan Sponsor for use with Plan Sponsor's Self-Funded employee benefit plan.

Throughout this Agreement the terms "our," "us," or "we" refer to Providence, and the terms "you" or "your" refer to Plan Sponsor.

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SECTION 1: DEFINITIONS

When these terms, in the singular or plural, are used in the Agreement they have the meanings shown.

Administrative Overpayments means payments that exceed the benefit amount payable under the Plan resulting from a Provider billing error, retroactive or inaccurate eligibility information, coordination of benefits, third-party liability, Medicare disputes, missing information or similar circumstances.

ACA means the Patient Protection and Affordable Care Act of 2010, as amended from time to time.

Agreement Period means the period of 12 months commencing on the Effective Date and automatically continuing for additional 12-month periods until the Agreement is terminated.

Bank means US Bank, Portland, Oregon.

Bank Account means an account maintained by us at the Bank for the payment of Plan benefits, expenses, and fees.

Clinical Overpayments means payments that exceed the appropriate amount payable due to errors in clinical coding, incorrect application of Provider contracts, and other clinical audit items.

Confidential Member Information means information that contains personally identifiable health information about a Member.

Employee means a current or former employee of you or an Affiliated Employer.

ERISA means the Employee Retirement Income Security Act of 1974, as amended from time to time.

IRS means the Internal Revenue Service.

Member means a Participant or dependent of a Participant who is covered by the Plan.

Network means a group of Providers who have entered into or are governed by contractual arrangements with us or our affiliate or subcontractor, under which the Providers agree to provide health care services to Members and to accept negotiated fees for such services.

Network Pharmacy means a pharmacy which has entered into an Agreement with us, our affiliate, or our subcontractor to provide prescription drug services to Members.

Network Provider means a Provider who participates in one of our Networks.

Participant means an Employee who is covered by the Plan.

Plan means the ERISA Plan, if applicable, or other Self-Funded Plan to which this Agreement applies, but only with respect to those provisions of the Plan relating to the Self-Funded health benefits we are administering, as described in the Summary Plan Description.

Plan Administrator means the “Administrator” or “Plan Administrator” as those terms are defined under ERISA and refers to the current or succeeding person, committee, partnership, or other entity designated as such by the terms of the instrument under which the Plan is operated, or by law. Regardless of the terms of the instrument under which the Plan is operated, Providence is not the Plan Administrator. Rather, Providence’s role is limited to providing the administrative services specified in this Agreement.

Plan Sponsor means the employer or other entity that is the sponsor of the Plan to which this Agreement applies.

Prepaid Deposit means the security deposit that you must submit and that we will maintain in the Bank Account as specified in Section 4.3.

Proprietary Business Information means information about your business or our business that is confidential, proprietary, trade secret, or is not readily available to the general public; or, information that has been designated by you or us as confidential or proprietary.

Provider means a health care practitioner or facility that is validly licensed by the appropriate state agency to diagnose or treat health care conditions, and is providing services within the scope of that license.

Self-Fund or Self-Funded means you have the sole responsibility to provide all necessary funds for all Plan benefits and that we have no responsibility to provide such funds.

Summary Plan Description (SPD) means the document(s) referenced in Exhibit A that are provided to Participants describing the terms and conditions of coverage offered under the Plan and if applicable, in accordance with ERISA requirements.

Tax or Taxes means assessments, Taxes and all other similar charges that are levied by a federal, state, or local governmental or regulatory entity in relation to the operation of the Plan.

SECTION 2: EMPLOYEE BENEFIT PLAN

Section 2.1 The Plan. The Plan to which this Agreement applies is the Clackamas County Employee Flexible Benefit Plan.

Section 2.2 Responsibility for the Plan. You, as the Plan Sponsor, accept total responsibility for the Plan for purposes of this Agreement, including its benefit design, funding, bonding requirements, maintenance of Plan documents and compliance with any laws that apply to you or the Plan, whether or not you or someone you designate is the Plan Administrator. Providence is not the Plan Administrator of the Plan. Our responsibilities for the Plan under this Agreement are limited to the administrative services and related fiduciary responsibilities, if any, that are specified in this Agreement.

Section 2.3 Description of the Plan. We will provide you with a draft SPD within two weeks following our delivery of the initial draft of this Agreement as specified in Section 5.2. You will work cooperatively with to us to approve or amend that draft SPD and you will provide written notice to us of your acceptance or request for modifications within 30 days following your receipt of the initial draft. Within two weeks of our receipt of your written notice we will provide you with a final draft SPD and you will confirm your acceptance of that document within one week following your receipt of the final draft. Within 30 days following our receipt of your acceptance we will print final SPDs in our standard size and with our standard cover in a quantity equal to 110% of the number of your eligible Employees and we will ship those documents to a single location that you designate. You will be responsible for the legal sufficiency of the SPD, including any legally required information and distribution to Participants.

Section 2.4 Plan Documents Consistent with this Agreement. You represent that the Plan documents are and will remain consistent with this Agreement. If you amend or alter the Plan documents, and if we then determine that references to us are not acceptable or any Plan provision is not consistent with this Agreement or the services that we are providing, we will have the option to terminate this agreement with 30 days written notice.

Section 2.5 Plan Changes. You will notify us in writing if you change the Plan's benefits or other relevant Plan provisions, including termination of the Plan, a minimum of 90 days prior to the change becoming effective. We have the option of giving you 30 days written notice of termination of this Agreement following our receipt of your notice of the change. If we decide to continue providing our services, you will pay us for any reasonable costs that we incur to put the Plan changes in place. In addition, the fees you are required to pay under this Agreement may be changed by us in accordance with Section 11 of this Agreement.

SECTION 3: YOUR OTHER RESPONSIBILITIES

Section 3.1 Eligibility Information. You will tell us which of your Employees, their dependents, and/or other persons are eligible to be Members. This information must be accurate and provided to us in a format that we have approved. You will notify us promptly of any changes.

Section 3.2 Retroactive Changes. We are entitled to rely on the most current information in our possession regarding eligibility of Members in paying Plan benefits and providing other services under this Agreement. Retroactive changes in eligibility and claims are limited to no more than 90 days prior to the date on which corrected information was provided to us. Service fees, as specified in Exhibit B, will be adjusted to reflect retroactive changes.

Section 3.2 Notices to Participants. You will give Participants the information and documents they need to obtain benefits under the Plan within a reasonable period of time before coverage begins. In the event of this Agreement's discontinuance, you will notify all Participants of the discontinuance of the services we are providing under this Agreement.

Section 3.3 Financial Information. At our request, you will provide us with the financial information about you that we need to determine whether you can meet your financial obligations under this Agreement.

SECTION 4: PROVIDING FUNDS FOR BENEFITS

Section 4.1 Funding. The Plan is Self-Funded. You are solely responsible for providing funds for payment for all Plan benefits.

Section 4.2 Bank Account. We maintain a Bank Account for our Self-Funded customers for purposes of providing a means for payment of Self-Funded benefits. We will provide a sub-account specific to you within the Bank Account as a means to access funds deposited by you to pay Plan benefits and expenses.

Section 4.3 Prepaid Deposit. You will submit a Prepaid Deposit in an amount equal to or exceeding the sum of the following amounts and we will hold that deposit in the Bank Account:

- (a) 7 days of expected Plan benefits for prescription drugs; plus
- (b) 7 days of expected Plan benefits for mental health/chemical dependency services.

We will determine these amounts based on our estimate of expected benefits on an ongoing basis, and we will notify you if and when the required amount changes. Provided that you fulfill the funding requirements specified in Section 4.6, we will not access the Prepaid Deposit for the payment of Plan benefits. Should you fail to fulfill the funding requirements specified in Section 4.6, we may access the Prepaid Deposit to reimburse our subcontractors for Plan benefits they have paid, as described in Section 4.4.

Section 4.4 Issuing and Providing Funds for Checks. The funds that we disburse to pay Plan benefits under this Agreement will be drawn from your sub-account within the Bank Account and such payments will not be made until funding is received from you in accordance with Section 4.6.

Our subcontractors will generate checks on their own accounts for payment of certain benefits such as prescription drugs and mental health/chemical. These subcontractors will be reimbursed with funds from your sub-account to cover claims paid for Plan benefits.

Section 4.5 Service Fees and Other Expenses. Service fees will be invoiced directly to you. We will provide a monthly statement showing:

- (a) Charges determined in accordance with the schedule set forth in Exhibit B; plus
- (b) The fees for optional services, if any, identified in Exhibit B; plus
- (c) Stop loss premiums, if you or the Plan have obtained stop loss coverage under Our preferred vendor arrangement; plus
- (d) Any sales or use Taxes, or any similar benefit or plan-related charge, surcharge or assessment, however denominated, which may be imposed by any governmental authority.

The invoiced charges are payable in advance and payment is due on the 1st day of each month. Our invoice will be based on Employee counts determined by the most recent census that you have provided to us.

Section 4.6 Calls for Funds. The claims funding cycle will be weekly. Every week we will provide you with detailed reporting of the claims to be paid that week. Within one to three business days following receipt of the report, you will transfer to the sub-account the amount of funds necessary to cover that week's claims. These funds will be transferred from your bank account into the bank account we have established to pay your Plan benefits. We will then draw down the funds from your sub-account and pay that week's claims.

You acknowledge that if the account you designate for us to draw funding from is not adequate, any delay in correcting the inadequacy in a timely manner will cause material harm in our relationship with our Network Providers. You will be liable for any and all losses, costs, expenses and damages sustained by us as a result of your failure to allow us to fund the account, including, but not limited to, the relationship with our Network Providers.

Section 4.7 Underfunding. If you do not provide the necessary funding specified in Section 4.6 in a timely manner we:

- (a) Will provide a written notice to you, sent by facsimile or email, so that you can correct the problem;
- (b) May stop issuing claim payments and suspend any of our other services under this Agreement for the period of time you do not provide the required funding. We may also deny all pending and incoming claims and inform Providers and Members that claims have been denied for "insufficient funding by the Plan Sponsor." We may also assess interest on the amount of under-funding at the standard rate that we charge to our self-funded customers for under-funding of bank accounts; and
- (c) May elect to terminate this Agreement if you do not remedy the under-funding within three business days after we have issued the written notice specified in subsection (a) above. The effective date of termination will be determined by us and may be any date following the late payment deadline of three business days specified in this subsection. The notice provisions contained in Termination Events, Section 13.1, do not apply to this breach.

Section 4.8 Funding of the Plan Upon Termination of this Agreement. When this Agreement terminates, you will maintain in your sub-account enough funds to cover all checks for Plan benefits that have been issued but not cashed and we will return the excess balance to you and close your sub-account.

Section 4.9 Unclaimed Funds. Checks for Plan benefits that have been issued but not cashed will be considered unclaimed funds after 365 days from date of issue. Unclaimed funds will be reconciled for the calendar year in total, and any remaining unclaimed funds will be returned to you within 90 days following the end of the second calendar year.

SECTION 5: OUR ADMINISTRATIVE SERVICES

Section 5.1 General Plan Administration. We will provide administrative services including:

- (a) administration forms;
- (b) a toll-free customer service telephone line for Members;
- (c) enrollment support; and
- (d) standard identification cards for Members.

Custom services, such as special forms, custom ID cards, or administrative support that exceeds the standard level offered to our Self-Funded customers will be subject to additional fees.

Section 5.2 Delivery and Execution of Administrative Services Agreement. We will deliver the initial draft of this Agreement to you within two weeks following the Effective Date. You will provide written notice to us of your acceptance or request for modifications within two weeks following your receipt of the initial draft and we will then provide a final copy for your execution within two weeks following our receipt of your written notice.

Section 5.3 Claims Processing. We will process and pay claims for Plan benefits. Claims must be submitted in a form that is satisfactory to us. We will determine whether a benefit is payable under the Plan's provisions, and we will use claim procedures and standards that we develop for benefit claim determination. With respect to these functions, you delegate to us the discretionary authority to (a) construe and interpret the terms of the Plan; (b) make factual determinations relating to any benefit decision; (c) determine the validity of charges submitted to us under the Plan; and (d) otherwise decide all questions regarding the payment of benefits under the Plan. Benefits will be payable to a Member under the Plan only if we, in our discretion, determine that such benefits are payable.

If we determine that a benefit is payable, we will issue a check for, or otherwise credit, the benefit payment to the appropriate payee. If we determine that all or a part of the benefit is not payable under the Plan, we will notify the claimant of the denial and of the claimant's right to appeal the denial. This notification will be designed to comply with the ERISA requirements for claim denial notices.

Plan payments for covered health care services rendered by Network Providers will be based on the negotiated fees that we have established with our Network Providers.

Conscience Clause. Providence Health Plan is a Catholic-sponsored organization and, as a matter of conscience, does not offer services for voluntary termination of pregnancy. To the extent that such services are a covered benefit under the Plan, we will coordinate the administration of related claims through a third-party administrator. That administrator, however, will be solely responsible for their performance of administrative duties, under a separate agreement that you execute with them.

Section 5.4 Stop Loss Interface. In connection with stop loss insurance coverage that you secure as a component of this Plan, we will perform the following interface duties with your stop loss carrier as your Business Associate and in accordance with Exhibit E:

- (a) Large claim reporting;
- (b) Aggregate stop loss experience reporting; and
- (c) Limited exchange of data necessary for underwriting, claims reimbursement and audit purposes.

Section 5.5 Coordination of Benefits (COB). If a Member is covered by more than one insurance plan, the benefits available under this Plan will be coordinated with the benefits payable under the other plan, in accordance with the provisions of the SPD.

Section 5.6 Run-Out Administration. Subject to your payment of the terminal claims processing fee specified in Exhibit B, we will provide claim processing services for a period of six months following the Agreement's termination ("the run-out period") on claims for health services incurred prior to the termination of the Agreement Period. All of the terms of this Agreement will apply to such post-termination claim processing services. We will not provide such services if the Agreement was terminated because you failed to pay us fees due, or, you did not provide the funding required under Section 4, or, when the termination results from your material breach of this Agreement. Upon the expiration of the run-out period, we will discontinue our claim processing services and we will forward all claims and claim adjustments, as described in Section 5.7, to you. If claim recovery services, as described in Section 5.8, are still in process when the run-out period expires, we will provide a listing of the affected claims to you at the end of the run-out period.

The provisions of Sections 4.6, 4.7 and 4.8 will apply regarding funding of the plan upon termination of this Agreement.

Section 5.7 Retroactive Claim Adjustments. Under the terms of our contracts with Network Providers, we will reconcile claim adjustments that are submitted to us by a Network Provider within 180 days after the original adjudication date of the claim. The financial responsibility for all such retroactive claim adjustments will reside entirely with the Plan and with you as the Plan Sponsor.

If we receive notice after the termination of this Agreement or after the end of the run-out period specified in Section 5.6, we will administer the adjustment as specified below.

- (a) When the notice is from a Network Provider and the notice is timely (within 180 days):
 1. If the adjustment involves a claim payment, we will document the payment due and forward that documentation to you for payment.
 2. If the adjustment involves our receipt of a claim refund, we will document the refund received and forward that documentation and our check for the refunded amount to you.
- (b) When the notice is from a Network Provider and the notice is untimely (beyond 180 days) or the notice is from a non-Network Provider:

1. We will return the notice to the provider with a notation regarding the terminated status of this Agreement.
2. If the adjustment involves our receipt of a claim refund, we will document the refund received and forward that documentation and our check for the refunded amount to you.

Section 5.8 Claim Recovery Services. We will provide recovery services for Administrative Overpayments. We will reimburse you for, and you will not be responsible for, recovery costs associated with any overpayments made by us due to our gross negligence as determined by a court or other tribunal.

We will provide, directly or through a subcontractor, services to recover Plan benefits that were paid and are recoverable by the Plan because payment was or should have been made by a third party for the same medical or prescription expense. This is commonly referred to as "Third Party Liability Recovery" or "Subrogation." Some examples of third parties who are legally responsible for the payment of a health claim include tortfeasors, individuals involved in an accident, liability insurance carriers, automobile insurance carriers, premises medical insurance or worker's compensation carriers.

Our costs to provide the claim recovery services described in this Section 5.8, which may be calculated as a percentage of savings, are payable by you and will be deducted from the actual recoveries. We will apply a credit to the subsequent call for funds described in Section 4.6 for the net amount of the recovery.

You delegate to us the discretion and authority to develop and use standards and procedures for claim recoveries under this Section 5.8, including but not limited to:

- (a) Whether or not to seek recovery;
- (b) What steps to take if we decide to seek recovery; and
- (c) Under what circumstances to compromise a claim or settle for less than the full amount of the claim.

You acknowledge that such standards and procedures may not result in recovery or in full recovery for any particular case. We will not pursue any recovery if any applicable law does not permit it, or if recovery would be impractical. We may choose to initiate litigation to recover payments, but we have no obligation to pursue litigation. If we initiate litigation, you will cooperate with us in the litigation.

If this Agreement terminates or if our recovery services terminate, we will:

- (a) Discontinue our claim recovery services on your behalf at the end of the run-out period described in section 5.6; and
- (b) Forward to you the net amount of claim recoveries, as described in this Section 5.8, that we subsequently receive in connection with the claim recovery services that we undertook on your behalf. In that event, we will document the net amount received and forward that documentation and our check for the net amount to you.

You will not engage any entity except us to provide these recovery services without our prior approval.

Section 5.9 Claims by Other Parties. If we are responsible for paying benefits or making any payment on behalf of the Plan or a Member to another health benefits plan, or to any other person or entity, including but not limited to a claim based upon the federal Medicare Secondary Payer laws, you will indemnify and hold us harmless with respect to such a claim and all costs associated with the claim. You will cooperate with us as necessary and appropriate to facilitate timely payment. When such claims involve Taxes, assessments or other governmental charges, the claims will also be subject to Section 10 of this Agreement.

Section 5.10 Certificate of Creditable Coverage (HIPAA Administrative Services): We will produce upon request Certificates of Creditable Coverage ("Certificates") and provide Notice of Portability Rights to Members who lose coverage under the Plan on or after the Effective Date of this Agreement, as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), based on eligibility and termination data that you provide to us in accordance with our data specifications. The Certificates will only include periods of coverage that we administer under the Plan.

The Certificates will only include and be based on data that is currently indicated and available to us in our eligibility systems as of the date that the Certificates are generated. We will give you reasonable advance notice of all additional data requirements that we will need to complete the Certificates and you agree to provide us with that information on a timely basis.

We reserve the right to discontinue providing this service if you do not provide the required data we request within timeframes that allow compliance with HIPAA.

Section 5.11 Reports. Our standard report package is listed in Exhibit C. The reports included in the standard report package will be provided at no cost to you. In the event additional or other reports are requested, we will advise you of the cost of obtaining such custom report(s). If you agree to pay the cost of the custom report(s), we will provide such custom report(s). Standard delivery of reports will be by electronic methods. Printed (hard copy) reports will be subject to an additional charge.

Section 5.12 IRS Form 5500 Preparation. If applicable, we will furnish the "Schedule C" information necessary for you to prepare IRS Form 5500. We will not assist you in the preparation or filing of any reports, returns, Tax returns, or similar documents required by any local, state or federal governmental or regulatory agency pertaining to the operation or management of the Plan. All costs associated with the preparation of such documents will be your responsibility.

Section 5.13 IRS Form 1099. We will prepare and issue IRS Form 1099 documents for Provider payments that are issued by us under this Agreement and we will file related documents with the IRS as may be required by law.

Section 5.14 Customer Service. We will provide telephone access to customer service representatives between the hours of 8:00 a.m. and 5:00 p.m. Pacific Standard Time on weekdays, except as follows: (a) During regularly scheduled customer service team meetings, (b) On days when our offices are closed for special events and, (c) On nationally recognized holidays. You will be notified in advance of special events affecting customer service phone coverage.

Section 5.15 Informal Resolution of Claim Disputes. If a claimant believes that we have issued a claim denial that is inconsistent with the terms of the SPD, the claimant may contact our customer service staff to seek an informal resolution of the dispute. If we determine that a claim denial was issued in error, we will reprocess the claim to correct the error. Further, our informal resolution procedures may include the payment of disputed or deniable claims in an amount not to exceed \$150 per claim when, in our judgment, such payment will result in the equitable resolution of a claim dispute or misunderstanding of coverage provisions by a Member. You delegate to us the discretion and authority to use such procedures.

Section 5.16 Claim Appeals. If we deny a claim under the Plan, the claimant will have the internal appeal rights set forth in the SPD and/or which are required under applicable law.

Subject to the additional fee specified in Exhibit B, you appoint us as a named fiduciary with respect to performing the fair and impartial review of all levels of internal claim appeals. You delegate to us the discretionary authority to construe and interpret the terms of the Plan, to make factual determinations relating to any benefit decision and to make final, binding determinations concerning the availability of Plan benefits. For claim denials that we issue, we will notify the claimant of our determination and of their right to appeal the denial to us. Our notice to the claimant will describe the internal appeal rights set forth in the SPD and will be designed to comply with the applicable ERISA and ACA requirements.

Section 5.17 External Review of Claim Appeals. As set forth in the SPD, Members have access to external review of claim appeals. Claim denials that are issued at the final level of internal review in accordance with Section 5.14 are eligible for external review as set forth in the SPD and we will prepare and submit such cases to the external review organization. You will reimburse us for the case review fees that are charged by the external review organization.

Section 5.18 Provider Network Services. We will make available to Members a Network of Providers to deliver the health services covered by the Plan. We will provide Members with internet access to directories of Network Providers and with periodic updates and/or telephonic access to the information in the directories.

The composition of the Provider Network can change at any time. We will give you notice of material changes in advance or as soon as reasonably possible.

Members who have concerns or suggestions regarding the composition of our Network or the services delivered by our Network Providers should contact our customer service staff, who will relay those concerns and suggestions to our Network management staff.

We do not employ Network Providers and they are not our agents or partners. Network Providers participate in the Network as independent contractors. Network Providers and the Members are solely responsible for any health care services received by Members.

Section 5.19 Non-Network Providers. We may be able to reduce claim costs for the Plan as a result of negotiated fees with certain Non-Network Providers. We will bill you for any costs that we incur in negotiating reduced fees with Non-Network Providers.

SECTION 6: OUR OTHER SERVICES

Section 6.1 Medical Management Services. We will provide the optional medical management services that you have elected and initialed below, subject to the fee schedule in Exhibit B.

Medical Management Services.

- Prior authorization. Prior authorization provides prospective review of selected services and procedures for medical necessity determination and benefit coverage and possible referral to other utilization or case management programs. Prior authorization is required for selected services and facility admissions. Providence will perform a prior authorization to determine the level of care before an admission occurs, and prior to a selected procedure to assess the clinical indications and appropriateness of services requested or planned. Providence may request a second opinion when clinical indications are not clearly established, or when indications given for a procedure or treatment do not clearly meet Providence's approved criteria. Requests for prior authorization are initiated from the provider or, in certain cases, the member.
- Concurrent review. Nurse reviewers will review medical and surgical inpatient hospital and skilled nursing facility stays. They will review cases to determine the appropriateness of the setting, level of care and length of stay. The nurse reviewer will conduct an initial review and certification of the admission and follow the case concurrently. If the nurse reviewer is unable to certify the request or certify a continuation of the hospital stay, the Providence medical director will conduct a review of the case to determine medical necessity of the hospital admission, course of treatment and continued stay.
- Discharge planning services. Nurse reviewers will coordinate discharge planning services with physicians, hospitals and other health care providers to complete an episode of care. Services typically used in discharge planning will include skilled nursing facilities, home health care agencies and hospice. Cases that require post discharge follow-up will be referred to complex case management.
- Clinical Claims Audit. Our nurse reviewers and medical technicians will review claims that exceed \$30,000 in billed charges for Clinical Overpayments. We will also review injectable and biotechnology medical drug and pharmacy claims for Clinical Overpayments using pharmacy technician reviewers. Analysis may include provider billings, clinical information, provider contracts, coding conventions and payment rules. The nurse reviews the Diagnosis Related Group (DRG), case rate, coding, code modifiers and identifies issues related to contractor interpretation, unbundling, duplicate billings, billing errors, and billing maximization. The majority of this review is conducted prior to actual claim payment, lowering the amount paid. If our review is not fully completed prior to claim payment and we subsequently recover Clinical Overpayments, we will apply a credit to the subsequent call for funds described in Section 4.6.

Large Case Management Services.

Providence will provide certain case management services including the evaluation of inpatient, outpatient and ancillary services, member education and, where appropriate, coordination and facilitation. Our case management services address Members at risk for declining health status, high medical expenses, and Members with complex acute and chronic care needs requiring care coordination and ongoing support.

Providence will consider the indicators listed below to determine eligibility for case management services. Providence will work with Members to establish participation in case management services with the goal of securing appropriate, cost-effective health care services and supplies for the diagnosis and/or treatment of the Member's condition.

(a) Cases involving one or more of the following:

- Transplants
- Rare Diseases (amyotrophic lateral sclerosis, chronic inflammatory demyelinating polyneuritis, cystic fibrosis, dermatomyositis/polymyositis, Gaucher's, hemophilia, lupus, myasthenia gravis, scleroderma, inflammatory bowel disease, rheumatoid arthritis, Parkinson's, multiple sclerosis, and sickle cell anemia). Providence may notify Plan Sponsor of suggested changes to this list.
- End Stage Renal Disease (ESRD)
- Severe Brain Injury
- Severe Burns
- Cerebral Vascular Accident (CVA or stroke) with deficits
- High-Risk Obstetrics
- Multiple Trauma/Spinal Cord Injury
- High-Risk Infants/Children
- Ventilator Dependent Patients

(b) Complex hospital course, length of stay, or unplanned hospital admissions

(c) High cost case reviews

(d) Multiple Emergency Department visits

Disease Management Services.

Providence's population-based disease management programs identify Members with chronic disease and through the use of disease specific interventions attempts to alter the course of the disease. Disease management services are provided by Providence nurses who assess health status, develop plans of care, provide interventions specific to the disease process, and collect data to evaluate the effectiveness of the program. The standardized treatment strategies ensure appropriate utilization and evidence-based care across the continuum.

Current disease management programs include:

- Asthma
- Diabetes
- Coronary Disease
- Chronic Obstructive Pulmonary Disease (COPD)
- Heart Failure

Disease management engagement strategies include:

- Motivational interviewing
- Teaching member self-management skills
- Multiple attempts to engage members
- Cross-training to support multi-condition management
- Calling at times when Members may be home from work

All health related material mailed to Members from the Medical Management Department includes contact telephone numbers to the case and disease management program. A variety of information about case and disease management services is located prominently on the Providence member website. Providence works closely with Network Providers to refer members to for possible intervention and case and disease management program participation.

Providence's engagement strategies for telephonic disease management programs customarily include three outreach phone calls, a letter and a follow up phone call. When making initial contact with potential participants, Providence provides a comprehensive mailing with educational materials even if the member does not enroll in the program at the first contact. Providence continually monitor systems and re-contact members following events such as hospitalization.

To provide access for members who work during normal business hours, Providence nurses are available to work with members in the evening from 5:00 – 7:00 pm to encourage participation.

Section 6.2 Pharmacy Benefit Management Services.

Providence will provide pharmacy benefit management services and will determine which pharmacies will be Network Pharmacies. We will make reasonable efforts to provide you with advance notice of any material changes in our Network Pharmacies.

Our pharmacy benefit management services will include a mail order pharmacy program for Members, including website access and the necessary forms and procedures to obtain mail order prescriptions.

We will electronically process the claims of Network Pharmacies in accordance with the SPD and the Network Pharmacy's participation agreement. If your benefit plan allows for the processing on pharmacy universal claim forms or payment of prescriptions from the Member's cash receipt, we will process those claims according to the detail provided in your SPD, plus an administrative charge per claim, as specified in the Exhibit B.

If we furnish a drug formulary for the purpose of copayment and/or coverage determination, you agree not to copy, distribute, sell, or otherwise provide the drug formulary to another party without our prior written approval. On termination of this Agreement, you will cease use of our drug formulary.

If you agree to use our recommended pharmacy prior authorization list, as shown and updated from time-to-time at <http://www.providence.org/resources/oregon/images/PADrugList.pdf>, and our established pharmacy medical policy criteria, there is no additional charge for pharmacy prior authorization services.

Section 6.3 Pharmacy Rebate Program.

Under the pharmacy rebate program we have access to rebates payable by pharmaceutical manufacturers on certain brand name prescription drug products dispensed to Members by Network Pharmacies. You understand and acknowledge that:

- It is the intention of our pharmacy benefit management services to manage your prescription drug costs to the best of our ability by promoting the use of generic drugs whenever feasible. As such,
- There is a risk that a brand name rebate will decrease as generic dispensing rates increase.

You agree to comply with the requirements of the pharmacy rebate program which include, but are not limited to, the following:

- You agree to use the drug formulary and related criteria established by our Ambulatory Pharmacy and Therapeutics Committee.
- You agree to participate in our drug therapy management initiatives unless you specifically opt out. If you request a drug therapy management service that is not part of our core program, there will be an initial setup fee and/or a per Participant or a per claim charge associated with the service that will be specified to you, and agreed to by you, prior to implementation.
- You agree to notify Participants of the availability of the drug formulary via a website specified by us and/or to print copies of the drug formulary from the website for your distribution to Participants.
- You agree to notify Participants that there may be copayment incentives or other reasons why providing their physicians with a copy of the drug formulary might be advantageous to them. The intent of providing the information to the Participant and their physician is to allow a dialogue that facilitates safe, effective and cost-efficient drug choices.
- You agree to comply with other reasonable requirements for participation in the pharmacy rebate program that we communicate to you, including compliance with all applicable state and federal laws.

We will negotiate, directly or indirectly, with drug manufacturers regarding the terms of the rebate program and we will arrange for the payment of rebates on certain prescription drug services utilized by Members. You agree that during the term of this Agreement that you will not negotiate, arrange or contract in any way for rebates on or the purchase of prescription drugs for

Members from any manufacturer. In the event that you should violate the agreement specified in this paragraph, we may, without limiting our right to other remedies, immediately terminate your participation in the pharmacy rebate program and/or terminate our pharmacy benefit management services under this Agreement.

During the period the Agreement is in effect, and for a period of 12 months following the termination of this agreement, PHP will pass through to Clackamas County 100% of all rebate revenue attributable to Clackamas County's prescription drug claims.. After this 12-month run-out period, PHP will retain 100% of rebate revenue otherwise due to Clackamas County under this agreement.

Section 6.4 Prov RN.

We will provide a medical advice line (Prov RN) for Members. This service operates 24 hours per day, seven days per week, 365 days per year. The service has a local access number, an 800 number (interpreter service available) and a TTY line. All calls are recorded. Providence RN is staffed with Registered Nurses who are licensed in the states of Oregon and Washington, with access to regularly updated medical advice software. Prov RN is not available to Members who reside in California.

Section 6.5 Mental Health / Chemical Dependency Services.

Subject to the additional fee specified in Exhibit B, we will provide administrative and utilization management services for mental health and chemical dependency coverage via a retained administrative agent.

Section 6.6 Alternative Care Services.

Subject to the additional fee specified in Exhibit B, we will provide administrative and network management services for alternative care coverage.

Section 6.7 Diagnostic Imaging Services.

Subject to the additional fee specified in Exhibit B, we will provide administrative and utilization management services for diagnostic imaging coverage via a retained administrative agent.

Section 6.8 LifeBalance Program.

Subject to the additional fee specified in Exhibit B, we will provide access to recreational and cultural events on a discounted cost basis through the LifeBalance program.

Section 6.9 HIPAA Administrative Services.

Subject to the additional fee specified in Exhibit B, we will provide HIPAA administrative services as described in section 5.10.

Section 6.10 Additional Services. You may request that we provide services in addition to those set forth in this Agreement. If we agree, such services will be subject to additional fees payable by you and will be governed by the terms of this Agreement, unless otherwise specified in an amendment to this Agreement.

SECTION 7: RECORDS, INFORMATION, AUDITS

Section 7.1 Records. We will keep records relating to the services we provide under this Agreement for as long as we are required to do so by law.

Section 7.2 Access to Information. If you need information for an audit or otherwise that we have in our possession in order to administer the Plan, we will give you access to that information, if legally permissible, as long as the information relates to our services under this Agreement, and you give us 60 days prior notice of the need for the information.

You must also represent that you have reasonable procedures in place, and required documentation in your SPD, for handling Confidential Member Information in accordance with all applicable laws and regulations.

We will provide information only while this Agreement is in effect and for a period of six months after the Agreement terminates, unless you demonstrate that the information is required by law for Plan purposes.

We will also provide reasonable access to Plan information to an entity providing services to you, such as an auditor or other consultant, upon your request. Before we will provide such access, however, the entity must sign our "Third-Party Disclosure Agreement," attached as Exhibit D, and must provide such other information and assurances as we may request.

Section 7.3 Audits. During the term of the Agreement, and at any time within six months following its termination, you or a mutually agreed upon entity may audit us to assess our performance under the terms of this Agreement. You must advise us at least 90 days in advance of your intent to audit and all parties will execute a non-disclosure agreement prior to the start of an audit. The place, time, type, duration and frequency of all audits must be reasonable. All audits will be limited to information relating to the calendar year in which the audit is conducted and/or the immediately preceding calendar year. With respect to our claim processing services, the audit methodology will be limited to statistically valid random sample audits and will not include electronic audits. Upon completion of the audit, you will provide us with a copy of the final audit report.

You will pay any expenses that you incur, and we will charge an additional fee, determined by us, for more than one audit every 12 months for any onsite audit visit that is not completed within five business days or for sample sizes in excess of 200 claims. You will incur a \$100 per claim charge for samples in excess of 200 claims; and a \$1,000 charge for each day, plus other reasonable costs, for any one audit involving more than five days of onsite review per year. The additional fees cover the additional resources, facility fees and other incremental costs associated with a non-standard audit. You will also pay any unanticipated expenses we incur and all expenses incurred by us on any audit initiated after this Agreement is discontinued.

Section 7.4 Protected Health Information. Protected Health Information (“PHI”) will be protected as specified in Exhibit E.

In accordance with the privacy regulations of HIPAA, you will provide for adequate separation between the Plan Sponsor and Providence Health Plan with regard to the use and disclosure of PHI. For that purpose, access to PHI will be limited to the following Employees or classes of Employees of the Plan Sponsor:

- Directors of Human Resources;
- Benefit Managers;
- Benefit Analysts;
- Benefit Specialists; and
- Internal Auditors, when performing Plan audits.

SECTION 8: INDEMNIFICATION

Section 8.1 You Indemnify Us. You will indemnify and defend us and hold us harmless against any and all losses, liabilities, penalties, fines, costs, damages and expenses we incur, including reasonable attorneys' fees, except where there has been a finding of gross negligence or willful misconduct in our performance of our obligations under this Agreement, or where there has been material breach of this Agreement by us, as determined by a court or other tribunal having jurisdiction of the matter.

Section 8.2 We Indemnify You. We will indemnify you and hold you harmless against any and all losses, liabilities, penalties, fines, costs, damages and expenses you incur, including reasonable attorneys' fees which arise out of our gross negligence or willful misconduct in the performance of our obligations under this Agreement, or our material breach of this Agreement, as determined by a court or other tribunal having jurisdiction of the matter.

SECTION 9: PLAN BENEFITS LITIGATION

Section 9.1 Litigation Against Us. If a demand is asserted or litigation or administrative proceedings are commenced by a Member or a Provider against us, or against the Plan and us jointly, which relate to the payment of Plan benefits and our duties under this Agreement (“Plan Benefits Litigation”), we will select and retain defense counsel to represent our interest. In actions asserted against both you and us, and provided no conflict of interest arises between the parties, we will agree to joint defense counsel. All legal fees and costs we incur in defense of the litigation will be paid by you, except as provided in Section 8.2. Our failure to seek payment of our legal fees and costs by you under this Section 9.1 does not relieve you of your obligation to indemnify us for other amounts as provided in Section 8.1. Each party will endeavor to promptly notify the other party when it learns of pending or potential Plan Benefits Litigation, but the obligations under this Section 9.1 are not dependent upon such notice. Both parties will cooperate fully with each other in the defense of the Plan Benefits Litigation. We will have discretion to resolve Plan Benefits Litigation at your expense in a reasonable manner and for a reasonable amount under the circumstances.

In all events, you are responsible for the full amount of any Plan benefits paid as a result of such litigation.

Section 9.2 Litigation Against You. If litigation or administrative proceedings are commenced against you and/or the Plan, you will select and retain counsel and you will be responsible for all legal fees and costs in connection with such litigation. We will cooperate fully in the defense of litigation arising out of matters relating to our duties under this Agreement.

SECTION 10: TAXES AND ASSESSMENTS

Section 10.1 Payment of Taxes and Expenses. You will reimburse us for Taxes relating to the Plan that are assessed against us or that we are required to pay, now or in the future. You will also reimburse us for any cost or expense reasonably incurred by us in connection with our payment or disputing of such Taxes, including reasonable attorneys' fees and costs and any interest, fines, or penalties.

Section 10.2 Tax Reporting. In the event that the payment of any benefits to a Member by us under this Agreement is subject to Tax reporting requirements, you are responsible for complying with those requirements. We will be responsible for Tax reporting (i.e., Form 1099) relating to Provider reimbursements.

SECTION 11: SERVICE FEES

Section 11.1 Service Fees. You will pay us fees for our services. The service fees listed in Exhibit B of this Agreement are effective for the annual period shown in the Exhibit B. In addition to the service fees specified in Exhibit B, you must also pay us any additional fee that is authorized by a provision elsewhere in this Agreement or is otherwise agreed to by the parties.

Section 11.2 Changes in Service Fees. We can change the service fees:

- (a) On each Agreement Period anniversary;
- (b) Any time there are changes made to this Agreement or the Plan which affect the fees;
- (c) When there are changes in laws or regulations that affect the services we are providing or will be required to provide under this Agreement; or
- (d) If the number of Members covered by the Plan or any option of the Plan changes by 10 percent or more, or the ratio of Members to Employees changes by 10 percent or more.

We will provide written notice to you of any change in service fees, as described in this Section 11.2, and such change will be effective on the date specified in our written notice. We will, however, provide you with 30 days prior written notice of the revised service fees for subsequent Agreement Periods. Service fee adjustments relating to an Agreement Period anniversary will become effective on the later of the first day of the new Agreement Period or 30 days after we provide you with written notice of the new fees.

If you do not agree to the new service fees, you may terminate this Agreement upon 30 days written notice after you receive our written notice of the new fees. In that event, you must still pay any service fees due for the period during which this Agreement remains in effect.

Section 11.3 Due Dates, Payments, and Penalties. In some cases, we will bill you for the service fees that you owe us. In those cases, the amounts owed are due and payable on the due date shown on our bill. In other cases, we will provide you with template statements in advance for you to complete and remit to us. In those cases, the amounts owed are due and payable on the first day of each calendar month. If amounts owed are not paid within 15 days after the due date, we may charge you interest on the delinquent amounts at the interest rate that we charge to our Self-Funded customers. You agree to reimburse us for any costs that we incur to collect these amounts. This Agreement will be terminated in accordance with Section 13.1 if amounts owed are not paid within 30 days of the due date.

Section 11.4 Reconciliation. Within 90 days following the close of each Agreement Period, we will reconcile the total service fees paid and owed for the period and provide a copy of such reconciliation to you upon your request. If the reconciliation indicates an overpayment of service fees, we will apply the appropriate credit to your next payment. If the reconciliation indicates an underpayment of service fees, you agree to pay us the outstanding balance within 30 days after receiving written notice from us of the amounts due.

Within 90 days following the termination of this Agreement, we will reconcile the total service fees paid and owed for that portion of the Agreement Period since our last reconciliation. We

will provide a copy of such reconciliation to you upon your request. If the reconciliation indicates an overpayment of service fees, we will refund the overpayment to you within 30 days after we complete our reconciliation. If the reconciliation indicates an underpayment of service fees, you agree to pay us the outstanding balance within 30 days after receiving written notice from us of the amounts due.

For late payment of amounts that are due and payable by you under this Section 11.4, we will assess an interest charge at the interest rate that we have established for our Self-Funded customers.

SECTION 12: TERM OF THE AGREEMENT

Section 12.1 Services Begin. We will begin providing services under this Agreement on the Effective Date. Our services apply only to claims for Plan benefits with dates of service on or after the Effective Date and before our services end, as specified in Section 12.2.

This Agreement will apply for an initial Agreement Period commencing on the Effective Date and will automatically continue for additional Agreement Periods, unless either party gives the other party 90 days prior written notice of termination.

Section 12.2 Services End. Unless otherwise specified in Section 5.6, our services under this Agreement will end on the date this Agreement terminates, regardless of the date that claims are incurred.

SECTION 13: TERMINATION OF THE AGREEMENT

Section 13.1 Termination Events. This Agreement will terminate on the earliest of the following dates that is applicable. The date on which:

- (a) The Plan terminates;
- (b) Both parties agree in writing to terminate the Agreement;
- (c) At the expiration of an Agreement Period, as specified in Section 12.2;
- (d) You fail to provide the required funds for payment of benefits under the Plan;
- (e) We give you notice of termination because you have not paid the fees or other amounts due us under this Agreement;
- (f) A material breach of this Agreement occurs by either party if such breach is not corrected within 30 days after being notified in writing by the other party. The notice of breach required under this subsection (f) does not apply to the termination events specified in subsections (d) and (e); or
- (g) Any federal, state or local jurisdiction sanctions or prohibits the administration of the Plan under the terms of this Agreement. In such event, either party may immediately discontinue the Agreement's application in the relevant jurisdiction. Notice must be given to the other party when reasonably practical.

Section 13.2 Disposition of Records upon Termination. Upon termination of this Agreement, we will deliver all Plan records to the Plan Administrator, or to a successor service provider if so directed by the Plan Administrator. We may, but will not be required to, retain copies of all or any part of such records. Any services we perform in connection with the transfer or retention of records upon termination of this Agreement will be additional services for which we may charge fees.

SECTION 14: MISCELLANEOUS

Section 14.1 Subcontractors. We may use our affiliates or other subcontractors to perform our services under this Agreement, and we will be responsible for those services to the same extent that would apply under this Agreement if we had performed those services on our own. The provisions of this Section 14.1 do not apply to the administrative duties performed by a third-party administrator as specified in Section 5.3.

Section 14.2 Assignment. Except as provided in this Section 14.2, neither party may assign this Agreement or any rights or obligations under this Agreement to anyone without the other party's written consent. Such consent, however, will not be unreasonably withheld. Notwithstanding, we may assign this Agreement, including all of our rights and obligations to an affiliate of ours or to an entity controlling, controlled by, or under common control with us, or to a purchaser of all or substantially all of our assets, provided that we deliver written notice to you of the assignment at least 60 days in advance.

Section 14.3 Governing Law. This Agreement is governed as applicable by ERISA and the laws of the State of Oregon.

Section 14.4 Entire Agreement. This Agreement, with its exhibits, constitutes the entire Agreement between the parties governing the subject matter of this Agreement. This Agreement replaces any prior written or oral communications or agreements between the parties relating to the subject matter of this Agreement. The headings and titles within this Agreement are for convenience only and are not part of the Agreement.

Section 14.5 Amendment. Except as may otherwise be set forth in this Agreement, the Agreement may be amended only by both parties agreeing to the amendment in writing; executed by a duly authorized person of each party.

Section 14.6 Disputes. The parties will attempt to use reasonable efforts to resolve any disputes through good faith negotiations and, where appropriate, use alternative dispute resolution as may be agreed by the parties, including mediation and arbitration.

Section 14.7 Waiver. Nothing in this Agreement is considered to be waived by either party unless the party claiming the waiver has received written confirmation of the waiver from the other party. No breach of this Agreement is considered to be waived unless the non-breaching party waives it in writing and a waiver of one provision does not constitute a waiver of any other.

Section 14.8 Protected Health Information. The parties mutually agree to ensure the privacy and security of Protected Health Information as specified in Exhibit E.

Section 14.9 Notice. Except as otherwise provided in this Agreement, all notices or other communications hereunder will be deemed to have been duly given when made in writing and addressed as specified below and (a) delivered in person, (b) submitted to a transfer agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail with postage paid.

To Us at:

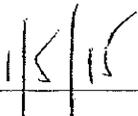
Providence Health Plan
PO Box 4447
Portland, OR 97208-4447
Attention: Group Account Manager

To You at:

Clackamas County
Risk & Benefit Division
Public Services Building
2051 Kaen Road, Suite 310
Oregon City, OR 97045
Attention: Carolyn Williams

The address to which notices or communications may be given by either party may be changed by written notice given by such party to the other pursuant to this Section 14.9.

IN WITNESS WHEREOF, the parties have executed this Agreement.

By: Providence Health Plan
Signature: 
Name: Michael White
Title: Chief Operations Officer
Date: 

By: Clackamas County
Signature: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A: SUMMARY PLAN DESCRIPTION

EXHIBIT B: SERVICE FEES

This exhibit lists the service fees you must pay us for our services under this Agreement for the period January 1, 2015 through December 31, 2015.

Core Package of Services

	Note: PEPM means Per Employee Per Month
Medical Claims Administration	\$24.72 PEPM
Pharmacy Claims Administration / Management	\$4.83 PEPM (0% of rebates retained by Providence)
Providence ASO Network	\$7.55 PEPM
SPD Printing and Distribution	At Our cost

Optional Services

Benefits Administration:

Medical, Case and Disease Management	\$8.20 PEPM
MHCD with Administration, Utilization Management and Network Services by PBH	\$4.46 PEPM
Fiduciary Fee	Included
Terminal Claims Processing	3 X Fees (one-time fee)
Custom Reporting	\$175/hr (minimum charge of \$350)
Miscellaneous Consulting	\$175/hr (minimum charge of \$350)

Ancillary Services:

Alternative Care/Chiropractic Care Administration & Network (ASH Network; PHP processing)	\$2.00 PEPM
Diagnostic Imaging Services	No additional fee
Prov RN (not available to CA residents)	No additional fee
Life Balance	No additional fee
HIPAA Administration (HIPAA Cert upon request)	No additional charge
Tru Vision & Tru Hearing (available only in OR and SWWA)	No additional charge
Affinity (available only in OR and SWWA)	No additional charge

EXHIBIT C: STANDARD REPORTS

PASO REPORTS			
Report	Description	Specifics	Frequency
Weekly Reports			
Claim Register	List of processed claims for funding		Weekly
Monthly Reports			
Experience Report	Number of employees, dependents, claims, paid claims and administrative fee volumes by subgroup/employee class		Monthly
Large Claims Report	List of claimants with year-to-date claims in excess of trigger amount by subgroup/employee class within each plan	Low trigger: \$25,000	Monthly YTD
Quarterly Reports			
Avoidance and Recovery Report	Provides documentation of estimated savings associated with Coordination of Benefits and Third Party Liability activities	Claims avoidance, claims recovery	Quarterly
Pharmacy Utilization Trends	Paid claims categorized between brand and generic, providing generic dispensing rate, member utilization, plan cost per member	YTD	Quarterly
Top 25 drugs by cost	Report notes whether prescription is brand or generic, and for brand drugs, whether a generic equivalent is available	YTD	Quarterly
Top 25 drugs by number of scripts	Report notes whether prescription is brand or generic, and for brand drugs, whether a generic equivalent is available	YTD	Quarterly
Annual Reports			
Medical Management Report	Analysis of Medical Management Savings	Prior Authorizations, Concurrent Review, Clinical Claims Audit, High Risk Maternity, Large Case Management, Providence RN, Pharmacy	Annually

EXHIBIT D: BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between Clackamas County (“Covered Entity”) on behalf of itself, and its current and future subsidiaries and affiliates, and Providence Health Plan (“Providence”), including all current and future lines of business, affiliates, and subsidiaries, on this 1st day of January, 2014 (“Effective Date”). Covered Entity and Providence are collectively referred to as the “Parties”.

RECITALS

WHEREAS, Covered Entity is a covered entity and Providence is a business associate as such terms are defined under the Health Insurance Portability and Accountability Act and the Health Information Technology for Economic and Clinical Health Act (“HIPAA/HITECH”) regarding the confidentiality and privacy of Protected Health Information (PHI); and

WHEREAS, Providence has entered or may enter into agreement(s) with Covered Entity (“Service Agreement”) pursuant to which Providence will render services to, for or on behalf of Covered Entity which may involve Providence’s use, disclosure or creation of PHI on behalf of Covered Entity; and

WHEREAS, the provisions of this Agreement are specifically intended to meet the business associate contract requirements of the HIPAA/HITECH privacy standards set forth in Section 45 CFR, Section 164.504 (“Privacy Rule”), and the HIPAA/HITECH Security Standards for Business Associate Contracts set forth in Section 45 CFR 164.314 (“Security Rule”), and the requirements and guidance issued by United States Department of Health and Human Services (“HHS”) pursuant to the American Recovery and Reinvestment Act of 2009 (42 USC Section 17931(a) et.seq.) (“ARRA”).

NOW THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the Parties hereto agree as follows:

I. DEFINITIONS

For the purposes of this Agreement, certain terms and concepts used herein will have the definition given in HIPAA/HITECH or ARRA, or the respective implementing regulation, as applicable unless otherwise defined herein.

II. OBLIGATIONS OF PROVIDENCE

1. Use and Disclosure of Health Information

a) Providence will comply with all applicable federal and state laws and regulations relating to maintaining and safeguarding the confidentiality of PHI and implement administrative, physical and technical safeguards, consistent with the size and complexity of Providence’s operations that reasonably and appropriately protect the confidentiality, integrity and availability of the PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Providence will comply with such safeguards as of the applicable dates pursuant to

HIPAA/HITECH and ARRA and their respective implementing regulations. Such safeguards will include, without limitation, implementing written policies and procedures in compliance with HIPAA/HITECH and ARRA, conducting a security risk assessment, and training Providence workforce members who will have access to PHI with respect to the policies and procedures required by HIPAA/HITECH and ARRA.

b) Providence warrants that Providence, its directors, officers, subcontractors, workforce members, affiliates, agents, and representatives: (1) will use or disclose PHI only in connection with fulfilling its duties and obligations under this Agreement and the Service Agreement; (2) will not use or disclose PHI other than as permitted or required by this Agreement, the Service Agreement, or required by law; and (3) will not use or disclose PHI in any manner that violates applicable federal and state laws or would violate such laws if used or disclosed in such manner by Covered Entity; and (4) will otherwise comply with the terms of this Agreement.

c) Subject to the restrictions set forth in the previous paragraph and throughout this Agreement, Providence may use the PHI received from Covered Entity if necessary for (1) the proper management and administration of Providence; or (2) to carry out the legal responsibilities of Providence pursuant to the Service Agreement.

d) Providence acknowledges that all PHI created, received, maintained, accessed or transmitted between Providence and Covered Entity will be and remain the sole property of Covered Entity, including any and all forms thereof developed by Providence in the course of its fulfillment of its obligations pursuant to the Agreement and Service Agreement.

e) Providence agrees that no PHI may be created, received, maintained, accessed or transmitted outside of the United States of America.

f) Providence further represents that, to the extent Providence requests that Covered Entity disclose PHI to Providence, such request is only for the minimum necessary PHI for the accomplishment of the Providence's authorized purpose under the Service Agreement.

g) Providence will provide adequate training to its workforce members and subcontractors to ensure compliance with this subsection.

h) Providence will also comply with any additional security requirements contained in ARRA or subsequent rules promulgated by HHS that are applicable to Business Associates.

2. Access to Books and Records

a) Providence will permit the HHS Secretary and others required by law to audit Providence's internal practices, books and records at reasonable times as they pertain to the use and disclosure of PHI received from, or created or received by Providence on behalf of, Covered Entity in order to ensure that Covered Entity and Providence are in compliance with the requirements of the Privacy Rule and Security Rule. Notwithstanding this provision, no attorney-

client, accountant-client or other legal privilege will be deemed waived by Providence or Covered Entity as a result of this subsection.

b) Providence will provide Covered Entity with a written attestation, from an authorized representative, of compliance with HIPAA/HITECH privacy and security rules, and the terms of this Agreement, upon reasonable request of Covered Entity, and in a form mutually acceptable to Providence and Covered Entity.

3. Access of Individuals to Information

a) In the event that Providence maintains PHI in a Designated Record Set, Providence will within five days of a request by Covered Entity for access to PHI about an individual, make available to Covered Entity such PHI for so long as such information is maintained. In the event any individual requests access to PHI directly from Providence, Providence will within two days forward such requests to Covered Entity. Any denial of access to the PHI requested will be the responsibility of Covered Entity.

b) Providence and Covered Entity agree to work cooperatively to meet applicable requirements under 45 CFR Section 164.524.

4. Amendment of Information

Within five business days of receiving a request from Covered Entity to amend PHI about an individual contained in a Designated Record Set, Providence will provide such information to Covered Entity for amendment. If the request includes specific information to be included in the PHI as an amendment, Providence will incorporate such amendment within five business days of receipt of the request. Providence will forward to Covered Entity within five business days any requests by individuals to Providence to amend PHI within a Designated Record Set. Covered Entity will be responsible for making all determinations regarding amendments to PHI and Providence will make no such determinations.

5. Accounting for Disclosures of PHI

a) Upon Covered Entity's request, Providence will provide to Covered Entity an accounting of each Disclosure of PHI made by Providence or its workforce members, agents, representatives, or subcontractors.

b) Providence will implement a process that allows for an accounting to be collected and maintained for any Disclosure of PHI for which Covered Entity is required to maintain. Providence will include in the accounting: (a) the date of the disclosure; (b) the name, and address if known, of the entity or person who received the PHI; (c) a brief description of the PHI disclosed; and (d) a brief statement of the purpose of the disclosure. For each disclosure that requires an accounting under this section, Providence will document the information specified in (a) through (d), above, and will securely retain this documentation for six years from the date of the disclosure.

c) If an individual requests an accounting of Disclosures directly from Providence, Providence will forward the request to Covered Entity within two business days of Providence's receipt of the request, and will make its records of disclosures available to Covered Entity as otherwise provided in this Section. Covered Entity will be responsible to prepare and deliver the records of disclosure to the individual. Providence will not provide an accounting of its disclosure directly to the individual.

d) The provisions of this Section will survive the termination of this Agreement.

6. Disclosures to Third Parties

a) Providence will require each director, officer, subcontractor, workforce member, affiliate, agent, and representative that has or will have access to PHI, which is received from, or created or received by, Providence on behalf of Covered Entity, to be bound by substantially similar restrictions, terms, and conditions that apply to Providence pursuant to the Agreement with respect to such PHI. Providence will incorporate this requirement in writing into any agreement between Providence and any of its subcontractors. Covered Entity reserves the right to review documentation and other evidence of compliance with this requirement.

b) Providence will also (i) obtain reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed and (ii) obligate such person to notify Providence of any instances of which it is aware in which the confidentiality of the PHI has been Breached.

7. Breaches

a) Unless state law requires otherwise, in the event of a Breach, a security incident, or any unauthorized or improper use or disclosure of any unsecured PHI that Providence accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds or uses on behalf of Covered Entity, Providence will report such Breach to Covered Entity without unreasonable delay, but in no event more than 30 days after discovering the Breach to the Business Associate Breach Reporting Hotline at 877-512-7119. The parties acknowledge and agree that this Section 7(a) constitutes notice by Providence to Covered Entity of the ongoing existence and occurrence or attempts of unsuccessful security incidents for which no additional notice to Covered Entity shall be required. "Unsuccessful security incidents" means, without limitation, pings and other broadcast attacks on Providence's firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.

b) Notice to Covered Entity of a Breach or suspected Breach will include, at a minimum: (i) the identification of each individual whose PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the Breach, (ii) the date of the Breach, if known, (iii) the scope of the Breach, and (iv) a description of the Providence's

response to the Breach. Providence agrees that notice to Providence will not be delayed due to lack of all these elements.

c) In the event of a Breach, Providence will, in consultation with Covered Entity, mitigate, to the extent practicable, any harmful effect of such Breach that is known to Providence.

8. Return/Destruction of Protected Health Information Upon Termination

Upon termination of Agreement for any reason, Providence will not maintain any copies of the PHI and will return or destroy all PHI that it maintains in any form. This provision applies to PHI that is in the possession of subcontractors or agents of Providence. In the event that Providence determines that returning or destroying the PHI is infeasible, Providence will notify Covered Entity of such a determination and will extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Providence maintains such PHI. This section will survive the termination of this Agreement.

III. OBLIGATIONS OF COVERED ENTITY

1. Use and Disclosure of PHI.

Covered Entity warrants that Covered Entity, its directors, officers, subcontractors, workforce members, affiliates, agents, and representatives: (1) will comply with the HIPAA/HITC in its use or disclosure of PHI; (2) will not use or disclose PHI in any manner that violates applicable federal and state laws; (3) will not request Providence to use or disclose PHI in any manner that violates applicable federal and state laws if such use or disclosure were done by Covered Entity; and (4) may request Providence to disclose PHI directly to another Party only for the purposes allowed by the HIPAA/HITECH. The provisions of this subsection will survive the termination of this Agreement.

IV. TERM AND TERMINATION

1. General Term and Termination

This Agreement will become effective on the Effective Date set forth above and will terminate upon the termination or expiration of the Service Agreement and when all PHI provided by either Party to the other, or created or received by Providence on behalf of Covered Entity is, in accordance with subsection II.8, destroyed or returned to Covered Entity or, if it is not feasible to return or destroy PHI, protections are extended to such information, in accordance with the terms of this Agreement.

2. Material Breach

a. Where Covered Entity has knowledge of a material breach of this Agreement by Providence, Covered Entity will have the right to terminate the Service

Agreement and this Agreement immediately, provided that such termination is in accordance with and subject to any rights to cure and payment obligations specified in the Service Agreement.

b. At the discretion of Covered Entity, Providence will have the opportunity to cure any breach of Providence's obligations under this Agreement. Such breach shall be cured within 30 days.

c. In the event that either Party has knowledge of a material breach of this Agreement by the other Party and cure is not possible, the non-breaching Party will terminate the portion of the Service Agreement that is affected by the breach. When neither cure nor termination is feasible, the non-breaching Party will report the problem to the Secretary.

3. Equitable Remedies

The parties agree that damages are inadequate to compensate for the unique losses to be suffered in the event of a breach of this Agreement, and that the damaged party will be entitled, in addition to any other remedy it may have under this Agreement or at law, to seek and obtain injunctive and other equitable relief, including specific performance of the terms of this Agreement without the necessity of posting bond or other security and without having to prove the inadequacy of available remedies at law, it being acknowledged and agreed that any such violation shall cause irreparable injury to the Disclosing Party and that monetary damages shall not provide an adequate remedy.

V. AMENDMENT

If any of the regulations promulgated under HIPAA/HITECH or ARRA are amended or interpreted in a manner that renders this Agreement inconsistent therewith, Covered Entity may, on 30 business days written notice to Providence, amend this Agreement to the extent necessary to comply with such amendments or interpretations. Providence agrees that it will fully comply with all such regulations promulgated under HIPAA/HITECH or ARRA, and that it will agree to amend this Agreement to incorporate any provisions required by such regulations. This Agreement modifies and supplements the terms and conditions of the Service Agreement, and the provisions set forth herein will be deemed a part of the Service Agreement.

VI. INSURANCE AND INDEMNIFICATION

1. Insurance Limits

Unless otherwise specified in the Service Agreement, Providence will maintain cyber-risk liability insurance as specified below;

a. Professional liability insurance including technology errors and omissions, privacy and cyber-risk (network security) liability insurance, covering liabilities for financial loss resulting or arising from acts, errors or omissions in rendering Services in connection with this Agreement including acts, errors or omissions in rendering computer or information technology.

Services, copyright or trademark infringement, data damage/destruction/corruption, failure to protect privacy, unauthorized access, unauthorized use, virus transmission and denial of service from network security failures with a minimum limit of five million dollars (\$5,000,000) each claim and annual aggregate;

b. Cyber liability, third party coverage \$5,000,000 and notification/crisis management \$3,000,000.

2. General

a) Prior to execution of this Agreement and annually upon the anniversary date of the beginning of the Term, Providence will furnish Covered Entity with a certificate of insurance evidencing the coverages set forth above and naming Covered Entity, and their workforce members, directors and officers as an additional insured on all coverages listed above.

b) Providence shall have all of its insurers waive their subrogation rights against Covered Entity and will have that waiver noted on the certificate of insurance;

c) Providence will provide Covered Entity with at least 30 days' prior written notice in the event of: any material change; and, in the event of cancellation.

d) Providence's insurance as outlined above shall be primary and non-contributory coverage and the policies shall not contain any intra-insured exclusions as between insured persons or organizations.

e) The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to Covered Entity, and failure to request evidence of this insurance shall not be construed as a waiver of Providence's obligation to provide the insurance coverage specified.

3 Indemnification

Each of the Parties agrees to be liable for its own conduct in connection with this Business Associate Agreement and to indemnify the other Party against any and all losses therefore. In the event that loss or damage results from the conduct of more than one Party, each Party agrees to be responsible for its own proportionate share of the claimant's total damages under the laws of the State of Oregon. Each of the Parties agrees to indemnify, defend and hold harmless the other Party and its directors, officers, subcontractors, workforce members, affiliates, agents, and representatives from and against any and all third party liabilities, costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind (including court costs and reasonable attorneys' fees) brought by a third party, arising from or relating to the acts or omissions of that Party or any of its directors, officers, subcontractors, workforce members, affiliates, agents, and representatives in connection with that Party's performance under this Agreement or Service Agreement, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement. This Section will survive the termination of this Agreement.

VII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such

VIII. CONFLICTING TERMS

In the event any terms of this Agreement conflict with any terms of the Service Agreement, the terms of this Agreement will govern and control.

IX. GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws of the State of Oregon.

IN WITNESS WHEREOF, each of the undersigned has duly executed this Agreement on behalf of the Party and as of the Effective Date.

Covered Entity:

By: _____

John Ludlow

Title: Chair, Board of County
Commissioners _____

Providence:

By: _____

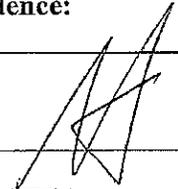

Michael White
Title: Chief Operations Officer

EXHIBIT E1: THIRD PARTY DISCLOSURE AGREEMENT

This THIRD PARTY DISCLOSURE AGREEMENT ("Agreement") is entered into by and between Clackamas County ("Plan Sponsor"), Optum Services, Inc. for itself and its affiliates ("Third Party") and Providence Health Plan for itself and its affiliated companies ("Providence"). These parties acknowledge and agree as follows:

Plan Sponsor and Providence entered into an agreement ("the Agreement") under which Providence provides claims administration and other services for Plan Sponsor's employee welfare benefit plan ("Plan"). Plan Sponsor has retained Third Party to perform certain services related to the Plan that require access or other evaluation of the files, books, and/or records of Providence pertaining to the Plan ("Services").

Plan Sponsor has requested that, solely for purposes of the Services, Providence disclose to Third Party certain documents, statistical information and other information which is commercially valuable, confidential, proprietary, or trade secret ("Proprietary Information") and also materials which may contain medical or other individually identifiable information ("Confidential Medical Information"). Proprietary Information and Confidential Medical Information will collectively be referred to in this Agreement as "Confidential Information". Providence has agreed to disclose this Confidential Information subject to the terms of this Agreement.

The disclosure of information will occur in the time and manner mutually agreed upon by the parties. Confidential Information disclosed by Providence, its agents, subsidiaries and affiliates, to Third Party in connection with the Services, including all copies thereof, will be used by Third Party only as permitted by this Agreement. Confidential Information will not include information: (i) generally available to the public or generally known in the insurance industry or employee benefit consulting community prior to or during the time of the Services through authorized disclosure; (ii) obtained from a third party who is under no obligation to Providence not to disclose such information; or (iii) required to be disclosed by subpoena, or other legal process.

Use: Third Party: (a) will not use (deemed to include, but not be limited to, using, exploiting, duplicating, recreating, modifying, decompiling, disassembling, reverse engineering, translating, creating derivative works or disclosing Confidential Information to another person or permitting any other person to do so), or disclose Confidential Information except for purposes of the Services and as permitted by law including without limitation HIPAA; (b) will limit use of Confidential Information only to its authorized employees (deemed to include employees as well as individuals who are agents or independent contractors of Third Party) who have a need to know for purposes of the Services and only the minimum necessary to perform the Services; and (c) may release Confidential Information as permitted by law in response to a subpoena or other legal process to disclose Confidential Information, after giving Providence reasonable prior notice of such disclosure.

At the termination of the relationship between Plan Sponsor and Third Party, Third Party will either relinquish to Providence, or destroy (with such destruction to be certified to Providence), all Confidential Information. If during the course of performance of Services it is discovered that

this Agreement has been breached by Third Party then all Confidential Information will be relinquished to Providence upon demand.

This Agreement binds the parties and their respective successors, assigns, agents, employers, subsidiaries and affiliates.

Unauthorized use or disclosure of Confidential Information by Third Party is a material breach of this Agreement resulting in irreparable harm to Providence for which the payment of money damages is inadequate. It is agreed that Providence, upon adequate proof of unauthorized use, and in addition to any other remedies at law or in equity that it may have, may immediately seek injunctive relief in any court of competent jurisdiction enjoining any continuing or further breaches and may seek entry of judgment for injunctive relief. Third Party consents to said injunctive relief and judgment. Plan Sponsor and Third Party agree to indemnify and hold harmless Providence with respect to any claims and any damages caused by Third Party's breach of this Agreement.

The requirement to treat all Confidential Medical Information, as Confidential Information will survive the termination of this Agreement. The requirement to treat all Proprietary Information as Confidential Information under this Agreement will remain in full force and effect so long as any Proprietary Information remains commercially valuable, confidential, proprietary and/or trade secret, but in no event less than a period of three years from the last date of any performance of Services.

Neither this Agreement nor Third Party's rights or obligations hereunder may be assigned without Providence's prior written approval.

General: (a) This Agreement is the entire understanding between the parties as to the subject matter hereof. (b) No modification to this Agreement will be binding upon the parties unless evidenced in writing signed by the party against whom enforcement is sought. (c) Headings in this Agreement will not be used to interpret or construe its provisions. (d) The alleged invalidity of any term will not affect the validity of any other terms. (e) This Agreement may be executed in counterparts.

The parties have caused their authorized representatives to execute this Agreement.

Providence Health Plan

3601 SW Murray Blvd.
Beaverton, OR 97005

By _____
Authorized Signature 
Print Name Michael White
Print Title Chief Operations Officer
Date 1/5/15

Clackamas County
Risk & Benefit Division
Public Services Building
2051 Kaen Road, Suite 310
Oregon City, OR 97045

By _____
Authorized Signature

Print Name _____

Print Title _____

Date _____

Optum Services, Inc.
6300 Olson Memorial Highway
Golden Valley, MN 55427

By *Elizabeth Soderberg*
Elizabeth Soderberg (Dec 30, 2014)
Authorized Signature

Print Name Elizabeth Soderberg

Print Title General Counsel, Optum Technology Group

Date Dec 30, 2014

Internal Control No. 57093

AGREEMENT FOR PLAN ADMINISTRATION SERVICES

This agreement ("Agreement") is effective the 1st day of January, 2015 between Clackamas County (the "Plan Sponsor") and Unified Life Insurance Company (the "Administrator").

SECTION I - The Plan and Administrative Services for the Plan

Plan Sponsor has established a self-funded health benefit plan (the "Plan") and has delegated certain administrative services for the Plan to Providence Health Plan ("PHP") under a separate Administrative Services Agreement. PHP is a Catholic-sponsored organization and, as a matter of conscience, does not offer services related to voluntary termination of pregnancy ("ToP Services"). To the extent that ToP Services are a covered benefit under the Plan, the related claim processing services will be performed by the Administrator under this Agreement. To the extent that pregnancy related services other than ToP Services are a covered benefit under the Plan, the related claim processing services will be performed by PHP.

SECTION II - Duties of the Administrator

- 2.1 The Administrator shall coordinate its services under this Agreement with PHP and with the bank in which Plan funds are deposited to enable timely and accurate claim processing services and the Plan Sponsor shall not be required to establish separate administrative interface arrangements with the Administrator.
- 2.2 The Administrator agrees to provide the following claims processing and payment services for individuals covered by the Plan ("Participants") with regard to ToP Services:
 - a) Receiving claims and processing payment of covered benefits;
 - b) Obtaining from Participants and health care providers any additional information deemed necessary by the Administrator to process claims;
 - c) Answering questions from Participants regarding benefits available for ToP Services under the Plan;
 - d) Determining the amount of benefits payable on behalf of a Participant under the Plan and paying those amounts to the relevant health care provider(s) from funds supplied by the Plan Sponsor;
 - e) Notifying Participants of the claims that are denied in full or in part and providing an appeal process for such denials;
 - f) Providing for the coordination of benefits, subrogation collection activities, and collection of overpayments or improper payments made to any health care provider by the Administrator;
 - g) Providing adequate customer service availability by telephone between the hours of 7:00 a.m. and 4:30 p.m. (Pacific Time) on non-holiday weekdays;
 - h) Preparing and issuing IRS Form 1099 for provider payments.
- 2.3 The Administrator shall have the full responsibility for approval of claims under the Plan and for arranging for the payment thereof from funds made available by the Plan Sponsor.

Documentation of the claims paid by the Administrator shall be included in the claims documentation provided to the Plan Sponsor by PHP.

- 2.4 The Administrator shall procure and maintain throughout the term of this Agreement a policy of blanket casualty insurance coverage providing insurance adequate to cover risks from criminal acts of the Administrator and those employees of the Administrator who collect, disburse, or otherwise handle or have the authority to authorize or order disbursements or payments on behalf of the Plan pursuant to this Agreement. Upon request, the Administrator shall provide the Plan Sponsor with certificates of insurance evidencing the insurance coverage required under this Section 2.4.
- 2.5 The Administrator shall maintain all records relating to the investigation, processing, and payment of all applications for benefits for a period of not less than six (6) years from the date of application for benefits under this Agreement. Such records shall, upon reasonable written notice to the Administrator, be made available for examination or audit by the Plan Sponsor or its designated agent provided, however, that any such examination or audit shall be carried out in a manner agreed to by the parties and designed to protect the confidentiality of individual medical information.
- 2.6 During the time Plan records are in its custody or control, the Administrator will prevent disclosure or use for a purpose that is beyond the scope of this Agreement. The Administrator will disclose such information only (i) in response to a court order, (ii) for an examination conducted by an authorized state or federal governmental authority, (iii) to an issuer of a stop loss or excess risk policy that operates in conjunction with the Plan, (iv) to or at the request of the Plan Sponsor, but only as permitted under applicable confidentiality laws, or (v) with written consent of a Participant or his or her legal representative.

SECTION III – Claim Procedures

- 3.1 Claims for Plan benefits shall be submitted on the form or forms provided by the Administrator.
- 3.2 The Administrator shall accept any claim for benefits made in the appropriate manner, and after due investigation and verification of the statements contained in the claim, determine the benefits, if any, that are payable under the Plan.

SECTION IV – Cost of Administration

- 4.1 The Administrator shall be entitled to a fee for its services to the Plan and under this Agreement which shall be payable on a monthly basis.
- 4.2 The administrative fees payable by the Plan Sponsor under this Agreement are included in the administrative fees payable by the Plan Sponsor to PHP under the agreement referenced in Section 1. The bank in which Plan funds are deposited shall make a direct remittance of the fees payable under this Agreement to the Administrator.

SECTION V - Duties of the Plan Sponsor

- 5.1 The Plan Sponsor shall have final authority in establishing the terms and conditions of the Plan and in determining Participant eligibility.

- 5.2 The Plan Sponsor shall have absolute authority with respect to the control, management, investment, disposition and utilization of Plan assets and the Administrator shall not have or be deemed to have any such authority.

SECTION VI - Term and Termination

- 6.1 The initial term of this Agreement shall be January 1, 2015 through December 31, 2015. Renewal of this Agreement for subsequent annual periods shall be automatic provided that, (a) the Plan and the covered services specified in Section 1 remain in effect and, (b) a matching renewal is made in the agreement referenced in Section 1 between the Plan Sponsor and PHP and, (c) PHP recommends the retention of the Administrator for the renewal period and, (d) neither party to this Agreement exercises their rights of termination as specified in this Section VI. At each annual renewal the administrative fees referenced in Section IV shall be reviewed and adjusted as agreed by the parties. This Agreement shall terminate immediately upon the termination of the associated agreement with PHP, as referenced in Section 1.
- 6.2 This Agreement may be terminated by either the Plan Sponsor or the Administrator by written notice of intention to terminate given to the other party, to be effective as of a date certain set forth in the written notice, which shall not be less than ninety days from the date of such notice. In the event of willful misconduct by a party to this Agreement, the other party may terminate this Agreement immediately.
- 6.3 The Administrator will process run-out claims (claims for health care services rendered prior to the date of termination of this Agreement) that are received by the Administrator within four (4) months following the date of termination of this Agreement. The financial liability for all such run-out claims shall reside entirely with the Plan and the Plan Sponsor.

SECTION VII - Dispute Resolution

- 7.1 It is expected that any disputes or differences that may arise under this Agreement will be resolved in the usual course of business. If, however, any dispute does arise between the Administrator and the Plan Sponsor which relates to or arises from this Agreement whatever its nature, the parties agree to forego litigation and proceed as follows: Either party may notify the other of the matter in dispute and that it wishes to begin the dispute resolution procedure. Within thirty (30) days after notification, a designated executive of the Administrator and a designated executive of the Plan Sponsor will meet and confer in an effort to resolve the problem. The parties may, if they wish, agree to mediation or other voluntary form of dispute resolution. If the matter is not resolved within thirty (30) days thereafter (or such further time as they may agree) either party may elect to have the dispute arbitrated in the manner provided in Section 7.2.
- 7.2 Any dispute or claim relating to this Agreement not resolved in the manner provided under Section 7.1 shall be resolved by final and binding arbitration before the American Arbitration Association using an independent panel of three (3) arbitrators provided that the arbitrators selected have at least five (5) years experience in the health care industry. In no event may the arbitration be initiated more than one year after the date one party first gave written notice of the dispute to the other party. The arbitration shall be held in a location mutually agreed upon by the Administrator and the Plan Sponsor. The arbitrators shall have no power to award any punitive or exemplary damages or to ignore or vary the terms of this Agreement and shall be governed by the United States Arbitration Act, 9 S. C. S I et seq.

SECTION VIII – Miscellaneous Provisions

- 8.1 The Administrator shall only be liable to the Plan Sponsor and to the Participants for its actions or failure to act with regard to processing and payment of claims as provided in the Plan and this Agreement at the level expected of a professional claims administrator, or for its gross negligence or willful misconduct. The Plan Sponsor shall hold the Administrator harmless from and indemnify it against any claims and all costs and expenses or fees, including reasonable attorney's fees, incurred in connection therewith, which might be asserted by the Plan, the Participants or other persons which are beyond the Administrator's control, beyond the scope of this Agreement or which result from the Administrator's reliance on the Plan Sponsor's instructions.
- 8.2 Health care providers are not the agents of the Administrator or the Plan Sponsor and neither party is responsible for the provision of health care services by health care providers. In no event will indemnity obligations under the Agreement apply to that portion of any liability, settlement and related expense caused by medical malpractice or the acts or omissions of health care providers with respect to Plan Participants.
- 8.3 This Agreement may be amended by the Plan Sponsor and the Administrator at any time by mutual written consent of said parties; provided, however, that this Agreement may not be amended to reduce any benefits which might be paid for any cause occurring prior to the amendment, or to in any way prejudice such a claim.
- 8.4 The Plan Sponsor is hereby designated the agent for service of legal process on behalf of the Plan at its principal office address in Portland, Oregon.
- 8.5 This Agreement shall be governed by the laws of the State of Oregon.

IN WITNESS WHEREOF, the Plan Sponsor and the Administrator have executed this Agreement this 6th day of JANUARY, 2015.

By:

Unified Life Insurance Company

Signature:

 - MICHAEL ELLIOTT

Title:

PRODUCT MANAGER

Date:

1-6-2015

By:

Clackamas County

Signature:

Title:

Date:



NANCY DRURY
DIRECTOR

DEPARTMENT OF EMPLOYEE SERVICES

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

January 22, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of the Labor Contract Between The County of Clackamas and the Clackamas County
Peace Officers' Association (CCPOA)

Purpose/Outcomes	Settlement of labor contract
Dollar Amount and Fiscal Impact	\$2,984,617
Funding Source	General Fund
Safety Impact	N/A
Duration	July 1, 2014 – June 30, 2017
Previous Board Action	N/A
Contact Person	Nancy Drury, DES , 503-655-8812
Contract No.	N/A

BACKGROUND:

The Department of Employee services has concluded negotiations with the CCPOA. The union membership has voted to ratify the contract for fiscal years 2014-15, 2015-16, and 2016-17. The agreement that was ratified by the union is attached.

The significant wage, benefit, and contract language changes are outlined below:

Cost of Living Adjustment (COLA)

- For fiscal year 2014-15, 2% based on CPI-W and effective the beginning of the pay period closest to July 1, 2014.
- For fiscal year 2015-16, 2-4% based on CPI-W effective July 1, 2015.
- For fiscal year 2016-17, 2-4% based on CPI-W effective July 1, 2016.

Independent Retiree Medical Trust (IRMT)

- Establishes IRMT to provide medical benefits (on a self-funded basis) for eligible retirees who are not yet Medicare-eligible.

Health Reimbursement Account (HRA)

- Establishes HRA to reimburse employees' qualified out-of-pocket healthcare costs.
- County shall make a one-time \$25 contribution and pay the monthly \$1.50 administrative fee for each employee's account.
- Eligible employees may contribute up to 80 hours of excess vacation leave above the vacation cap per year.

RECOMMENDATION:

Staff recommends the Board approve the attached contract for the CCPOA 2014 - 2017.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nancy Drury", with a large, stylized flourish extending to the right.

Nancy Drury, DES Director

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AGREEMENT

between

CLACKAMAS COUNTY, OREGON

and

CLACKAMAS COUNTY PEACE OFFICERS ASSOCIATION

PREAMBLE

This Agreement is entered into by Clackamas County, Oregon hereinafter referred to as the COUNTY, and the Clackamas County Peace Officers Association, hereinafter referred to as the UNION.

The parties agree as follows:

ARTICLE 1- RECOGNITION

Section 1. The COUNTY recognizes the UNION as the exclusive bargaining agent for the purpose of establishing wages, hours and other conditions of employment for all of the classified COUNTY employees in the Sheriff's Office, Investigators in the District Attorney's Office, and Deputy Medical Examiners and Strategic Program Coordinators in the Department of Emergency Management, working twenty or more hours per week.

Section 2. When any position not listed on the Wage Schedule is established, the COUNTY shall designate a pay rate for the position. In the event the UNION does not agree that the rate is proper, the UNION shall have the right to submit the issue as a grievance at Step III of the grievance procedure.

Section 3. The UNION and the Sheriff's Office agree to meet twice a year regarding the utilization of temporary employees, also known as unallocated positions, by the Sheriff's Office. The meetings will be staffed by a representative from DES. The meetings will take place within 10 working days of March 15 and September 15 each year. The purpose of the meetings will be to assess the Sheriff's use of temporary employees, the duration of their assignments and whether or not the positions should be converted to part-time or full time positions.

ARTICLE 2- PRESERVATION OF PUBLIC RIGHTS

Section 1. The UNION recognizes that an area of responsibility must be reserved to the COUNTY if COUNTY government is to effectively serve the public. Therefore, the COUNTY shall have full and complete right to manage and direct its business and it is

recognized that the following responsibilities of management are exclusively functions to be exercised by the COUNTY and are not subject to negotiations insofar as this right does not affect the meaning, interpretation or application of any other term of this Agreement.

1. The determination of the governmental services to be rendered to the citizens of Clackamas County, Oregon.
2. The determination of the COUNTY'S financial, budgetary and accounting procedures.
3. The management and direction of the work force including, but not limited to, the right to determine the methods, processes and manner of performing work; the right to hire, promote, transfer within the same pay range and retain employees; the right to discipline or discharge for proper cause; the right to lay off for lack of funds; the right to abolish positions or reorganize the departments or division; the right to determine schedules of work; the right to purchase, dispose and assign equipment or supplies; and the right to contract or subcontract any work.

Section 2. The COUNTY, in exercise of the above mentioned functions, will not discriminate against any employee because of his membership in the UNION or in the exercise of rights protected by this contract, including the right to file grievances or to request union representation.

Section 3. The COUNTY and the UNION for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to or covered by this Agreement, or any other subject matter except as provided in Article 3, EXISTING CONDITIONS.

ARTICLE 3 - EXISTING CONDITIONS

Matters of employment relations including but not limited to, direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment shall be continued at not less than the level in effect at the time of the signing of this Agreement. Any changes in existing employment relations during the term of the Agreement shall be negotiated with the UNION.

ARTICLE 4 - HOURS OF WORK

Section 1. Regular Hours and Workday.

The regular hours of work each day shall be consecutive. The workday shall consist of current prevailing consecutive hours of work scheduled, provided that changes to shift starting times that are required for justifiable business reasons may be made at the time of regular semi-annual seniority shift-bid without bargaining the change with the UNION.

All employees shall be scheduled to work on a regular shift and each shift shall have a regular starting and quitting time except for emergency situations.

The workday commences for Motor and K-9 Units (except Motor Units assigned to contract cities) at the time the employee leaves his/her residence and ends upon return to his/her residence at the conclusion of his/her work shift. When a Motor Unit employee agrees to work a voluntary overtime shift on days off for special events, work time starts upon the employee's arrival at the event and ends upon the employee's departure from the event. The workday for Motor Units assigned to contract cities commences and ends upon arrival and departure from the city. Shift starting times and days for Motor Units may be altered by the County for justifiable business reasons at the time of regular semi-annual seniority shift bid without bargaining the change with the UNION. Shift bid posting for motors will include work hours and days off but need not include district assignments or city assignment.

Section 2. Workweek. Non-continuous Operations.

The workweek shall consist of five (5) consecutive eight (8) hour days, Monday through Friday, except for employees covered by another workweek schedule listed within this Article or as outlined in the job assignment posting.

Section 3. Workweek. Continuous Operations.

The workweek for employees engaged in continuous operations shall consist of consecutive days.

Employees engaged in continuous operations are defined as being any employee or group of employees engaged in an operation for which there is regularly scheduled work for twenty-four (24) hours a day, seven (7) days a week such as but not limited to Patrol, Records and Corrections.

Section 4. Four (4) Ten (10) Work Schedule.

It is mutually agreed that the County may employ employees on a four (4) day work week ten (10) hour a day basis, referred to as the 4/10 schedule, rather than those hours set forth above in this Article. The schedule may be terminated upon the mutual consent of the parties or by thirty (30) days written notification by either the COUNTY or the UNION.

Section 5. 3-12/3-12 + 8 Hour Work Schedule.

The 3-12/3-12 + 8 work schedule shall consist of one work week with the seven (7) day payroll week of the three (3) twelve (12) hour work days, followed by four (4) days off, and the other work week with the seven (7) day payroll week of the three (3) twelve (12) hour work days, with an eight (8) hour work day, followed by three (3) days off. This schedule may begin with either the long or the short work week. Employees assigned this schedule are subject to the section 7k exemption under the Fair Labor Standards Act. A 7k exemption establishes a 14-day work period including 80 regularly scheduled hours of work. Overtime on a daily basis will be paid as provided in Article 13. The

schedule may be terminated upon the mutual consent of the parties or by thirty (30) days written notification by either the COUNTY or the UNION.

Section 6. 5-9/4-9 Work Schedule.

The 5-9/4-9 work schedule shall consist of five (5) consecutive nine (9) hour workdays followed by two (2) consecutive days off, followed by four (4) consecutive nine (9) hour workdays, followed by three (3) consecutive days off. During the 4-9 work week, Friday shall be the first of the three consecutive days off. The schedule may be terminated upon the mutual consent of the parties or by thirty (30) days written notification by either the COUNTY or the UNION.

Pursuant to the 5-9/4-9 schedule, the parties agree that employees assigned to this schedule are subject to the 7k exemption under the Fair Labor Standards Act. A 7k exemption establishes a 14-day work period including 81 regularly scheduled hours of work. Overtime on a daily basis will be paid for hours worked exceeding nine (9).

Call out pay will be authorized at the rate of time and one half on any Friday for any off duty member working the 5-9/4-9 work schedule during what would normally be their assigned work hours. After what would have been the employee's normal work hours on the regularly assigned Friday day off, the call out rate of double time will remain as pursuant to Article 15, sections 1 and 2 and for any of the other regularly assigned days off.

Section 7. 9-80 Work Schedule

The 9-80 work schedule shall consist of:

1. One (1) week of four (4) consecutive nine (9) hour workdays and one (1) day of eight (8) hours; and
2. One (1) week of four (4) consecutive nine (9) hour workdays, with Friday off.

The schedule may be terminated upon the mutual consent of the parties or by thirty (30) days written notification by either the COUNTY or the UNION.

Section 8. School Resource Officers.

During the school year, School Resource Officers (SRO) shall work a five (5) day work week, eight (8) hours a day schedule, Monday through Friday. The SRO's may be assigned to a four (4) day work week, ten (10) hours a day with either Friday through Sunday off or Saturday through Monday off depending upon the needs of the specific school and/or Sheriff's Office. School Resource Officers will be assigned to day shift but may request an alternative shift and/or alternative days off. Notification of their Summer schedule shall be given at least 30 days prior to the change unless mutually agreed to be shorter. When a school holiday and a County holiday are the same, the SRO will have that day off. On days when students are not present, (unless the school requests their presence), the SRO's will report to patrol for their regular working hours.

Section 9. Schedule of Deputy Medical Examiners.

See Article 38.

Section 10. Shift Trading.

For employees who agree to trade shifts for one day, the traded shift becomes each employee's assigned shift. Failure to work the shift will have the same consequences as if the employee did not work the employee's regular shift. Shift trades may be made only between employees working in the same capacity, must be voluntarily agreed to by the employees involved, and must be approved by management after being fully informed of the trade and before the work is performed. Overtime does not apply to traded shifts.

If approved, in writing and signed by the supervisor, an employee may designate an equivalent amount of vacation hours to the employee working their shift in lieu of working a shift in exchange.

Section 11. Current Work Schedule Assignments.

Patrol Division and CRAFT: 4-10 schedule.

Detectives and Sergeants assigned to the Detective division, and Deputies assigned to Fleet Management: 5-9/4-9 schedule.

Corrections Deputies and Corrections Deputy Recruits: 3-12/3-12 + 8 schedule.

Section 12. DPSST Basic Academy Training

All DPSST Basic Academy mandatory activities such as but not limited to instruction time, flag raising and physical fitness training shall be considered as normal work duty time and shall be compensated as such. The work week shall consist of a forty (40) hour work week, based upon a five (5) day work week, eight (8) hour work day. These eight hours of the work day may be non-consecutive due to long break periods between classes and other required activities. If the amount of time spent in required activities totals more than forty hours per week, overtime will be paid at time and one half. Attendance at voluntary Basic Academy events is not considered work time.

The County agrees to continue to pay for the employee's meals and other normal required Basic Academy expenses such as room and instruction expenses. This does not include optional equipment expenses which shall be paid by the employee, or other equipment that the employee is normally required to purchase.

Section 13. Civil Division

Deputies and Sergeants assigned to the Civil Division shall work a schedule consisting of five (5) consecutive nine (9) hour workdays followed by two (2) consecutive days off, followed by four (4) consecutive nine (9) hour workdays, followed by three (3) consecutive work days off.

The implementation of the 5-9/4-9 work schedule shall terminate upon the mutual consent of the parties or by thirty (30) days written notification from either party of its desire to terminate. Neither party shall file a grievance if either party decides to terminate this agreement.

Pursuant to the 5-9/4-9 schedule, the parties agree that Civil Deputies and Civil Sergeants are subject to the 7(k) exemption under the Fair Labor Standards Act. A 7(k)

exemption establishes a 14-day work period including 81 regularly scheduled hours of work. Overtime on a daily basis will be paid for hours worked exceeding nine (9).

Civil deputies will sign up by seniority for hours of work, shift preference and days off. Civil sergeants will have alternating Fridays off.

ARTICLE 5 - MEAL AND REST BREAKS

Section 1. Meal periods.

All employees will be granted a meal period during their working shift, during which time sworn employees are subject to call when needed.

All non-sworn staff may be allowed to combine one (1) of his/her rest periods with his/her meal period with Division Commander approval.

Section 2. Rest periods.

Employees working an eight (8) or nine (9) hour day shall be provided with a rest period of fifteen (15) minutes during each half of the employee's shift. Employees working a ten (10) hour day shall be provided with a rest period of twenty (20) minutes during each half of the employee's shift. Employees working a 12 hour shift shall be provided with two twenty (20) minute rest periods during the employee's shift.

ARTICLE 6 - SHIFT PREFERENCE, CHANGES AND DAYS OFF

Section 1. Seniority for Shift Preference and Days Off.

For the purposes of shift preference and selection of off duty days within a Division, seniority shall be the major consideration along with the needs of the Sheriff's Office and the individuals involved. When shift preference or selection of off duty days is not based upon seniority, the employee shall be given notice in writing at least seven (7) calendar days before the effective date of the needs of the Sheriff's Office that precluded the use of seniority for said shift preference or selection of off duty days. Seniority shall be determined by the length of time an employee has within a job classification with the Sheriff's Office except for Recruit and Deputy Sheriff in which case seniority shall be defined as the hire date in either of these two classifications and for Recruit Corrections Officer and Corrections Officer in which case seniority shall be defined as the hire date in either of these two classifications. For Office Specialist 1 and Office Specialist 2 seniority shall be defined as the hire date in either of these two classifications.

An employee's request for transfer to a different shift or different days off shall be made in writing and shall go directly to the Division Commander under whom the employee is assigned. The Division Commander will act promptly upon the employee's request by written response to the employee of the approval or denial of the request. No request

shall be denied unless just cause exists for the denial. In the event the request is denied, the Division Commander shall state the reason or reasons for denial in writing in the response to the employee.

Section 2. Shift Changes.

Whenever the employee, at his/her request, is reassigned a shift, or transferred to another assignment wherein the employee is required to work more than five (5) consecutive eight (8) hour days, four (4) consecutive ten (10) hour days, or three (3) consecutive twelve (12) hour days, such additional time worked is exempt from payment of overtime and is compensated by compensatory time off at a time mutually agreed by the employee and the Division Commander. Whenever the employee, at the COUNTY'S direction, is reassigned a shift, or transferred to another assignment wherein the employee is required to work more than five (5) consecutive eight (8) hour days, four (4) consecutive ten (10) hour days, or three (3) consecutive twelve (12) hour days, such additional time worked shall be considered overtime and compensated at the rate of time and one-half (1.5) the employee's regular rate of pay.

The Division Commander will make every effort to schedule shift changes or reassignment with the least amount of additional shifts to be worked by the employee over the regular work week of five (5) consecutive days, four (4) consecutive days, or three (3) consecutive days.

Shift transition is defined as regular hours that an employee is unable to work due to shift rotation or transitioning to administrative leave. Shift transition is paid at the regular straight time rate of pay.

Section 3. Shift Rotation.

Shift rotation for Patrol Division, Corrections Division, and Records Section occurs every six (6) months with days off sign up occurring based on seniority. An employee wishing to transfer to patrol from any special assignment, division or position shall notify both their division commander and the patrol division commander, in writing, at least six (6) weeks prior to the start of the bump sign up.

Patrol/Records

For non-sergeant employees shift rotation and implementation occurs every six (6) months on the first day of the first payroll period in March and the first day of the first payroll period following Labor Day. Bidding for shift rotation for non-sergeants will be completed between August 3 and August 4 and between February 3 and February 4. Patrol Sergeants' shift rotation and implementation will occur fourteen (14) days prior to the dates set for non-sergeants. Shift bidding for patrol Sergeants will occur by August 1 and February 1.

Full Time Employees assigned to a temporary duty during the Spring/Summer that begins before June 1 shall bid for a shift in February and shall remain in their regular shifts until assigned.

Corrections

For employees of the Corrections Division, shift rotation and implementation occurs on the first day of the first payroll period in March and the first day of the first payroll period following Labor Day.

Bidding for Sergeants will be completed between August 1 and August 3 and between February 1 and February 3. Bidding for non-sergeants will be completed between August 5 and August 10 and between February 5 and February 10.

Section 4. Rotation Process.

At least ten (10) days prior to the start of the bidding for shifts, a list of personnel will be posted. The list will assign each employee a specific half (1/2) day, based upon seniority, on which each employee will make him/herself available for phone contact to select a shift and days off. The list will include a beginning and ending time for each day that calls will occur and selections accepted.

Each employee will be called in order of seniority to select his/her shift and days off. If the employee does not answer the phone, return a message or answer a page within one (1) hour, the bidding process will proceed past him/her. If/when the employee returns the call, s/he will select from the shifts and days off which are available at the time they called. If the employee does not return a call during the hours posted, his/her name will be placed at the top of the list on the following day. The employee will be called first on the next day. If s/he does not respond, the process will be repeated for subsequent days of the sign-up period.

If the employee is not going to be available, s/he will notify their watch commander or supervisor, in writing, of their top seven (7) choices for shift and days off. An attempt will be made to contact the person but if s/he cannot be contacted, s/he will be given the top choice available on the list s/he provided.

When an employee has been on paid or unpaid Administrative Leave status, due to allegations of internal violations or allegations of violations of law, for the thirty (30) calendar days prior to the start of the shift bidding day, the employee forfeits their position in the seniority based shift sign up. If the employee returns to duty status after the shift bidding period began, the employee will be assigned to a shift based on the needs of the department until the next regularly scheduled shift bidding.

Nothing in this section shall prevent the Union and/or Management from developing and applying technology to assist with improving the efficiency of the shift bidding process.

Section 5. Contract Cities.

1. Contract Cities Generally

Patrol Division personnel who wish to bid for assignments in contract cities shall follow the provisions of Article 6, Section 1, with the following additional requirements:

- A. All contract city assigned patrol positions shall be subject to specific written expectations for assignment to or maintaining assignment to a contract city. Those expectations shall be communicated to the employees. By mutual agreement, the city, the contract city Station Commander and/or appropriate Sheriff's Office Division Commander may reassign an employee in a contract city position if not meeting written expectations.
 - B. Unexpected vacancies shall be filled by the affected Division Commander temporarily until a selection for the vacant position can be made as set out in Section 1 above.
 - C. When the seniority shift bid is posted pursuant to Article 6, Section 1, the available shifts which are listed shall specify the work hours and days off. The duration of any assignment in excess of six (6) months must be indicated on the seniority shift bid posting.
 - D. Employees who are eligible and elect to rotate out of the contract city assignment shall notify both their Station Commander and the Patrol Commander in writing at least six (6) weeks prior to the start of the bump sign up.
2. Wilsonville and Happy Valley

All Wilsonville and Happy Valley Patrol Division positions shall be for a five (5) year length of time except for Traffic Units and School Resource Officers assigned to cities, which will be governed by the time frame established in the job announcement.

Employees have the option of leaving after completion of one (1) year in the assignment.

An employee's ability to promote or be assigned to special units shall not be limited by the employee's assignment to Wilsonville or Happy Valley.

3. Other Contract Cities

- A. All full-time Patrol Division positions assigned to other contract cities (for 30 hours per week or more) shall be for a two (2) year period of time with the option of leaving after one (1) year in the assignment except for Motors Unit which shall be subject to the regular semi-annual seniority shift-bid process.

An employee's ability to promote or be assigned to special units shall not be limited by the employee's assignment to contract cities.

- B. Full-time employees may not be bumped pursuant to ARTICLE 6, SECTION 1, prior to completion of the two (2) year commitment.

Section 6. Transfers

Employees who wish to transfer between Corrections and Patrol may do so upon successful completion of the recruitment process and submission and acceptance of the Request to Voluntarily Demote (See Appendix A).

ARTICLE 7- HOLIDAYS

Section 1. Holidays.

The following days shall be recognized and observed as paid holidays:

New Year's Day (January 1st)
Martin Luther King Jr. Birthday (Third Monday in January)
President's Day (Third Monday in February)
Memorial Day (Last Monday in May)
Independence Day (July 4th)
Labor Day (First Monday in September)
Veteran's Day (November 11th)
Thanksgiving Day (Fourth Thursday in November)
Christmas Day (December 25th)

Section 2. Holiday Pay.

Eligible employees shall receive eight (8) hours pay for each of the holidays listed above on which they are not scheduled to work.

Section 3. Weekend Holidays for non-continuous operations.

Holidays shall be observed on any day within the same work week as the holiday if the employee has requested a day and received supervisor approval at least the work week prior to the holiday. However, if the employee has not received supervisor approval in the week preceding the holiday, the holiday shall be observed as follows: 1) On the Tuesday if the holiday was on a Monday for employees working a Tuesday through Friday schedule; or 2) on the preceding Thursday if the holiday was on a Friday for employees working a Monday through Thursday schedule.

Section 4. Holiday During Leave.

Should an employee be on authorized sick or vacation leave when a holiday occurs, no sick or vacation hours will be charged for that day.

Section 5: Holiday Worked.

If an employee works on any of the holidays listed above, he/she shall, in addition to his/her regular pay, be paid for all hours worked at the rate of time and one-half (1- 1/2) his/her regular rate of pay. For purposes of this sub-section only, holiday pay shall be equal to the scheduled shift. For example, if the employee is on a 8, 9, 10, or 12 hour day, they shall receive 8, 9, 10, or 12 hours of holiday pay respectively.

Section 6. Personal Leave.

Each employee shall receive two (2) personal leave days per calendar year. The length of each personal leave day is equal to the number of hours that employee is scheduled to work. Personal leave days cannot be used on a per hour basis. The personal leave days are non-cumulative in nature and must be used during the calendar year or they will be forfeited by the employee. The COUNTY cannot arbitrarily deny the use of a personal leave day. Any employee whose personal leave day(s) remains unused at the end of the calendar year because use of the day(s) was denied, the employee shall be compensated for the unused day(s) using the employee's regular rate of pay for an eight (8) hour duration. New employees shall be eligible for two (2) personal leave days after ninety (90) days of employment.

ARTICLE 8 - SICK LEAVE

Section 1. Accrual.

Employees shall accrue sick leave at the rate of eight (8) hours for each month worked, to be used in the event of illness or illness of a member of the immediate family. Sick leave shall be accrued without limit. Newly hired employees shall accrue eight (8) hours of sick leave each month after working thirty (30) calendar days. Employees in a paid status for 88 hours (prorated for FTE status) or more in any month shall accrue sick leave for the next month on the first day of that month as per the County's 11-Day Rule policy.

Section 2. Verification of Sickness.

Absence due to sickness in excess of three (3) days may require verification by a health care provider at the request of the Division Commander. Appropriate documentation may be required for absence of less than three (3) days if the Division Commander has reasonable suspicion (based upon a pattern of absences over a minimum of a three month period of time) that misuse or abuse of sick leave exists.

Section 3. Use of Sick Leave.

Employees may utilize sick leave for their own illness or that of a family member or as otherwise permitted by law. Employees may utilize sick leave when unable to perform their job duties due to health related reasons. Engaging in recreation, other employment, or other activities not related to ill health will be considered misconduct and the Sheriff may discipline employees engaging in such activities subject to the principles of Article 20, Discipline And Discharge. The use of sick leave shall be equal to the work day of the respective employee.

Section 4. Death.

Exclusive of regular sick leave, an employee shall be granted not more than three (3) consecutive workdays leave of absence with full pay in event of the death of a member of his immediate family. Where deemed necessary by the Sheriff, or designee, the employee shall be granted two (2) additional days with pay for travel time.

Section 5. Immediate Family.

An employee's immediate family shall be defined as spouse, parents, parents of the spouse, domestic partner, parents of the domestic partner, children, stepchildren, brother, sister, grandparents (of employee, spouse or domestic partner), grandchildren, sister-in-law and brother-in-law. Stepchildren, stepparents, or children of domestic partner residing with the employee, shall be included in the definition of immediate family. In relationships other than those set forth above, under exceptional circumstances, such leave of absence may be granted by the Sheriff or his designee upon request.

Section 6. Unused Accrued Sick Leave at Time of Retirement.

Pursuant to ORS 237.153, the County shall report all allowable sick leave hours to PERS upon separation from County employment.

Section 7. Sick Leave Donation.

An employee may donate accrued sick leave to another employee when the second employee (donee) does not or will not have adequate accrued sick leave to cover an injury or illness as long as the illness of the second employee qualifies under FMLA or the Oregon Family Leave Act (OFLA) guidelines. Sick leave hours shall be donated and used on an hour for hour basis.

Section 8. Pay and Subpoenas While on Leave.

An employee is not required to perform any work while on family medical leave or sick leave absence. The Sheriff's Office will not require an employee to perform any work while on family medical leave or sick leave absence, including attendance in court. However, the parties recognize that the Sheriff's Office cannot control the issuance of a subpoena by other parties. If an employee on such leave is subpoenaed for an appearance in a case arising out of official duties, and is unable to attend, the employee shall notify the person causing the subpoena to be issued. If the employee appears pursuant to the subpoena, they shall be compensated as set forth in this Agreement. If the Sheriff's Office's receives a lawful subpoena compelling the employee's court attendance, the Sheriff will make an attempt to contact the employee. It shall be sufficient for the Sheriff to call the employee's home telephone number or such other phone number that the employee leaves for such purposes, leaving a message if the employee is unavailable and there is an adult person with whom a message may be left or a device on which to leave such message. If the employee is unavailable and there is no person or device with which to leave a message, it shall be sufficient for the Sheriff to forward a copy of the subpoena to the employee by sending it to the employee's home or such other address that the employee provides for such purpose. No employee will be disciplined or counseled for failure to obey a subpoena which is served upon the employee during a County-approved family medical leave or bona fide sick leave absence.

ARTICLE 9 - VACATION LEAVE

Section 1. Accrual.

Employees having served in the COUNTY service for two (2) consecutive full calendar months, shall be credited with sixteen (16) hours vacation leave. Thereafter, vacation leave shall be accrued as follows:

- A. Less than five (5) years of continuous service, 140.4 hours per year, accrued at the rate of 11.7 hours per month. Vacation leave not to accumulate beyond 240 hours.
- B. Five (5) to ten (10) years, but less than ten (10) years of continuous service, 164.4 hours per year, accrued at the rate of 13.7 hours per month. Vacation leave not to accumulate beyond 240 hours.
- C. Ten (10) to fifteen (15) years, but less than fifteen (15) years of continuous service, 188.4 hours per year, accrued at the rate of 15.7 hours per month. Vacation leave not to accumulate beyond 320 hours.
- D. Fifteen (15) to twenty (20) years, but less than twenty (20) years of continuous service, 204.0 hours per year, accrued at the rate of 17.0 hours per month. Vacation leave not to accumulate beyond 320 hours.
- E. After twenty (20) years of continuous service, 219.6 hours per year, accrued at the rate of 18.3 hours per month. Vacation leave not to be accumulated beyond 360 hours.

Effective January 1 of each calendar year, accruals exceeding the maximum shall be reduced to the maximum. Vacation time shall be allowed to accumulate beyond the aforementioned maximum where the employee has requested vacation and such vacation request has been denied. Any vacation leave which would otherwise have been lost shall be taken as soon thereafter as the needs of the COUNTY and the availability of vacation relief allow. Employees in a paid status for 88 hours (prorated for FTE status) or more in any month shall accrue vacation leave for the next month on the first day of that month.

Section 2. Termination or Death.

After six (6) months of service, upon the termination of an employee for any reason, or in the event of the death of an employee, all accumulated vacation shall be paid either to the employee or his/her heirs whichever the case may be.

Section 3. Vacation Scheduling.

Employees shall be permitted to choose either a split (including less than a full day of vacation) or entire vacation. Whenever possible, if consistent with the needs of the COUNTY in conjunction with the availability of vacation relief, employees shall have the right to determine vacation time.

The COUNTY shall make available a vacation sign-up sheet twice each year;

1. For vacations occurring from the first full payroll period in March through the first payroll period following Labor Day ("Spring Bump"):
 - a. Non-Jail Staff: February 5 to February 10.
 - b. Jail Staff: February 11 to February 20.

2. For vacations occurring after the payroll period following Labor Day through the Friday before the March shift bid begins ("Fall Bump")
 - a. Non-Jail Staff: August 5 to August 10.
 - b. Jail Staff: August 11 to August 20.

Any conflicts in requested vacation time shall be resolved by granting the requested time off to the employee with the most seniority.

The vacation schedule shall be frozen on :

- a. Non-Jail Staff: February 15 and August 15
- b. Jail Staff: February 21 and August 21.

Employees are not required to sign up to use vacation time during these two sign-up periods. An employee may request vacation at any time throughout the year provided, however, that for vacation scheduled other than during the February and August sign-up periods, seniority may be used to resolve conflicts only for vacations of less than one work week provided the employee exercises his/her seniority rights at least thirty (30) calendar days before the effective date of the vacation request.

The COUNTY must accept or reject an employee's request for vacation within seventy-two (72) hours of receipt of the request. The seventy-two (72) hour response time limit does not apply during the vacation sign up periods described above.

Section 4. Required Use of Vacation.

The Sheriff may require each employee to take a maximum of ten (10) days vacation within the employee's anniversary year.

Section 5. Commitment to Retire.

An employee who signs a commitment to retire within three years from the date such request is made shall be allowed to accrue vacation in addition to the provisions of Article 9 for the purposes of vacation payments upon termination of employment. The amount of vacation paid shall not exceed three (3) times the maximum accrual of vacation and shall be paid to the employee upon retiring from employment with the COUNTY. An employee making a commitment to retire shall specify the date of his/her retirement not more than three years into the future. If an employee does not retire on the date specified in the signed commitment to retire, he/she shall lose any accrued vacation in excess of the carry over limit set at 1080 hours.

ARTICLE 10 - OTHER LEAVES

Section 1. Leave of Absence.

Leaves of absence without pay for a limited period, not to exceed ninety (90) days, shall be granted by the Sheriff for any reasonable purpose, which is defined as bona fide educational purposes related to work or medically documented reasons. Such leave may be renewed or extended by the Board of County Commissioners. Reasonable purpose will not include engaging in other employment. The Sheriff may make exceptions for those whose purpose is to engage in temporary employment that is clearly in the best interest of the Sheriff's Office.

Section 2. Jury Duty.

Employees shall be granted leave with full pay any time they are required to report for jury duty or jury service, in lieu of jury fees, excluding mileage reimbursement upon any day that they are scheduled to work. Employees will be required to call their watch commander when less than a normal work day is required by jury duty. The watch commander shall determine if the employee shall be required to report to work and shall take into consideration the travel time of the employee.

Section 3. Parental Leave.

Parental leave will be granted in accordance with all federal and state statutes and the Clackamas County Employment Policy and Practice.

Section 4. Educational Leave.

After completing one (1) year of service, an employee upon request may be granted a leave of absence without pay for educational purposes at an accredited school, when it is related to his employment. The period of such leave of absence shall not exceed one (1) year, but it may be renewed or extended at the request of the employee, when necessary.

One (1) year leave of absence with any requested extension, for educational purposes, may not be provided more than once in any three (3) year period.

Employees may also be granted leaves of absence with or without pay for educational purposes, for additional lengths of time, to attend conferences, seminars, briefing sessions, or other functions of a similar nature that are intended to improve or upgrade the individuals skill or professional ability, provided it meets with the approval of the Sheriff.

Section 5. Family Medical Leave.

Family Medical leave will be granted in accordance with all federal and state statutes and the Clackamas County Employment Policy and Practice #10.

ARTICLE 11 - HEALTH AND WELFARE

Section 1. Accrual of Benefits.

A regular status employee working greater than or equal to 20 hours per week is eligible for medical benefits on the first of the month following the benefit waiting period described in Section 10.

Section 2. Medical-Hospital.

The COUNTY agrees to contribute toward the monthly composite premium at the existing dollar level for coverage defined in the Summary Plan Descriptions agreed to by the UNION and the COUNTY through December 31, 2011. Family coverage shall include dependent college students up to the age of twenty-five (25) and dependent coverage required under federal or state statutes. Employees will become eligible on the first day of the month following the benefit waiting period described in Section 10.

For the plan year effective January 1, 2015, the COUNTY agrees to pay 95% of the premium for Providence medical plans and the employee agrees to pay 5% of the premium costs. The COUNTY agrees to pay 100% of the premium for employees enrolled in the Kaiser medical plan.

For the plan years effective January 1, 2016 and January 2, 2017, the COUNTY agrees to pay 95% of the premium for Providence medical plans and the employee agrees to pay 5% of the premium costs. However, if the premium increases more than 10% in any one year, the County and the employees shall evenly split the increased costs above 10%. The joint committee identified in Section 12 shall be utilized as a method to control increased premium costs.

The COUNTY agrees to pay 100% of the premium for employees enrolled in the Kaiser medical plan. If the parties, while bargaining for a successor collective bargaining agreement, have not reached agreement regarding this Article 11, by September 30, 2017, the County will conduct an open enrollment process for health care coverage to be effective January 1, 2018, with the County agreeing to pay 95% of the premium costs for the Providence Plans and 100% of the cost for the Kaiser medical plan. This temporary increase in the County's contribution will satisfy the County's obligation to maintain the status quo for the medical plans while bargaining continues.

Section 3. Life Insurance.

The COUNTY agrees to contribute monthly an amount equal to the composite life insurance premium with death benefits of \$75,000 or the premium cost up to that amount for a comparable plan. Employees in a classified position, regularly scheduled for 30 or more hours of work per week, will become eligible on the first day of the month following the benefit waiting period described in Section 10. The Life Insurance program will provide an Accelerated Benefits option provision. The cost for the Accelerated Benefits Option will be picked up by the County.

Section 4. Dental Insurance.

The COUNTY agrees to contribute monthly an amount equal to the self funded composite dental program premium for the existing family coverage with the individual benefit of \$1,500 per individual per year, with orthodontic coverage (\$3,000) plan. The employee may also choose an alternative dental plan provided through Kaiser. Employees will become eligible on the first day of the month following the benefit waiting period described in Section 10.

Section 5. Long-term Disability Insurance.

The COUNTY agrees to contribute monthly an amount equal to the composite long-term disability insurance premium or the premium cost up to that percentage for a comparable plan. Benefits, including those from other sources, will equal 60 percent of up to \$3,333 in monthly salary after an elimination period of the first 30 days of each period of total disability or the exhaustion of accumulated sick leave, whichever occurs later. Employees will become eligible on the first day of the month following the benefit waiting period described in Section 10.

The COUNTY agrees to make available a supplemental disability insurance plan whereby employees may purchase additional coverage up to 60 percent of their base monthly salary subject to the approval of plan documents complying with the regulations of the Internal Revenue Code.

Section 6. Civil Insurance.

The present policy of providing insurance for all employees against civil suits covering insurable acts while in the performance of their duties will be continued.

Section 7. Surviving Spouse and Dependent Coverage.

The COUNTY agrees to provide spouses and dependents of deceased employees who were covered by this Agreement with medical and dental insurance as provided for in Sections 1 and 3 of this Article, for a period of twenty-four (24) months following the death of the employee. If, during the twenty-four (24) month period, the deceased employee's spouse becomes eligible for medical or dental insurance under another plan, the COUNTY provided insurance which is duplicated will cease on the inception date of the new insurance.

Section 8. Retiree Medical Benefits.

Three and one quarter percent (3.25%) of employee compensation as set forth in the appendices shall be placed into a fund to be administered by the Clackamas County Sheriff's Office Independent Retiree Medical Trust (subject to the agreement below) to provide medical benefits for retired eligible employees who have not yet become eligible for Medicare benefits. The Retiree Medical Trust shall have the sole responsibility and the right for determining the amounts of benefits to be received and the eligibility for receipt of those benefits, subject to the agreement below.

The purpose of the IRMT would be to administer the retiree medical benefits which are described in Article 11 Section 8 of the collective bargaining agreement and in the Agreement dated February 25, 2005 related to the Sheriff's Office Retiree Medical Fund.

- A. The County will continue to contribute funds at the rate set forth in Article 11(8) of the Agreement into an account designated by the Clackamas County Sheriff's Office Independent Retiree Medical Trust (IRMT). The County's obligation to contribute funds to the IRMT shall cease only upon written agreement by the County and the CCPOA.
- B. The County's agreement to contribute funds to the IRMT is not a guarantee:
 - 1. Of any particular level of retiree medical benefits to any individual or group of employees; or
 - 2. That in the event that the IRMT reduces medical benefit levels, the County is obligated to maintain retiree medical benefit levels or make up any difference in the level of retiree medical benefits.

Section 9. *Domestic Partners.*

Domestic partners, as described below, will be treated the same as spouses for purposes of medical, dental and life insurance programs described in this article, subject to Federal and State laws and regulations and completion of a notarized Affidavit of Domestic Partnership provided and approved by the Department of Employee Services – Risk & Benefits Division.

Section 10. *Benefits Waiting Period.*

Benefits shall become effective on the first day of the month following two (2) months of continuous employment. Continuous employment as related to health and welfare benefits shall be defined as being in a paid status during the entire benefits waiting period, except for an unpaid period not to exceed ten (10) working days, or eight (8) working days for employees on a four-day work week, or the prorated equivalent for part-time employees.

Section 11. *Plan Changes Required by Law or Insurance Carrier.*

The COUNTY shall act to update any mandated coverage or changes caused by Federal or State laws, rules and regulations or required by the insurance carriers. Unilateral changes in benefits initiated solely by the insurance carriers are subject only to impact negotiations with the UNION.

Section 12. *Joint Peace Officers/County Benefits Committee.*

Effective upon ratification of this agreement and in the open enrollment period following the ratification of this agreement, all Union employees shall participate in the benefit plan as agreed through negotiations between the Union and the County.

- (a) The Joint Peace Officers/County Benefits Committee shall have the responsibility to make recommendations regarding the level, scope, and design of benefit plans offered to employees for medical and vision coverage, dental coverage and for disability and life insurance. The primary emphasis in plan design shall be to provide a comprehensive, competitive benefit program at a reasonable cost. The Committee will investigate all options for providing insurance including forming an employee's benefit trust and/or partial self-funding. No changes will be made to benefit plans without the approval of the Union and County.
- (b) The Committee shall be comprised of an equal number of members from the Union and County. A non-voting County Commissioner will be invited to attend all meetings. The Committee shall meet at least quarterly, or more frequently if required. Decisions of the Committee will be made by a majority of votes. Absentee members will also be given the opportunity to vote.
- (c) The Committee shall make plan design recommendations for medical, vision, dental, disability and life insurance plans at least one hundred and twenty (120) days prior to the beginning of the following plan year. Any changes to plan designs must be through negotiations between the Union and the County.
- (d) The County shall provide administrative coordination and support for the Committee. The Committee shall be provided all financial information and related reports as may be available.
- (e) The Committee shall consider various options available to control increased premium costs.

Section 13. Health Reimbursement Account (HRA)

The County shall provide each employee covered by this agreement the opportunity to enroll in a Health Reimbursement Account (HRA).

The County shall pay the account fee up to \$1.50 per account per month for each active employee enrolled in a HRA/VEBA. The participating employee shall be responsible for the third party annualized investment fee.

Participating employees who have used at least forty (40) hours of vacation in the prior calendar year shall have all vacation time up to eighty (80) hours in excess of the annual cap, as referenced in Article 9(1), paid into their HRA/VEBA account.

Participating employees who are enrolled in the HRA/VEBA plan as of January 31, 2015 shall receive a one-time contribution of \$25 paid into their HRA/VEBA account by the second payroll period of February 2015.

ARTICLE 12 - WAGES

Section 1. Wages and Classification Schedule.

After ratification by both parties, employees shall receive a 2% cost of living increase effective the first day of the pay period after the ratification date.

In lieu of a retroactive pay adjustment, employees shall receive a signing bonus after ratification by both parties. The signing bonus will be based on the COLA percentage of an employee's gross pay earnings (base pay, overtime, longevity and incentives) from the beginning of the pay period closest to July 1, 2014, except that new incentives/add-to-pays are not part of this signing bonus.

Employees shall be compensated for the fiscal year 2015 – 2016 at 100% of the change in the CPI-W for each year with a minimum of 2.0% and a maximum of 4.0%.

Employees shall be compensated for the fiscal year 2016 – 2017 at 100% of the change in the CPI-W for each year with a minimum of 2.0% and a maximum of 4.0% .

An updated pay plan will be published by the COUNTY each year by July 1 on the Department of Employee Services website.

The Consumer Price Index (CPI) used in calculating wage adjustments shall be based on the Consumer Price Index--Urban Wage Earners and Clerical Workers (CPI-W), U.S. Cities Average for All Items, as reported by the U.S. Department of Labor, Bureau of Labor and Statistics. The change in the CPI-W shall be the indicator located in the "Annual" column of the "12 Months Percent Change" report. The COLA percentage will be sent to the Union President by April 1 of each year.

Section 2. Deferred Compensation.

An amount equivalent to four percent (4%) of the employee compensation as set forth in the appendices shall be placed into a deferred compensation plan for each employee, the plan to be administered by a provider with whom Clackamas County has contracted for deferred compensation services.

Section 3. Time of Service.

Step increases (merit raises), seniority and longevity pay for regular full-time employees, shall be determined on the basis of calendar months within which the employee has worked without interruption in service. "Interruption in service" shall not include those authorized leaves as set forth in this Agreement.

Section 4. Longevity Pay.

For every five (5) years of continuous COUNTY service, the employee shall receive \$59.98 per month longevity pay in addition to his normal compensation. Eligibility shall be based upon the number of continuous years of regular status County Service. Continuous service for the purpose of determining eligibility for longevity pay shall be service unbroken by separation from County employment that results in a changed date of hire. Upon ratification by both parties, the amounts shall increase by the amount of inflation determined in Section 1 above. On July 1, 2015 and July 1, 2016 the amounts shall increase by the amount of inflation determined in Section 1 above.

The calculation for longevity shall be based on the employee's service date minus thirty days. For example, if the service date is 5/16, for purposes of calculating longevity the date shall be 4/15.

Section 5. Field Training Officer Pay.

Any employee assigned the responsibility of a field training officer or a person supervising a field training officer shall receive premium pay in the amount of ten percent (10%) of his/her base pay for the length of the assignment.

The following classifications are eligible for Field Officer Pay:

- a) Corrections Deputy
- b) Corrections Sergeant
- c) Deputy Sheriff
- d) Sergeant
- e) Detective
- f) Community Service Officer
- g) Evidence Technician
- h) Office Specialist 1 & 2
- i) Any other classification which uses an approved Field Training and Evaluation Program (including the above listed).

Section 6. Computation of Hourly Rate.

The computation of the hourly rate included in the Salary Range Schedule and used to compensate employees working at a particular range and step shall be computed upon the following equation:

$$\frac{\text{Yearly Salary assigned to full time position}}{\text{Number of hours normally worked yearly in position}} = \frac{\text{dollars}}{\text{per hour}}$$

$$\text{Continuous operations} = \frac{\text{Yearly Salary}}{2080 \text{ Hours per year}} = \frac{\text{dollars}}{\text{per hour}}$$

Section 7. Bilingual Pay.

Any employee who is fluent in Spanish, Russian, American Sign Language, or a language agreed upon by the CCPOA and the Sheriff and in the course of the employee's duties uses that language, shall receive a 5.0% increase in his/her base salary.

Proficiency will be established by a DES-approved testing process and/or by the FBI. All costs for initial testing, documentation and retesting shall be borne by the Sheriff's Office.

Section 8. Records Unit Graveyard Shift Differential Pay

Employees in the Records Unit of the Support Services Division who work 51% of their scheduled work hours after 12:00 midnight shall receive a shift differential of \$1.00 per hour for all hours worked during their shift. If an employee is requested or required to

continue working at the end of their regular shift and has been receiving shift differential based on their graveyard shift, the employee will continue to receive the shift differential.

Section 9. Motor Deputy Pay

It is anticipated that Motorcycle Deputies will provide normal maintenance of their assigned motorcycles outside the Deputy's normal work hours. In consideration of this activity, employees working in the assignment of Motorcycle Deputy shall receive additional compensation equivalent to five (5) percent of their base salary for that period of time that the employee is functioning as a Motor Deputy.

In consideration of the additional compensation paid to Motor Deputies the Sheriff shall have the authority to move the Motor Deputies within the Sheriff's Office as needed for business reasons without a demand from the Union to bargain the decision or any pay issues from the move.

Section 10. K-9 Maintenance Pay

It is anticipated that Canine Deputies will provide maintenance of their assigned dogs, including feeding, grooming, some training and other normal dog maintenance responsibilities, outside the Canine Deputy's normal work hours. In consideration of this activity, Canine Deputies shall receive additional compensation equivalent to five (5) percent of the Canine Deputy's base salary for that period of time that the officer is functioning as a Canine Deputy. Additionally, Canine Deputies shall receive one (1) hour release time per working day.

ARTICLE 13 OVERTIME

Section 1. Overtime.

Time and one-half (1.5) the employee's regular hourly rate of pay shall be paid for work under any of the following conditions, but compensation shall not be paid twice for the same hours:

- A. All authorized work performed in any work day in excess of:
 - eight (8) hours for employees on a 5-8 work schedule, or
 - nine (9) hours in a nine (9) hour work day or eight (8) hours for a eight (8) hour work day for employees on a 9-80 schedule; or
 - nine (9) hours for employees on a 5-9/4-9 work schedule, or
 - ten (10) hours for employees on a 4-10 work schedule, or
 - twelve (12) hours in a twelve hour work day, or eight hours in an eight hour work day, for employees on a 3-12/3-12 + 8 hour work schedule;
- B. All authorized work performed in excess of:
 - forty (40) hours in any work week for employees on a 5-8, 9-80 or 4-10 work schedule, or

- eighty-one (81) hours in the regular 14-day work period for employees on a 5-9/4-9 work schedule, or
 - eighty (80) hours in the regular 14-day work period for employees on a 3-12/3-12 + 8 work schedule;
- C. All authorized work performed on regularly scheduled days off. In the event an employee is required to work on a day off, the employee will be paid a minimum of four (4) hours at time and one-half.
- D. Employees working five consecutive days with eight hour shifts shall be paid time and one-half (1.5) for all work performed on the sixth (6th) and seventh (7th) day of their regular workweek. Employees working four consecutive days with ten hour shifts shall be paid time and one-half (1.5) for all work performed on the fifth (5th), sixth (6th) and seventh (7th) days of their regular work week. Employees working the 3-12/3-12 + 8 schedule shall be paid time and one-half (1.5) for all work performed: in their "short" week, on the days following their three regular work days; and in their "long" week, on the days following their four regular work days.
- E. On the day that daylight savings begins ("Spring Forward") if an employee would be short one hour of work on their work shift, the employee shall either work an hour earlier than the start of their shift, an hour later at the end of their shift, or use a hour of accrued vacation or compensatory time in order to be paid for the entire shift. The employee shall notify their supervisor in the preceding payroll period of his/her preference. On the day that daylight savings ends ("Fall Back") the employee will be compensated at the rate of time and one half (1.5) for any hours worked beyond their respective normal shift. The additional shift will be considered mandatory overtime.

Overtime pay under this Section 1 is subject to the limit of Section 2 relating to voluntary overtime and use of sick leave. Vacation leave and compensatory time used shall be considered hours worked for purposes of calculating overtime.

Hours worked which are an extension of a previously worked shift shall be paid at overtime at time and one half (1.5) for actual hours worked, except as maybe limited by Article 13(2).

Section 2. Forty hours worked requirement for voluntary overtime.

When an employee has not worked his/her regularly scheduled week, or 14-day work period for those covered by a 7(k) exemption, because of sick time, he/she will not be entitled to overtime pay, for shifts worked voluntarily, until after he/she has worked the regular required hours of that full week or 14-day work period. This section does not apply to sick time used by any employee due to workplace injury reported at time of occurrence, for the initial time loss only.

Section 3. Assignment of Overtime.

When vacancies created by sick, vacation or training leaves are to be filled, they will be filled by seniority among bargaining unit personnel under the following conditions:

- A. The UNION will encourage employees who want to work voluntary overtime to sign up for electronic communication as a way to be notified of staffing shortages on shifts in Patrol and Corrections Divisions. All electronic communication will occur between the hours of 0700 and 2100, seven days a week.

Overtime within the Corrections Division will be filled via posted CLASSweb lines until locked in under Article 13(3)(E). Once the lock in period has started (120 hours) available overtime will be posted via electronic communication method for each overtime shift.

1. Employees will have one (1) hour to call in if the overtime callout is less than four (4) hours away and two (2) hours if the overtime callout is more than four (4) hours away but less than twenty-four (24) hours away.
 - a. Vacant shift less than four (4) hours away – if one (1) hour has passed and the overtime has not been taken, the overtime shall be awarded to the first employee to call in regardless of seniority.
 - b. Vacant shift more than four (4) hours, less than twenty-four (24) hours away – if two hours have passed and the overtime has not been awarded, the overtime shall be awarded to the first employee to call in regardless of seniority.

 2. Employees will have the following time to call in if the overtime callout is 24 hours or more away:
 - a. 1st shift overtime will be locked at 5 PM before start of shift
 - b. 2nd shift overtime will be locked at 9 PM before start of shift
 - c. 3rd shift overtime will be locked at 9 PM before the start of shift
 - d. 4th shift overtime will be locked at 12 PM before start of shift.
 - e. If the vacancy is not filled by the deadline outlined in a-d of this subsection, notice of the available shift may be re-posted via electronic communication method and the vacancy will be filled on a first come-first served basis.
- B. If the electronic communication is unavailable or should an unforeseen issue arise, the Union and County agree to revert back to previously used manual callout procedure.
- C. The UNION will provide the COUNTY with a seniority list of employees twice a year to coincide with scheduled shift changes. The list will include hours and days of the week during which the employee will be available to work extra shifts. The list will also include the employee's primary and secondary contract telephone or pager numbers.
- D. When a replacement is needed for a shift vacancy occurring with less than two hours notice, the work will be offered first to those employees already on duty, by seniority, in classification. If no one elects to work the shift then calls will be made from the seniority list within classification. If no one in the classification where the vacancy exists wants to work the shift, then calls shall be made from

the seniority list to employees in classifications other than the classification where the vacancy exists.

- E. When more than two hours notice has been received of a vacancy that has been determined needs to be filled, the COUNTY must exhaust the overtime list provided by the UNION prior to filling the shift by any other means. Sign up will be seniority in classification. Bumping will be permitted with notice to the affected employee being the responsibility of the employee doing the bumping. Bumping will not occur when there is less than seventy two (72) hours (one hundred and twenty (120) for Corrections Division) before the start of the shift, regardless of seniority. Corrections Division employees may sign up for overtime in half-shift segments. A junior employee may not bump two senior employees who are each signed up for one-half of the same shift. If one-half of a shift is signed up for by an employee with less seniority than the employee desiring to bump, the bumping employee may bump for the whole shift or for the half-shift signed up for by the junior employee. The employee doing the bumping must also contact a supervisor to change the schedule. If a employee accepts overtime and later decides to decline the accepted overtime, the employee must notify a supervisor if the change if less than 72 hours exists before the scheduled shift commences. If less than twenty-four (24) hours exist before the scheduled shift commences, the employee must have authorization from a supervisor to be excused from working the shift. An employee, who fails to report for a scheduled shift, will be given an unexcused absence for failing to report to work. However, employees will not be charged an unexcused absence if unable to perform their duties due to health related reasons under Article 8 or an emergency situation and calls in to report their absence as required by Sheriff's Office practices or policies. Temporary loss of overtime sign-up privileges may be part of the progressive discipline issued to an employee failing to comply with this provision as follows: a first offense may result in a ten-day loss of overtime sign-up privileges; a second violation within a year, a thirty-day loss; and a third violation within a year, a sixty-day loss.
- F. When overtime assignments occur for routine or special events (including emergencies that become routine) that do not require special unit supervision or special skill and training the COUNTY will use reasonable effort to notify employees of the available overtime. Sign up will be by seniority in classification. Bumping will be permitted with notice to the affected member being the responsibility of the member doing the bumping. Bumping will not occur when there is less than seventy-two (72) hours (one hundred and twenty (120) for Corrections Division) before the start of the shift, regardless of seniority.
- G. Replacement personnel shall come first from the same classification and division as the employee creating the vacancy, second from the same classification but different division and third, from a different classification.
- H. A temporary employee, hired on a 90 day basis, will only be used to replace personnel who are scheduled to be absent for more than 20 working days for employees working a 5/8 work schedule or 16 working days for employees working a 4/10 work schedule.

- I. The COUNTY and the UNION recognize it is not in the best interest of the COUNTY to have employees be required to work overtime. The COUNTY will continue its policy of reducing or eliminating the use of mandatory overtime.

Section 4 – DPSST Basic Academy Overtime

Employees enrolled in the DPSST Basic Academy will be paid at time and one-half (1.5) their regular hourly rate of pay for required activities, as described in Article 4 Section 12, exceeding 40 hours in any work week. This Section shall apply in lieu of Section 1 of this Article.

ARTICLE 14 - COURT APPEARANCES

Section 1. Time Outside Regular Shift.

All authorized time spent other than on his regular shift in criminal or civil proceedings, where his attendance is required, arising out of the performance of his official duties. Minimum time: Two (2) hours at the time and one-half (1.5) if on a regular workday and four (4) hours at the time and one-half (1.5) rate if on a regularly scheduled day off ;except that, employees assigned to graveyard shift shall receive three (3) hours for mandatory court appearances on a regular work day instead of two (2) hours. Graveyard shift is defined as half or more of the shift is worked after midnight.

Section 2. Overtime Pay While On Vacation.

Overtime pay while on vacation will be awarded as follows:

- A. If the member had an approved vacation/comp day scheduled before receiving a court subpoena, it will be handled as a day off under Article 14, unless the member elects to be credited the vacation/comp time actually spent in court.
- B. If the member requests a vacation/comp day for a day that he already has a subpoena, it will be handled as a work day under Article 14. If court time would be during his normal duty time, the member will have their vacation/comp hours adjusted hour for hour so that no vacation time will be lost.

ARTICLE 15 - CALL BACK

Section 1. Call Back.

Call back time, when authorized, will be paid at the rate of time and one-half (1.5). Minimum call back being two (2) hours at time and one-half (1.5).

Section 2. Call Out.

The COUNTY will provide Call Out pay for the following regular duty assignments within the Sheriff's Office: Detectives, Detective Sergeant, Crime Scene Investigations, Special Investigation Unit (Drug and Property Crime Sections), Interagency Task Force (CCITF) and Crash Reconstruction and Forensic Team (CRAFT). Call Out pay would not apply if the employee is engaged in collateral special assignment unit or duties, such as: HAZMAT, HNT, SWAT, BOMB, etc.

Call Out pay will be authorized at double time for employee's regular assigned days off. The following is added to clarify Article 15(2) and Article 4(6) and not intended to alter or otherwise change those articles. The double time pay rate applies whenever an employee is notified of the requirement to return to work during their off-duty weekend hours. The double time pay rate continues to apply for all work performed during the call out if it occurs during the employee's weekend hours. The initial response to the callout and subsequent follow-up investigations during the employee's weekend hours are considered "unplanned" events.

If an employee is notified during their normal work hours that they will be needed for work during their upcoming weekend off-duty hours, this would be considered a 'planned event' and the employee is entitled to be paid the overtime pay rate as contained in Article 13. When their work on the planned event is complete, the employee will return to off-duty status and subsequent call outs would be considered unplanned and the employee would be paid at the double time pay rate.

Call Out will be based upon unit assignment, case load, expertise, and availability. Minimum Call Out shall be for (4) four hours except when called out within four hours of the start of their regular shift in which case the double-time will be paid up to the start of the employee's regular shift. Call out is defined as an employee being contacted outside their regular work schedule and being called back to duty for an unplanned event. Example: Detective/Deputy assigned to day shift, Monday through Friday, receives an assignment after the end of his/her shift on Friday and before the beginning of his/her regular shift on Monday would receive Call Out pay at the double time rate.

Section 3. Pagers.

Both the COUNTY and the CCPOA recognize that notification of an emergency call out is greatly enhanced with the use of pagers and helps to facilitate expedient responses. Additionally, it is acknowledged that the carrying of department issued pagers during off duty time is voluntary.

Section 4. On-Call Emergency Management

Employees designated in writing to be on call shall receive one (1) hour of pay for each eight (8) hours on call. If called back they shall be paid at the rate of one and one-half times (1.5) their regular rate of pay.

ARTICLE 16 - TRAVEL PAY

Whenever an employee is required to report for work in any location other than his/her established place of work or whenever an employee, as part of his/her regular work is required to travel and transportation is not provided by the COUNTY, he/she shall be paid for the use of his/her personal transportation at the rate established by the Internal Revenue Service for reimbursement for business use of personal vehicle.

Established place of work shall be defined as any office, reporting station, or precinct maintained by or for the COUNTY in which employees are assigned to work either permanently, or on a temporary basis of 90 days or more.

Whenever the COUNTY opens a new office, reporting station, or precinct, or changes the location of an existing office, reporting station, or precinct, those employees who are affected by the move may exercise a seniority bump as provided in Article VI of this contract.

For required appearances within Oregon City, the employee shall use his/her own transportation without any reimbursement for the use of a personal vehicle or their own assigned take-home vehicle if available. The employee's work time commences when he/she reports to the designated location. For required appearances outside of Oregon City, an employee living closer to the location of the required appearance may elect to drive his/her personal vehicle directly to the location of the required appearance rather than reporting to the Sheriff's Office to obtain a COUNTY vehicle. Under such circumstances, the employee shall not be reimbursed for the use of his/her personal vehicle, however, the employee's work time commences when he/she leaves home for the required appearance. All other employees shall report to the Sheriff's Office to obtain a COUNTY vehicle to travel to appearances outside Oregon City. The employees work time commences with his/her arrival at the Sheriff's Office.

ARTICLE 17 - STANDBY PAY

Any employee required to be on standby duty shall receive six (6) hours pay for every twenty-four (24) hours of standby duty.

ARTICLE 18 - WORK ABOVE NORMAL CLASSIFICATION

Section 1. Working Out of Classification.

Whenever an employee performs any work for one-half or more of a shift in a classification above that in which the employee is normally classified, the employee shall be paid for such work at the first step in the range assigned to the higher classification or a 5% increase, whichever is higher, unless said employee is being trained for a higher classification in accordance with an approved training and development plan.

Section 2. Special Assignment.

Deputy 103s working in Special Investigations Unit (SIU) or the Clackamas County Interagency Task Force (CCITF) will be eligible to be paid five percent (5%) above his/her regular monthly pay. Six (6) months after the employee starts working in the assignment, the Unit supervisor will evaluate the member's progress in becoming a productive unit member. The Unit supervisor will recommend one of the following: (1) granting of the pay increase, (2) withholding the pay increase and re-evaluating at twelve (12) months, or (3) removal of the individual from the assignment. If a member is re-evaluated at twelve (12) months, the Unit supervisor shall recommend that the pay increase be granted or recommend removal from the assignment. The Unit supervisor's recommendations will be forwarded to the Division Commander for review and approval.

ARTICLE 19 - TRAINING

Section 1.

Sworn employees shall receive a minimum of forty (40) hours of Sheriff's Office approved training per year, of which at least twenty (20) hours shall be DPSST approved training. The employee shall participate in training, including firearms training, at times set by the Sheriff or his designee. Employees required to participate in any training that exceeds the total number of hours in their regularly scheduled work week shall be compensated at the overtime rate for time spent in training, including commuting when required by the Fair Labor Standards Act or to flex their hours with approval of their supervisor.

Section 2.

Employees hired as Deputy Sheriff Recruit or Corrections Deputy Recruit will have a one-year probationary period, regardless of whether they are new hires or transfer from other COUNTY employment, in order to allow time for DPSST certification and post-training evaluation. Employees who have transferred or been promoted from within the Sheriff's Office may return to employee's previously held classification(s) if he/she is unable to complete his/her probationary period in a satisfactory manner and that previous position is open.

ARTICLE 20 - DISCIPLINE AND DISCHARGE

Section 1. Disciplinary action may be imposed upon an employee only for just cause, using the principles of progressive discipline. Temporary pay reductions shall be limited to no more than two pay periods and a one-step reduction. Any discipline imposed which impacts the employee monetarily cannot be imposed without approval by the Undersheriff. Disciplinary action may take any of the following forms: oral reprimand, written reprimand, temporary pay reduction, suspension, demotion, or dismissal.

Appeals shall be processed through the grievance procedure starting at Step II within fifteen (15) working days of the effective date of the action.

Section 2. The COUNTY shall furnish the employee and UNION with a statement of charges in writing at the time of suspension, demotion or discharge outlining the specific reason for such action.

Section 3. If the COUNTY has reason to reprimand an employee, it shall not be done in manner that is likely to embarrass the employee before other employees or the public. Nor shall said reprimand be done in a manner personally demeaning of the employee.

Section 4. A probationary employee shall be afforded the opportunity to grieve pursuant to Article 21, Settlement of Disputes, of this Agreement; however, this shall not include any matter involving discipline and/or discharge. This provision applies only to an employee's initial probationary period with the COUNTY.

Section 5. An employee serving a probationary period as a result of appointment from a promotion list shall serve a probation of six (6) months, except for as outlined in Article 19, Section 2. A sworn employee who fails to qualify in the new position shall be reinstated to his/her former position. This provision does not provide for reinstatement to a Recruit position. A non-sworn employee who fails to qualify in the new position shall be reinstated to his/her former position if the position is open.

Section 6. Warnings, oral reprimands, written reprimands, and temporary pay reductions shall be considered stale after twenty-four (24) months and cannot be used as part of any disciplinary process. No material reflecting critically on an employee shall be placed in an employee's personnel file until the employee has been given the opportunity to sign indicating he/she has seen a copy of the material. The employee shall have the right to attach employee comments to anything placed in the employee's personnel file or Watch Commander's training file.

Section 7. No grievance material shall be kept in the personnel file other than grievances resulting from disciplinary action.

Section 8. Prior to any changes in the Sheriff's or the COUNTY'S policies on complaint and discipline procedures which are applicable to the Sheriff's Office employees represented by the UNION, the UNION shall be given notice of those changes and an opportunity to provide comment or demand to bargain on the changes before they are adopted to the extent required by the bargaining law.

ARTICLE 21 - SETTLEMENT OF DISPUTES

Section 1. Grievance and Arbitration Procedure.

Any grievance or dispute which may arise between the parties involving the application, meaning or interpretation of this Agreement, shall be settled in the following manner:

STEP I. A UNION representative, with or without the employee; shall take up the grievance or dispute with the employee's immediate Division or Watch Commander within fifteen (15) working days of its occurrence. The Division or Watch commander shall then attempt to adjust the matter and respond to the representative within ten (10) working days.

STEP II. If the grievance has not been settled, it may be presented in writing by the UNION representative, or the Union Grievance Committee, to the Sheriff or his/her designee within ten (10) working days after the Division or Watch Commander's response is due. After receiving notification, the Sheriff or his/her designee shall respond to the UNION representative or the Grievance committee in writing within ten (10) working days.

STEP III. If the grievance still remains unadjusted, it shall be presented by the UNION representative, or the Union Grievance Committee, to the Board of County Commissioners, or its designees within ten (10) working days after the response of the Sheriff's Office is due. After receiving notification, the Board of County Commissioners or its designees shall respond in writing to the representative or Grievance Committee, within ten (10) working days.

STEP IV. If the grievance is still unsettled, either party may within ten (10) working days after the reply of the Board of County Commissioners is due, by written notice to the other, request arbitration. If the Sheriff's Office fails to adhere to the response time outlines above, such failure will allow the grievant to proceed to the next step in the process.

Any of the time periods set forth in this Article may be extended upon mutual agreement of the parties.

STEP V. Arbitration. If arbitration is requested, the parties shall forthwith agree upon an arbitrator who shall act as sole arbitrator of the dispute. The parties agree that any decision of the arbitrator which is within the scope of this Agreement shall be final and binding upon them. In the event that the parties fail to agree upon the selection of an arbitrator, a list of arbitrators shall be requested from the Employment Relations Board of the State of Oregon. The list requested shall consist of seven (7) arbitrators. Each party shall, in turn, strike one arbitrator at a time from the list until one name remains.

The arbitrator whose name remains shall act as the arbitrator of the dispute. The arbitrator shall not have authority to modify, add to, alter or detract from the provisions of this Agreement. The arbitrator shall exercise all powers relating to admissibility of evidence, conduct of the hearing and arbitration procedures, provided that in so doing, he shall not contravene any provisions of this Agreement. The compensation of the arbitrator and all expenses incurred by him/her shall be borne by the party against whom the arbitrator's decision is adverse. However, the arbitrator shall have the power to require the parties to share in the expense of the arbitration proceeding in any proportion that the arbitrator deems reasonable.

If the Sheriff's Office fails to adhere to the response time outlined above, such failure will allow the grievance to proceed to the next step in the process. Any of the time periods set forth in this Article may be extended upon mutual agreement of the parties.

By mutual agreement between CCPOA and the County, grievance filed under the terms of this Article may be referred to mediation at any time during the grievance process. The CCPOA and the County agree to equally split the cost of such mediation.

ARTICLE 22 - MISCELLANEOUS

Section 1. No Discrimination.

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit. There shall be no discrimination against any employee in the bargaining unit as to age, sex, marital status, race, disability, color, creed, religion, sexual orientation, national origin, or political affiliation. The UNION shall share equally with the COUNTY the responsibility for applying this provision of the Agreement.

All references to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

The COUNTY agrees not to interfere with the rights of employees to become members of the UNION, and there shall be no discrimination, interference, restraint, or coercion by the COUNTY, or any COUNTY representative, against any employee in or because of UNION membership or because of any other cause prohibited by law.

Section 2. Rules.

The COUNTY agrees to furnish each employee in the bargaining unit with a copy of all existing work rules thirty (30) days after they become effective. New UNION members shall be provided a copy of the rules.

Employees shall comply with all existing rules which are not in conflict with the terms of this Agreement, provided the rules are uniformly applied and uniformly enforced.

Any unresolved complaints as to the reasonableness of any new rule or any complaint involving discrimination in the application of new or existing rules shall be resolved through the grievance procedure.

Section 3. Adequate Protection.

The COUNTY is dedicated to the principle of adequate levels of safety and service in the Sheriff's Office. In order that the County Commissioners may be informed and take appropriate action on professional standards of safety and protective equipment, a committee will be formed consisting of a representative of the Sheriff, a representative of the Commissioners, and a representative of the UNION. This committee will meet

quarterly, consider surveys and factual studies and make recommendations for change to the Commissioners.

Section 4. Copies of Collective Bargaining Agreement.

The COUNTY shall provide the UNION fifty (50) copies of the agreement, printed at the COUNTY'S expense along with an unprotected electronic copy in Microsoft Word format or equivalent.

ARTICLE 23 - USE OF RESERVE PERSONNEL

Section 1.

The COUNTY may maintain a Reserve Program. Typical or similar duties that may be assigned to Reserve Officers on a voluntary/paid basis include, but are not limited to: school athletic events, crime scene security, transporting prisoners within the Patrol Division only and traffic control (accidents/parades). Reserves may be used in conjunction with retirees and/or regular Sheriff's Office members for parks patrol and Lake Oswego Marine Patrol for the length of the 2011 – 2014 collective bargaining agreement and during the period of time utilized for bargaining of a subsequent contract.

Reserve Officers will not be allowed to replace regular fulltime corrections officers and/or regular fulltime deputy sheriffs due to vacant positions, any absences including, but not limited to, vacations, training, approved leave of absence or to temporarily fill any sworn bargaining unit position.

Reserve Officers may be allowed to work with regular fulltime employees on a voluntary basis and only with the permission of the regular fulltime employee to whom he/she is assigned. Reserves may be assigned with a fulltime employee and paid in emergencies situation, (i.e., acts of God, natural and man-made disasters, civil disorders within the county).

Section 2. The COUNTY and the Union agree that Reserve Deputy Sheriffs being hired to perform duties listed in Section 1 must be a graduate of the Clackamas County Sheriff's Academy or an equivalent law enforcement academy conducted in the state of Oregon.

Section 3. The UNION shall be provided by the COUNTY every quarter a list of all voluntary and paid duties and hours performed by reserves.

ARTICLE 24 - FAIR SHARE AGREEMENT

Section 1. The COUNTY and the UNION agree to a "Fair Share" agreement for all employees whose classification or job title is included in Article I, RECOGNITION, of this Agreement.

Section 2. In as much as it is required that the UNION represent every employee within the bargaining unit, making each employee thus a recipient of the UNION'S services, it is mutually agreed and recognized by the parties that each employee who, on July 1, 1977, or any date thereafter, is an employee of the COUNTY and a member of the bargaining unit set forth in Article I, RECOGNITION, to which the UNION serves as the bargaining agent, but who is not a member and chooses to remain not a member of the UNION, shall proportionately and fairly share in the cost of the collective bargaining process.

The COUNTY and the UNION jointly supervised an election by the employees in the bargaining unit, and a majority of those employees voted that non-members of the UNION who are in the bargaining unit shall pay his or her "fair share in lieu of dues-" Therefore, the costs per non-UNION employee is fixed proportionately at the amount of dues uniformly required of each member of the UNION, which amount shall be deducted each pay period from each UNION member and each non-UNION member's compensation and remitted monthly to the Treasurer of the UNION.

Section 3. Such uniform amounts as the UNION Treasurer certifies to the COUNTY as the monthly dues approved by the members of the UNION shall remain as the reasonable amount to be deducted there under.

Section 4. A like amount in lieu of dues will be automatically deducted from employees in the bargaining unit who have not signed an authorization form requesting UNION membership dues deduction. It is understood that the like amount in lieu of dues shall only be used as directed by the Constitution and By-Laws of the UNION and by the majority vote of the membership. Employees terminating with less than ten (10) working days in any calendar month will not be subject to dues or a like amount in lieu of dues deduction.

Section 5. Any individual employee objecting on bona fide religious tenets or teachings of a church or religious body of which such employee is a member will inform the COUNTY and UNION of his/her objection. The employee will meet with the representative of the UNION and establish a mutually satisfactory arrangement for distribution of a contribution of an amount of money equivalent to regular UNION membership dues to a non-religious charity.

Section 6. The COUNTY will not be held liable for check off errors but will make proper adjustments with the UNION for errors as soon as is practicable if notified within ten (10) days of the error. In no case shall such an adjustment extend beyond the following pay period. In order for both parties to have adequate information on dues check off, an updated list of eligible members of the bargaining unit will be delivered to the UNION.

Such lists shall include all members paying dues in the previous pay period.

ARTICLE 25 - WORKERS COMPENSATION

Section 1. All COUNTY employees will be insured under the provisions of the Oregon State Workers Compensation Act for injuries received while at work for the County. Both parties agree to the principle that the employee should suffer no financial disadvantage nor should the employee have a financial advantage by being in the disability status.

Section 2. The COUNTY shall compensate the employee from the County's Workers Compensation fund for on-the-job injuries where the claim has been accepted in an amount equal to the injured employee's regular pay, including any regular additional pay, such as longevity, that the employee was receiving at the time of the injury and would have continued to receive had there been no injury. This wage continuation provision is subject to the following conditions:

- A. The day of injury shall be considered a workday, and the employee will receive his/her normal salary for that day.
- B. The waiting period as stated in ORS 656.210 will be charged to sick leave.
- C. The employee's regular pay will be subject to all standard deductions, such as income tax and employee benefits, as required or allowed under Federal and State Law.
- D. While the employee is receiving wage continuation under this provision, he/she will continue to receive all other County health and welfare benefits he/she was enrolled in at the time of the injury unless prohibited by law, rule, and regulation or provider contract.
- E. If the absence due to injury is for a period of six (6) months or more, the injured employee must present to the Board of County Commissioners a physician's statement setting forth the nature of injuries, current condition, and anticipated length of absence or date of return. After said six (6) month period, it shall be at the discretion of the Board whether or not to continue payment and benefits beyond that guaranteed under the statutes governing Workers Compensation benefits. Full medical and dental insurance coverage shall be provided for a minimum of 12 months. Further coverage shall be at the discretion of the Board.

ARTICLE 26 - PART-TIME EMPLOYEE BENEFITS

Benefits for part-time employees covered by this Agreement shall be as follows:

- A. Employees working an average of twenty (20) hours per week shall receive health insurance coverage as if they were full-time employees.

- B. Employees working an average of thirty (30) hours per week shall receive dental insurance coverage as if they were full-time employees in addition to health insurance.
- C. Employees working an average of thirty (30) hours per week shall be covered by the County's life insurance and disability insurance policies in addition to health insurance.
- D. Part-time employees must serve a waiting period of four (4) calendar months in order to qualify for the above benefits
- E. Employees working less than full time will be eligible for PERS if they meet the requirements of ORS Chapter 237.
- F. Employees shall be credited with seniority, vacation and sick leave in an amount proportionate to that which would be accrued under full-time employment.
- G. Employees shall be eligible to receive merit/step increases and time in service for vacation accrual and longevity pay as of the first of the month based on accumulated calendar months of service.
- H. Employees shall receive paid holidays only for those holidays which are observed on days the employee is regularly scheduled to work.
- I. All other provisions of this Agreement not specifically modified above shall apply to part-time employees.

ARTICLE 27 - COMPENSATORY TIME OFF

If agreed to by an employee and his supervisor, compensatory leave may be taken in lieu of pay for overtime. Such leave shall not accrue beyond forty (40) hours.

ARTICLE 28 - PUBLIC EMPLOYEES RETIREMENT SYSTEM

Section 1. Employer "Pick-up" of Employees PERS/OPSRP Contribution.

Eligibility for Public Employees Retirement System and Oregon Public Service Retirement Plan is subject to ORS Chapters 238 and 238A. The County agrees to pay employee's share of contribution on behalf of employees as set by Oregon legislature.

In the event that during the life of this agreement it becomes impossible for reasons of law, regulation or decisions for the County to pay the six percent (6%) employee contribution to PERS, then that sum shall be contributed on behalf of the employee to a retirement benefit, such as a state retirement account, County deferred compensation plan, or other individual retirement account. The intent of the parties is that the

employees will be made whole in terms of the six percent (6%) retirement contribution by the County.

Section 2. Notice of Intent to Retire.

Employees are requested to provide a ninety (90) day written notice of intent to retire.

ARTICLE 29 - LAYOFF

Section 1. This article is to apply to all employees covered by this collective bargaining agreement. Where the term "Sheriff" is used, it shall also refer to the "appointing authority" if an employee is in another Department.

The Sheriff may lay off an employee when the Sheriff determines it necessary to abolish a position or that a shortage of funds or work exists. Layoff shall be by specific job classification and shall be in ascending order (bottom to top) of an employee's seniority in classification, as described in this Article for purposes of layoff. An employee shall be given written notice of a pending layoff at least fifteen (15) working days before the effective date stating the reasons for the layoff and the fact that an election to displace another employee pursuant to Section 3 of this Article must be made within six working days of receipt of said notice.

Section 2.

Layoffs shall occur in the following manner:

- A. The Sheriff shall determine the specific positions to be vacated.
- B. The Sheriff will notify, in writing, all affected employees and the UNION at least fifteen (15) days prior to the effective date of the layoff of all employees in all affected classifications.

Section 3. Where an employee is laid off, including former bargaining unit members promoted to non-represented positions within the Sheriff's Office, that employee may elect to displace (bump) an employee in another job classification at the same or a lesser pay range provided that the employee is qualified to perform the duties of the position and the employee electing to displace another has a greater seniority as defined below. Layoff and bumping shall occur within a department only.

For layoff bumping purposes in sworn law enforcement positions, an employee's seniority shall be measured from the date and time they were hired or promoted into the class into which they are bumping and shall include all time as a Department employee in that classification, plus all time as a Department employee in any equal or higher classification, whether in a represented or non-represented classification.

For layoff bumping purposes in non-sworn positions, seniority shall be measured by the date and time of hire by the Sheriff's Office.

When layoff bumping occurs, the employee who is displaced is the employee within the job classification with the least seniority, measured from the date and time of hiring or promotion into that classification, including all time as a Department employee in that classification, plus all time as a Department employee in any equal or higher classification, whether in a represented or non-represented classification.

Employees who are reinstated from a layoff register retain previously accrued seniority, not including the time on layoff status while not working for the Sheriff's Office.

For purposes of this Article, for sworn law enforcement classifications, "qualified to perform the duties of the position", means that the employee has previously held the classification with this Department.

If an employee exercises a layoff bumping right to a position where they had not completed the probationary period, they must complete the remaining time in probationary status.

An employee who takes a voluntary demotion from a regular-status position as a Corrections Officer to a position as a Recruit Deputy Sheriff, or who takes a voluntary demotion from a regular status position as a Deputy Sheriff to a position as a Recruit Corrections Officer, and is then laid off, may elect to displace (bump) an employee in the higher classification previously held, if the employee electing to displace another has greater seniority as defined in this section.

Section 4. Employees who held training positions as Recruit Deputy Sheriffs or Recruit Corrections Officers and successfully transitioned to Deputy Sheriff or Corrections Officer classifications shall be credited with additional seniority for layoff and/or layoff bumping purposes as provided by the following rules:

(a) For employees who have held positions as Recruit Deputy Sheriff and/or Deputy Sheriff, seniority for layoff or layoff bumping into these classifications is measured from the earlier hire date in either of these two classifications;

(b) For employees who have held positions as Recruit Corrections Officer and/or Corrections Officer, seniority for layoff or layoff bumping into these classifications is measured from the earlier hire date in either of these two classifications;

(c) For employees who have been employed as a Recruit Corrections Officer and/or Corrections Officer prior to being employed as a Recruit Deputy Sheriff and/or Deputy Sheriff, seniority for purposes of layoff bumping into a position as a Recruit Corrections Officer or Corrections Officer includes all time employed in any of those positions. This "blended Seniority" under Section 4(c) of this Article applies only to bumping resulting from layoff, and not to the identification of positions for layoff under Article 29, Section 1. This paragraph applies in a similar manner to employees who have been employed as a Recruit Deputy Sheriff and/or Deputy Sheriff prior to being employed as Recruit Corrections Officer and/or Corrections Officer.

Section 5. When an employee displaces another employee under the conditions set forth above, the employee taking the position will be paid the rate of pay within the pay

range of the employee's new assignment which most nearly approaches the rate of pay actually earned in the job from which the employee was laid off.

Section 6. Employees who have been laid off or who have displaced another employee shall be placed on the layoff register, for the classification held at the time of their layoff, in order of layoff seniority including time spent in an equal or higher classification. Reinstatement shall be offered to those employees on the layoff list in descending order from top to bottom of layoff seniority possessed at the time of layoff prior to hiring any new employees. In other words, recall will occur so that the last employee laid off will be the first recalled.

Notice of recall shall be made by certified mail. Employees shall be responsible for keeping the COUNTY informed of their correct address. Failure to respond to such recall notice within five (5) calendar days of receipt of the notice shall cause loss of recall eligibility.

Employees recalled shall have accrued but unused sick leave at the time of lay off restored.

ARTICLE 30 - TUITION REIMBURSEMENT

Subject to a maximum of one thousand five hundred dollars (\$1500.00) per employee per fiscal year, the COUNTY will reimburse the employees for the cost of books and tuition for the completion of any approved course of study directly related to their job. Courses must be from an accredited institution such as a community college, college or university. Proof of successfully passing an approved course must be submitted prior to reimbursement. Exceptions must be approved by the Sheriff in advance of the course of study.

ARTICLE 31 - INCENTIVE PROGRAM

Section 1. Incentive Schedule.

In order to maintain and improve officers' law enforcement skills, as well as to increase the participation of officers in the life of the community, the County will implement an incentive program consisting of training and community service, Department of Public Safety Standards and Training certification, superior firearms qualification and supervisory certification as follows:

INCENTIVES	Monthly Amounts 7/1/14 (increase = to % increase in base)
DPSST Intermediate Certification	\$ 37.80
DPSST Intermediate Certification w/Bachelors	\$ 64.24
DPSST Intermediate Certification w/Masters or Ph.D.	\$ 75.58
DPSST Advanced Certification	\$ 82.89
DPSST Advanced Certification w/Bachelors	\$ 140.90
DPSST Advanced Certification w/Masters or Ph.D.	\$ 165.73
Range Qualification	\$ 37.80
Educational/Community Service @ 75 hrs	\$ 119.75
Educational/Community Service @ 50 hrs	\$ 82.89
Educational/Community Service @ 25 hrs	\$ 41.43
Supervisory Certificate	\$ 94.48
Supervisory Certificate w/Bachelors	\$ 160.65
Supervisory Certificate w/Masters or Ph.D.	\$ 189.87
Community Service Officers w/AA degree	\$ 37.80
Community Service Officers w/BA degree	\$ 82.89

Such amounts shall increase by an amount equal to the adjusted CPI increases as per Article 12 – Wages on July 1, 2015 and July 1, 2016.

Section 2. Firearms Proficiency Pay.

Sworn members of the Sheriff's Office who are members of the bargaining unit may participate in the annual firearms proficiency program. To receive firearms proficiency pay, a member must score a minimum of 85% on the annual spring firearms qualification course. The content/criteria of the test will be determined by CCSO

Firearms Training Unit subject to approval by the Undersheriff. The member may fire for proficiency pay only one time per year and there will be no make up courses. This restriction is necessary because members will be firing a portion of their regularly issued yearly firearms ammunition. The COUNTY shall pay for all authorized fees incurred at the firing range.

A member who scores a minimum of 85% on this qualification will receive additional compensation as described above effective the pay period following qualification. This pay will remain in effect for one year, or until the effective date of the next annual spring firearms qualification whichever is later.

Section 3. DPSST Certification.

Members who obtain a DPSST Intermediate Certificate in law enforcement or corrections will be paid additional compensation as described above.

Members who obtain a DPSST Advanced Certificate in law enforcement or corrections will be paid additional compensation as described above.

Certification pay will commence effective the pay period following submission of a successful application for certification to DPSST.

Section 4. Education and Community Service Pay.

All members of Clackamas County Sheriff's Office who are members of the bargaining unit are eligible to participate in the Education and Community Service Program.

Members who accumulate 25, 50, or 75 hours of community service and/or training credits annually in any combination will receive additional monthly compensation as described above. This incentive pay is not cumulative and members are eligible for one level only.

Members wishing to participate in the education/community service program must receive prior approval of their choices of volunteer activities or outside training.

Members will receive 10 hours credit for each successfully completed quarter hour of college credit classes.

Education credits will normally be granted for any college training that is job-related. Credits will also be awarded for non job-related college courses if they are required courses as part of a degree program in a job-related field. Approved jobs related training courses attended during off duty hours will count towards training points.

The Community Service Incentive Program is separate from the Tuition Reimbursement Program. The fact that a training or college course is approved for training points does not necessarily mean that it will be approved for tuition reimbursement.

Sworn employees in the Patrol Division who volunteer to participate in the "Citizen Ride Along Program" shall receive credit for twenty-five hours of the Educational/Community Service requirement of the incentive program.

Community service credits will normally be granted for all volunteer work assisting a government agency or any non-religious charitable or civic organization which is either supported by United Good Neighbors/United Way, supported by the Clackamas County Peace Officers Benevolent Foundation, or approved by the Sheriff.

Other than for the "Citizen Ride Along Program", community service credits will not be approved for compensated activities such as military reserve duty and training.

Education and community service hours will be compiled by the Training officer and submitted to payroll prior to June 15 each year. Pay for community service and training will commence with the first payroll period in July and will continue for a period of one (1) year.

Section 5. Supervisory Pay.

Employees who complete the DPSST Supervisory Certification Program shall be granted additional compensation as described above.

Section 6. Community Service Officers.

Community Service Officers who attain an Associates degree shall be paid additional compensation as described above. Community Service Officers who attain a Bachelor's degree shall be paid additional compensation as described above. Community Service Officers applying for compensation by way of this section shall have completed their degree work in a law enforcement field or an approved course of study related to a law enforcement career.

Section 7. Detective/Evidence Technician Incentive Pay Program.

Description. A Detective/Evidence Technician Incentive Pay Program shall be established which is additional pay that is based on the employee's base rate of pay and is not associated with the salary grade assigned the Detective or Evidence Technician classification. This Incentive Pay Program is designed to reward qualified Detective or Evidence Technician employees. This program is limited to employees within the Detective or Evidence Technician classification who are performing the typical Detective or Evidence Technician duties and responsibilities.

Amounts of Incentive Pay. This is a tiered incentive pay program:

- 2.5% 5-10 years of Detective or Evidence Technician "in grade" service
- 5.0% 10 years or more of Detective or Evidence Technician "in grade" service

Review Time Period. Incentive pay will be based on previous year employee evaluation and be paid to eligible employees beginning July 1, 2003.

Qualifications.

Criteria 1. Length of Service as Detective or Evidence Technician.

Employees are eligible for this incentive pay program upon serving 5 or more total years as a CCSO Detective or Evidence Technician. Only Detectives or Evidence Technician at the top step of Detective or Evidence Technician pay are eligible.

Criteria 2. Rotation Within Various Units of Detective Division. Detectives may be rotated through the various units (currently Major Crimes, Child Abuse Team and Property Crimes) when necessary to suit the needs of the Sheriff's Office. Seniority is still a consideration with regard to shift schedules and days off.

Criteria 3. Exceeds Expectations. The standard performance evaluation form will be used to evaluate and document the employee's performance for the year. An employee must receive a specific "Exceeds Expectations" rating on their performance evaluations, and have the required time in grade to be eligible to receive the incentive pay.

Detectives or Evidence Technician will be evaluated on the following: report reviews, investigative audits, case reviews, training file contents and supervisory input. Other considerations may include: response (when available) to the needs of the Sheriff's Office while off duty, assisting uniform personnel in the field when on duty and available, closely monitoring dispatch calls for service while on duty and in the field, attending required training (unless excused), and assisting with the training needs of the Sheriff's Office when requested.

Appealing Decisions of "Does not Meet Criteria". If an employee does not qualify for the Incentive Pay Program because his/her evaluation was below the rating criteria set forth above, then the employee may question the determination. Management would typically follow its chain of command in responding to the employee starting with a Lieutenant then up to the Division Commander. The Division Commander's decision is final. The UNION agrees that the employee has no further avenue for review and can not use the grievance process. An employee should check with his/her supervisor midway through his/her evaluation period and inquire as to his/her performance.

Changes to Incentive Plan. Any alterations to this plan deemed necessary will only be made through negotiations between the COUNTY and the UNION.

Section 8. Detective Sergeant Incentive Pay

Sergeants assigned to the Detective Division shall receive additional compensation equivalent to five percent (5.0%) of their base pay for the length of their assignment.

In consideration for the additional compensation given to Sergeants assigned to the Detective Division the Sheriff shall have the authority to move the Sergeants within the Sheriff's Office as needed for business reasons without a demand from the union to bargain the decision or any pay issues from the move.

ARTICLE 32 - EQUIPMENT

Section 1. Repair or replacement of personal property or equipment.

The COUNTY shall repair or replace an employee's personal property or equipment which the COUNTY requires the employee to have while working for the COUNTY and which is lost, damaged or stolen beyond usable or safe operating quality in the line of duty except as such is due to the employee's negligence.

Section 2. Vests.

The COUNTY shall provide sworn employees with either a vest rated at Threat Level IIA (with sharp object protection) or Threat Level IIIA flexible (with side panels) at the employee's option. The vests shall be replaced per the manufacturer's warranty of performance guidelines (currently 5 years). So long as the vest satisfies the required threat level, the County shall have discretion in selecting or approving vests including matters such as the supplier, price, make or model of the vests. If a qualified employee wants a vest not selected or approved by the County, it shall be the employee's responsibility to pay any differences beyond what the County will pay.

Section 3. Equipment Reimbursement

Effective January 1, 2016, the COUNTY will reimburse sworn uniformed employees in an amount up to ninety (90) dollars per calendar year for the purchase of belts, holsters, footwear, gloves, flashlights, handcuffs, radio equipment, vest upgrade, duty belt gear and approved uniform apparel with insignia that is not provided by the Sheriff's Office (hats, uniform sweaters, external vest carriers and mock turtle necks) to be used in carrying out their assigned duties. The employee shall provide to the COUNTY proof of purchase for the equipment items to receive the reimbursement.

Requests for reimbursement with original receipt(s) attached shall be submitted between January 1 and January 15 for equipment purchased in the previous calendar year.

ARTICLE 33 - CLEANING AND CLOTHING ALLOWANCE

Section 1. Uniform Cleaning.

Employees required to wear a uniform shall be paid \$20 per month as a cleaning allowance.

Section 2. Clothing Allowance.

Detectives shall receive a uniform allowance of \$600 per year, which shall be paid at a rate of \$50 per month on the first paycheck of each month.

ARTICLE 34 - LEGAL FEES

Section 1. The COUNTY agrees to reimburse bargaining unit members (employees) for the reasonable, usual, and customary legal fees and costs charged by an attorney as a direct result of criminal charges, investigation of use of deadly force, or a grand jury appearance against the employee arising out of the employee's involvement in the scope of the regular performance of his or her duty as an employee for the County. The County's obligation of reimbursement is subject to the following:

- A. To receive reimbursement under this Article, the employee must select an attorney from a list of attorneys that have been mutually agreed upon by the Union and the County Counsel. Neither party shall unreasonably oppose the inclusion of an attorney on the list. Within sixty (60) days of the execution of this agreement, the Union shall submit to the County Counsel, the names and professional biographies of the attorneys the Union proposes for inclusion on the list. If the County Counsel does not object in writing to an attorney on the list within twenty (20) working days, the attorney shall be included on this list. The names on the list shall be reviewed every six (6) months upon the request of either party. If no attorney on the list is available to represent the employee, the employee may obtain another attorney of his or her choosing; however, the County's obligation to reimburse will arise only if the County Counsel receives written notice of the selected attorney from the Union within five (5) working days of the employee or Union learning of the lack of availability of an attorney from the predetermined list. Following the initial meeting between the employee and the attorney, the Union shall arrange for the attorney to provide the County at no cost to the County a preliminary estimate of the anticipated legal fees, costs, and expenses. This preliminary estimate shall be directed to the County Counsel, the Sheriff, Risk Management, and the Union.
- B. Before becoming obligated under this Article, the County shall be presented with a sworn affidavit by the attorney listing an hourly breakdown of the time spent and a brief description of the purpose of such time. If the County, in its discretion feels the charges exceed the reasonable, usual, and customary fees normally charged, the parties shall submit the matter to the Oregon State Bar Fee Arbitration program for resolution. The decision of the OSB fee arbitrator or arbitration panel shall be final and binding as the County's obligation under this Article. Under no circumstances shall the provision of this Article give rise to a claim of any sort against the County by the attorney retained or selected by the Union member.
- C. Reimbursement will not be made in those instances where:
 1. The employee is convicted by verdict or plea, or pleads no contest to any criminal charges arising out of the incident; or
 2. The County sustains disciplinary charges on the basis of the employee's actions, which formed the basis for the possible criminal liability, and the

County's sustaining of the charges is upheld in all or part on any grievance or appeal of discipline; or

3. The employee resigns from employment following notification that criminal charges, grand jury proceedings, a disciplinary investigation or disciplinary charges are pending.
- D. The County shall have no obligation to reimburse an employee, the Union, or counsel for the Union for legal fees or costs in any instance where the employee or the Union elect to have counsel for the Union represent the employee involved in the incident at any stage of the criminal proceeding, including, but not limited to, any grand jury proceeding.
- E. Any reimbursement required by the County shall be made only at the conclusion of all criminal and disciplinary proceedings against the employee relating to or arising out of the incident and are subject to the following monetary maximums:
1. Legal fees relating to a grand jury investigation and/or appearance: \$7,500.
 2. Legal fees relating to post-grand jury indictment or other charging instrument: \$15,000.

Section 2. The County recognized that it is not entitled to the work product of the attorneys involved in this program. The County recognizes there exists an attorney-client privilege between the attorney and the employee.

Section 3. This Article will apply only to legal fees incurred after the date this contract is signed for cases that begin after that date.

ARTICLE 35 - SAVINGS CLAUSE

Should any Article, Section, or portion thereof, of this Agreement be held unlawful and unenforceable by any Court of competent jurisdiction, such decision of the Court shall apply only to the specific Article, Section or portion thereof, directly specified in the decision; upon the issuance of such decision of the Court, the parties agree immediately to negotiate a substitute, if possible, for the invalidated Article, Section or portion thereof.

ARTICLE 36 - ASSOCIATION RIGHTS

Section 1. Union Executive Board.

Employees selected by the UNION to act as Union representatives for grievance processing and other labor matters, shall be known as the UNION Executive Board. The names of employees so designated shall be certified in writing to the COUNTY by the UNION.

Section 2. Executive Board Release Time.

The Executive Board members certified by the UNION may investigate and process grievances and other labor related matters during working hours, within reasonable limits, and without loss of pay, providing it does not conflict with Sheriff's Office operations. In order to ensure that there is no conflict with Sheriff's Office operations, an absence from duty for the purposes of investigating and processing grievances or other labor related matters, must be approved in advance by a Lieutenant.

Certified Executive Board members may attend regular Executive Board meetings during working hours without loss of pay. Regular Executive Board meetings are typically scheduled for one hour on a monthly basis, however, meetings may last up to 90 minutes due to the press of business. The UNION may also from time to time schedule a second regular meeting in any individual month. The UNION will provide notification to the COUNTY of the date and time of Executive Board meetings held during working hours.

The UNION will exercise care to cooperate with the COUNTY to make sure there is no undue disruption to COUNTY operations caused by the operation of this section.

To accommodate the availability of the Association President to perform Union/County business, at the mutual agreement of the Association President and the Sheriff, the Association President will be assigned to a shift which includes a majority of its hours Monday through Friday, 8:00 a.m. to 5:00 p.m. Prior to the commencement of the shift bid, the President will meet with management to determine the President's shift assignment.

The UNION shall have the right to have a bulletin board and a mailbox in each facility occupied by the Sheriff's Office.

Section 3. Union Negotiating Committee.

Employees selected by the UNION to act as Union representatives for negotiations, shall be known as the UNION Negotiating Committee. The names of employees so designated, up to a total of five (5) employees, shall be certified in writing to the COUNTY by the UNION.

Section 4. Negotiating Committee Release Time and Paid Bargaining Time.

Negotiating Committee members may attend negotiation sessions and caucuses held at the same site up to one hour before and during the sessions without loss of pay if held during working hours. If such negotiation sessions or caucuses are held outside of the member's working hours, the member will be paid at the member's regular rate of pay

including overtime if applicable. Paid time or release time for negotiating sessions or caucuses will include all time in mediation sessions.

Section 5. COUNTY- UNION Meetings.

The COUNTY or its designee(s) may meet at mutually convenient times with the UNION Executive Board, Negotiating Committee or UNION officers. All meetings between the COUNTY or its designee(s) and the UNION shall be held during working hours whenever possible and without loss of pay. The purpose of the meetings may be to discuss issues which would improve the relationship between the parties.

ARTICLE 37 – LIGHT DUTY

Section 1.

Employees have an ongoing responsibility to notify their supervisor if they are unable to fully perform their regular duties due to injury or illness. The nature of sworn law enforcement positions requires that each officer be physically able to assist fellow officers in time of need. Employees are not required to inform their supervisor of confidential medical information, only the limitations that have occurred because of a medical condition. The County may verify medical information but must do so in a manner that protects medical confidentiality and complies with federal law (HIPAA) and EPP #42 (Employee Records).

Section 2.

Training, and specifically defensive tactics training, is an integral part of regular job duties for sworn law-enforcement personnel. Limited participation in defensive tactics training, sometimes referred to as “tape and play,” is a mutually accepted practice that enables an employee to participate in limited defensive tactics training while simultaneously identifying injuries that must be protected from aggravation during the training activity. Where no physical participation in defensive tactics training is possible due to the extent of illness or injury, mere observation of the training is not an effective means of participation. Employees will be expected to participate in the next scheduled training after their illness or injuries have resolved.

Section 3.

Issues of fitness for duty, including fitness for defensive tactics training, cannot be resolved without the involvement of trained medical professionals who are both knowledgeable about the extent of illness/injury and the specific job duties or training activities of the individual. Questions of fitness for duty will be referred to medical professionals using the County’s standard procedures.

Section 4.

In the interim time period while waiting for the involvement of trained medical professionals to be completed, decisions about fitness for duty must be made by supervisors, based on their observations and on the information provided by employees. Fitness for duty issues (other than minor injuries) should be addressed, wherever possible, on an ongoing basis and prior to the day of scheduled defensive tactics training.

Section 5.

The rigorous nature of job duties in sworn positions at the Sheriff's Office creates the need for additional light duty opportunities, over and above the standard County policy limiting light duty to 90 days except in unusual circumstances (EPP #9). For this reason, an additional 90 days of light duty will be available to employee in sworn positions (for a total of 180 days), upon application to the Sheriff and his approval of such additional light duty. Approval will be contingent on continued available light duty. The Sheriff will grant the additional light duty where (1) it appears to be medically necessary and (2) there is a reasonable probability that the additional light duty will allow the employee to return to regular duty. Light duty for sworn personnel in the Sheriff's Office will be limited to 180 days total, except in unusual circumstances to be determined at discretion of the Sheriff.

ARTICLE 38 – DEPUTY MEDICAL EXAMINERS

Section 1. Application of Article

This article shall apply to all Deputy Medical Examiners (DMEs) including the Senior Deputy Medical Examiner.

Section 2. Workweek

DMEs will work a schedule of forty-eight (48) hours on duty and ninety-six (96) hours off duty. In each twenty-four (24) hour period, twenty hours will be considered on duty, with four (4) hours for rest periods. For payroll purposes, this workweek will be considered as consisting of forty (40) standard paid hours.

In each twenty four (24) hour work period, a DME is required to be in the office for twelve (12) hours in the following manner: 1) from 0700 to 1800 each day and 2) the remaining hours to be spent at the monthly three (3) hour staff meeting/case review. If a DME cannot make the Staff Meeting/Case Review, they shall be required to use appropriate leave time, or may flex their schedule with the prior approval of management.

If a DME can document that they have worked for twenty (20) hours without breaks or meal periods, they shall be entitled to be paid overtime at the overtime rate as outlined in Section 8 below for each hour worked in excess of twenty (20) up to twenty-four (24). If such time crossed into their next scheduled twenty-four (24) hour work period, they shall return to straight time.

A DME must take an eight (8) hour rest period after their forty-eight (48) hour duty period prior to working overtime, unless approved by management. All overtime must be pre-approved by management. If a case comes in within three (3) hours prior to the end of a DME's shift, management, in discussion with the DME, will decide who will be assigned the case.

The working supervisor will take calls and complete that investigation during his/her shifts when the assigned DME for that shift is on leave or is working another case and cannot respond.

Section 3. Standby Pay

When a DME is on leave, the hours not covered by the working supervisor will be offered as standby duty to the remaining DMEs based on seniority, with the most senior employee being offered first.

DMEs shall be paid four (4) hours straight-time pay as outlined in Section 8 below for every twenty-four (24) hours of standby duty, or one (1) hour straight time pay for every six hours of standby. If the DME is required to respond to a call, regular overtime rules shall apply, pursuant to Article 31 of this contract but paid as describe in Section 8 below.

While on standby, DMEs will be required to carry and respond to a pager, cellular phone, or phone calls, and report to work if directed to do so.

Section 4. Call Back Pay

DMEs that are called to physically report to a worksite outside of their regular forty-eight (48) hour shifts (that is, hours outside of a scheduled shift) will be paid for actual time worked, in fifteen minute increments, with a minimum of two (2) hours at the rate of pay as outlined in Section 8 below.

Actual time worked during call back hours will be paid at the rate of pay as outlined in Section 8 below, except phone call pay as set forth in Section 5 and Section 8 below. The overtime rate will be paid only up to the start of the regular shift.

Section 5. Phone Call Pay

DMEs who answer work-related phone calls, pages, or electronic messages after work hours (while on standby outside regular work hours), will be paid for actual time worked at the rate of pay as outlined in Section 8 below. If the phone call is fifteen (15) minutes or less, the DME shall be paid for fifteen (15) minutes at the rate as outlined in Section 8 below.

Section 6. Leave Hours

Vacation leave will consist of twenty (20) hours per day. Sick leave will consist of twenty (20) hours per day. Holidays will be paid at twenty (20) hours per day.

Section 7. Deputy Medical Examiner Supervisor

It is recognized that the County may rely on the DME Supervisor for after hour phone calls, pager, or electronic messages. However, when there is only one DME on shift and that DME is absent from work, the DME Supervisor will offer any call-back to the remaining bargaining unit staff on a seniority basis before performing the work himself or herself.

Section 8. Rates of Pay.

It is recognized that due to the non-standard schedule that is worked by the Deputy Medical Examiners, the following formulas will be applied to their rate of pay:

- a) Standby, Vacation, Sick, Holiday, Bereavement and Training shall be paid at the regular rate of pay x 1.23075
- b) Call Back, Phone rate, and other overtime shall be paid at the regular rate of pay x 1.846125

ARTICLE 39 – EAP/Psychological Review

The Sheriff or designee may, with cause, order any employee to consult with EAP as necessary. The results of the consultation shall remain confidential except that the EAP will contact the Department of Employee Services' Integrated Disability Analyst to confirm the employee's consultation. The appointments will be on paid straight time.

ARTICLE 40 - TERMINATION

Section 1. Except as otherwise provided, this agreement shall become effective as of the date it has been ratified by both the County Board and the Union membership and shall remain in full force and effect until the 30th day of June, 2017 or until a subsequent contract is negotiated. This Agreement shall automatically reopen on March 1, 2017 for negotiations. If negotiations of a successor agreement are not concluded by July 1, 2017, this agreement shall automatically continue until such time as the successor agreement is concluded.

Section 2. This Agreement may be amended at any time by mutual agreement of the UNION and COUNTY; such amendments shall be in writing and signed by both parties.

IN WITNESS THEREOF, the parties hereto set their hands thus _____ day of _____, 2014.

FOR THE UNION

FOR THE COUNTY

Stephen Steinberg
President, CCPOA

John Ludlow
BCC Chair

Anil Karia
Attorney

Mary Raethke
Recording Secretary

Jason Ritter
Vice President

Craig Roberts
Sheriff

Rich Sneath
Vice President

Matt Ellington
Undersheriff

Jeff Burlew
Vice President

Kevin Layng
Chief Deputy

Mike Copenhaver
Sergeant

Jeff Smith
Patrol Lieutenant

Jesse Ashby
Sergeant

Lee Eby
Corrections Lieutenant

Christina Thacker
Assistant County Counsel

Jennifer Joslin Brown
Human Resource Analyst

Nancy Drury
Chief Negotiator

Appendix A
CLACKAMAS COUNTY SHERIFF'S OFFICE REQUEST TO VOLUNTARILY DEMOTE

NAME:	(Last)	(First)	(MI)
EMPLOYEE ID:			
CURRENT CLASSIFICATION:	<input type="checkbox"/> Corrections Deputy (121) <input type="checkbox"/> Deputy Sheriff (103)		
REQUESTED CLASSIFICATION:	<input type="checkbox"/> Corrections Deputy, Recruit (120) <input type="checkbox"/> Deputy Sheriff, Recruit (119)		

In order for this request to be considered, the employee must meet the following requirements:

- On a current eligibility list for Requested Classification.
- Completed 18 months as a Corrections Deputy (121) or Deputy Sheriff (103) level.
- Current (within the preceding 12 months) Sheriff's Office performance appraisal on file which rates employee's performance as meets or exceeds standards in all areas. Please attach performance appraisal to this request.
- No disciplinary action on file within the last 24 months.

If my request to voluntarily demote is approved, I understand that my employment status will change in the following ways:

- While in training and performing work described in the Recruit classification indicated above, I will be placed into the Recruit classification identified as Deputy Sheriff, Recruit (Vol Dem) or Corrections Deputy, Recruit (Vol Dem).
- My pay rate will be reduced to salary grade POA 16D, Step 5 which is equivalent to Corrections Deputy 121/Deputy Sheriff 103 POA 20, Step 1.
- My training (DPSST/FTEP/Other training requirements) will be completed within 12 months unless extended by Division Commander.
- Upon successful completion of training, I will be promoted to Corrections Deputy 121/Deputy Sheriff 103, salary grade POA 20, Step 2.
- My next merit eligibility date will be first of the month following six (6) months from the date of promotion. My merit eligibility cycle will be every six (6) months until I have reached the Step held prior to my voluntary demotion, after which I be eligible to receive merit increases every twelve (12) months.
- My seniority will be determined in accordance with the POA Collective Bargaining Agreement.
- While in training, I can request reappointment to my previous classification for reasons other than misconduct or discredit on my employment record. I will be returned to a vacant position in my former classification at my previous Step.
- If, while in training, the Sheriff or designee determines my performance is not meeting established standards, I will be returned to a vacant position in my former classification at my previous Step.

Employee	Date
Supervisor	Date
Undersheriff	Date

If request is approved by Sheriff's Office management, please attach completed Personnel Action Form and submit packet to DES.

ADDENDUM 1

DRUG AND ALCOHOL TESTING POLICY

**Clackamas County Sheriff's Office
Peace Officers Association Employees**

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5.31 DRUG AND ALCOHOL TESTING POLICY

Clackamas County Sheriff's Office

5.31.1 POLICY STATEMENT

The Clackamas County Sheriff's Office (CCSO) is strongly committed to providing a safe and drug-free workplace.

The CCSO recognizes each individual's value and contribution to the services we provide to the public. Therefore, this Policy includes assistance to employees who wish to overcome an alcohol or drug dependency problem (see "Employee Assistance Program and Self-Referral").

The Drug and Alcohol Testing Policy is intended to be consistent with and enhance the Clackamas County Employment Policy and Practice #5 - Drug Free Workplace Act and Policy Proclamation.

5.31.2 EDUCATION AND TRAINING

The CCSO will distribute information to employees regarding the Drug and Alcohol Testing Policy; the dangers of drug and alcohol abuse in the workplace; drug and/or alcohol counseling, rehabilitation, and employee assistance resources. Employees will be required to sign a form acknowledging receipt of this information.

At the time of hire, new employees will receive specific information regarding the Drug and Alcohol Testing Policy and be informed of their responsibilities with respect to compliance with this policy.

Persons who may be required to make "reasonable suspicion" recommendations or determinations will receive training on recognition of the physical, behavioral, speech and performance indicators of probable alcohol and controlled substances use. The duration of the training will be at least sixty minutes each for 1) alcohol and 2) controlled substances use recognition, with additional follow up training to be provided, to maintain and increase proficiency.

5.31.3 EMPLOYEE ASSISTANCE PROGRAM AND SELF-REFERRAL

Any employee may voluntarily request assistance in dealing with a personal drug and/or alcohol problem through the Employee Assistance Program (EAP) or other acceptable treatment program. Utilization of the EAP is confidential and an employee's utilization of the EAP will not be made known to the Sheriff's Office or the County unless the employee voluntarily chooses to share that information. However, voluntary self-referral for alcohol and/or illegal drug use is not in itself a "safe haven." The guidelines listed below will apply to self referrals.

- A. Any employee not currently under personnel investigation who voluntarily requests assistance in dealing with a personal alcohol and/or drug problem, may do so without jeopardizing his or her employment, if the alcohol and/or drug of abuse was originally prescribed to, or legally obtained by the employee, but was later abused by the employee.

B. Participation in the EAP or other acceptable treatment program will not, in itself, jeopardize an employee's job, and successful treatment will be viewed positively. However, participation in the EAP or treatment program will not prevent the CCSO from imposing discipline for conduct that occurs in conjunction with alcohol and/or drug use in violation of Sheriff's Office policy, and will not relieve an employee from the responsibility to perform assigned duties safely and at a satisfactory performance level.

5.31.4 DRUG EVALUATION; LEAVE OF ABSENCE

An employee may be required to undergo an evaluation by a Substance Abuse Professional (SAP) approved by the Sheriff's Office if he or she is involved in an alcohol and/or drug related incident. This evaluation will determine the extent of any alcohol and/or drug problem and the appropriate treatment. The employee will then be required to participate in, and successfully complete, an alcohol and/or drug education and treatment program as recommended by the SAP. Any cost of such an evaluation not covered by the employee's medical insurance shall be paid by the Sheriff's Office. The cost of the substance abuse treatment will be the responsibility of the employee if not covered by the employee's insurance. Substance abuse evaluation and treatment will be in addition to any disciplinary action taken.

Absences due to alcohol and/or drug abuse evaluation or treatment may be covered by an employee's sick leave or vacation leave. If no such paid leave is available, an unpaid leave of absence may be used according to the County's regular policy for unpaid leave of absence.

Return to duty, after an employee has been on leave required by this policy for evaluation or treatment of an alcohol and/or drug problem, will be allowed only in compliance with the recommendations of the SAP.

5.31.5 PRESCRIPTION MEDICATIONS

Prescription medications can present a danger to employees and their co-workers due to their effects on alertness and job performance. Employees should ask their physicians for specific instructions as to how much medication they should take and when they should take it to ensure safe use relative to work. Non-compliance with the recommended dosage of medications which results in an incident or accident will be considered a violation of this Policy.

Employees must report the use of medically prescribed drugs or other substances which could reasonably be expected to impair job performance. It is the employee's responsibility to determine from their physician whether the prescribed drug could reasonably be expected to impair his or her job performance, including the ability to operate a motor vehicle. An employee who is taking such medications should write, date, and sign a brief note stating that he/she has discussed use of the medication with his/her doctor in relation to job duties; the type of medication; beginning and ending dates of treatment. The employee should give the note in a sealed envelope to his/her direct supervisor for confidential delivery to the Designated Employer Representative

(DER). The DER working in conjunction with Sheriff's Office management will then determine whether to require written medical authorization to work from a prescribing health care practitioner or if any other actions are necessary.

Management will restrict access to medical information to the DER, the Sheriff, Undersheriff or person appointed to fulfill the duties of the Sheriff or Undersheriff and will protect the confidentiality and security of the information.

All medicines brought onto County property/premises must be in their original containers with the pharmacy label showing the patient's name and dosage instructions. Use of another person's prescription is a violation of federal law and of this policy.

Failure to notify management of the use of medication that could affect the performance on the job can lead to disciplinary action, up to and including discharge.

"Medical Marijuana"

Marijuana is a Class I controlled substance; its possession and use is illegal under federal law. Although the State of Oregon permits the possession and use of marijuana to treat medical conditions when supported in writing by a licensed medical doctor and certain conditions have been met, this is not an acceptable explanation for a positive drug test under this Policy. The Sheriff's Office is a law enforcement agency and will observe the terms of federal law, which preempt state law in this regard. The Medical Review Officer will automatically verify positive tests as being positive without regard to the existence of a medical marijuana card.

In addition; possession of marijuana on county property is grounds for discipline up to and including dismissal.

5.31.6 PROHIBITIONS

A. Drugs: The Sheriff's Office strictly prohibits the unauthorized possession, use, delivery, distribution, or manufacture by an employee of a controlled substance that is not medically authorized.

B. Alcohol: The Sheriff's Office strictly prohibits the unauthorized possession or use of alcoholic beverages on or off county premises during normal working hours or while on duty, which includes lunch breaks.

C. Refusal To Be Tested When Required: Refusal by an employee to submit a urine specimen and/or breath alcohol sample when required by this Policy will have the same consequences as a positive drug and/or alcohol test result (see "Discipline" section). It will warrant immediate removal of the employee from duty.

5.31.7 CALLBACK DUTY

It is recognized that employees may be recalled to duty during normal off duty hours. Callback of employees who have consumed prescription medication and/or alcohol that affects an employee's ability to perform his/her duties is discouraged. However, when

operational need dictates the necessity to recall these employees, caution and good judgment must be exercised. The employee is required to notify his or her supervisor of the prescription drug and/or alcohol consumption and to receive the supervisor's approval before responding to the callback.

5.31.8 TYPES OF DRUG AND ALCOHOL TESTING REQUIRED

The following are occasions for drug and alcohol testing under this policy:

Reasonable Suspicion Testing

An employee may be required to submit to a drug and/or alcohol test upon reasonable suspicion that the employee has violated the prohibitions of this policy concerning alcohol and/or controlled substances. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or controlled substances test must be based on specific, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

The "reasonable suspicion" behavior should be witnessed by at least two persons if at all feasible, but only one observation is required. A drug and/or alcohol test can be required only by a Lieutenant who has first consulted with a Captain or higher ranking officer, a Lieutenant who has been designated to act temporarily as a Captain, or a Captain or higher ranking officer. The officer ordering the drug and/or alcohol test may rely on the observation and recommendation of Sergeants, bargaining unit or non-bargaining unit personnel. Those who make a decision to test an employee will be trained in identifying appearance or conduct that indicates the possible use of controlled substances or misuse of alcohol.

Any "reasonable suspicion" incident will be documented as soon after the incident as possible and the CCPOA will be provided with a copy of that documentation. The employee involved will be immediately removed from the workplace and escorted by a supervisor to a urine specimen collection or alcohol testing site. The employee will NOT be allowed to proceed to the site unaccompanied. A negative dilute result is unsatisfactory on a reasonable suspicion test for drugs. The employee will be given one additional opportunity to provide a valid specimen. The result of the second test will prevail.

Employees will have access to union representation if requested at every step of the "reasonable suspicion" testing procedures, except during specimen collection. The County will inform the union representative of the reasonable suspicion that supports the testing requirement. A union representative shall be notified immediately upon the request of the employee and the representative shall be afforded two (2) hours to respond. This representation shall not delay established collection and testing procedures. A list of qualified union representatives will be provided to the County.

Return to Duty and Follow-up Testing

The CCSO shall require return to duty and follow-up testing if recommended by the SAP when an employee has engaged in prohibited alcohol-related behavior or the misuse of prescription drugs. A negative alcohol or drug test is required prior to return to duty and at least six (6) unannounced follow-up tests are required during the twelve (12) months following return to duty. Any recommendations by the Substance Abuse Professional (SAP) shall be followed, but follow-up testing may continue for no longer than sixty months following return to duty.

Please refer to "Return to Duty Procedures" and "Disciplinary Action and Procedures" for additional information.

5.31.9 COSTS OF TESTING

The County/CCSO will be responsible for payment of all reasonable suspicion tests. The County/CCSO will be responsible for payment of any requested split tests, return to duty tests, and follow-up tests with a negative test result, or canceled test.

The employee will be responsible for payment of any requested split tests, return to duty tests, and follow-up tests with a positive result. The County/CCSO will initially pay for the test and then collect reimbursement from the employee.

5.31.10 DRUG AND ALCOHOL TESTING PROCEDURES

Testing procedures for all employees are governed by the same standards as apply to commercial driver license holders under federal law with the exception of forms required by the United States Department of Transportation (DOT) for CDL drivers. These standards include, but are not limited to, those governing sample acquisition, the chain of custody, laboratory selection, testing methods and procedures, and verification of test results.

Drug Testing:

A. Urine specimen collection for drug testing will be performed by qualified individuals in conformance with current standards of practice and with respect for the privacy and dignity of the person giving the specimen. Drug test specimens will be collected to provide at least 30 mL of urine in a "primary specimen" shipping bottle and at least 15 mL of urine in a "split specimen" shipping bottle.

B. If an employee is unable to provide an adequate volume of urine on the first attempt ("shy bladder"), he/she will have an opportunity to drink up to 40 ounces of fluids for up to three hours. At the end of this period, if no sample of adequate volume has been provided, the employee will be referred to a physician acceptable to the Medical Review Officer (MRO) to determine whether the incident constituted a refusal to test as outlined in 49 CFR 40.193.

C. Only laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services will perform drug testing.

D. When an initial screening test for drugs is positive, a second, confirmatory test will automatically be performed. Confirmed positive drug tests will be reported by the testing laboratory to the MRO for verification (see "Drug Test Results Review").

Breath Alcohol Testing:

- A. Breath alcohol testing will be performed only by qualified Breath Alcohol Technicians. Testing will be conducted using evidential breath alcohol testing devices listed on the Conforming Products List of the National Highway Traffic Safety Administration.
- B. A positive test will be confirmed as follows:
 - 1. The individual being tested is instructed not to smoke, use mouthwash, drink, or eat for a period of 15 minutes.
 - 2. Within 30 minutes of completion of the initial screening test, a confirmatory breath test is conducted as described in 49 CFR Part 40. The result is recorded in the "Confirmation Test Results" section of the Alcohol Test Form.
- C. If the result of the confirmed breath alcohol test is positive, the Breath Alcohol Technician must immediately notify the Designated Employer Representative or his/her designated representative, who will arrange for transportation of the individual from the alcohol testing site. The Breath Alcohol Technician will then forward a copy of the Alcohol Test Form to the Designated Employer Representative.
- D. Under this policy, an employee with a confirmed positive breath alcohol test shall be considered to be in violation of this policy. A positive test for alcohol shall be: having alcohol present in an employee's systems at a level of 0.01 g/210L or greater while on duty.

5.31.11 DRUG TEST RESULTS REVIEW

Drug test results on an employee which are reported as positive, adulterated, or substituted by the testing laboratory will be reviewed and verified by the MRO. A confirmed positive test does not automatically identify an employee as having used drugs in violation of this Policy. The MRO brings detailed knowledge of possible alternate medical explanations to his/her review of the test results. This review is performed by the MRO prior to the transmission of results to the DER.

A POSITIVE drug test result is defined as the detection of any one or more of the substances and/or metabolites of the substance listed in the table shown below.

Urine 8 Drug Panel

Substance or Class	Screen Cut-off	Confirmation Cut-off
Amphetamines	500 ng/mL	250 ng/mL

Benzodiazepines	200 ng/mL	200 ng/mL
Cocaine	150 ng/mL	100 ng/mL
Marijuana (THC)	50 ng/mL	15 ng/mL
Methadone	300 ng/mL	200 ng/mL
Opiates <i>Codeine/Morphine</i> <i>Hydrocodone,</i> <i>Hydromorphone,</i> <i>Oxymorphone</i> <i>Fentanyl</i>	300 ng/mL	2000 ng/mL 150 ng/mL **LOQ 2 ng/mL
6 Acetylmorphine (Heroin)	10 ng/mL	10 ng/mL
PCP	25 ng/mL	25 ng/mL

** Limit of Quantitation

Medical Review Officer Reporting Options and Employer Actions

- “Negative” – self explanatory
- “Negative Dilute” – Upon receipt of a “negative dilute,” the employee shall be required to immediately provide another specimen. The collection shall be conducted with the minimum possible advance notice and the employee shall be escorted to the collection facility by the DER; Supervisor, or other designated person. In the event the second test result is “negative dilute,” no further action will be taken and the second test shall become the test of record. If the employee is directed to take a second test and the employee declines to do so, this is a “Refusal to Test”.
- “Canceled – Split specimen test could not be performed.” This will occur when the primary specimen was positive, and the donor requests an independent test, and the split specimen is not available for testing. The employer must ensure an immediate collection of another specimen, under direct observation, with no advance notice to the donor.
- “Canceled – Test Not Performed, Fatal Flaw (with flaw stated) or Uncorrected Flaw.” No further action required unless a “Negative” test result is required for reasonable suspicion, return to duty or follow up. A canceled drug test is neither positive nor negative and no consequences must be attached to it.
- “Cancelled Invalid Result.” An “invalid result” means the laboratory was unable to obtain a valid result when attempting to test the specimen. If the MRO has accepted the donor’s explanation as to why the laboratory was unable to obtain a valid result, then the MRO will advise the employer “direct observation not required.” The employer is not required to take any further action unless a “negative result is required (i.e., reasonable suspicion, return to duty or follow up). If the MRO has not accepted the donor’s explanation, then the MRO will advise the employer “a second collection must take place immediately under direct observation”.
- “Positive or Positive Dilute” – The employer must comply with the requirements for a positive test as outlined in this policy.
 - Immediately remove employee from duty; and

- Referral to a SAP – If the employee is terminated, he/she is to be furnished with a list of SAP resources (names, addresses, and telephone numbers).
- Return to Duty provisions must be followed.
- “Adulterated-Refusal to Test” – Follow same procedures as required on a positive test result.
- “Substituted-Refusal to Test” – Follow same procedures as required on a positive test result.

MRO Verification Without Notifying the Employee

The MRO is permitted to verify a test as positive, or as a refusal to test because of a laboratory report of a positive, adulterated, or substituted specimen without interviewing the employee under the following circumstances:

- The employee expressly declines the opportunity to discuss the test with the MRO;
- The MRO has successfully made and documented a contact with the employee, and instructed the employee to directly contact him/her, and more than 72 hours have passed since the time the MRO contacted the employee.

NOTE: If a test is verified positive under the latter circumstances, the donor may give the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented him/her from contacting the MRO. On the basis of this information, the MRO may re-open the verification, allowing the donor to present information concerning a legitimate explanation for the positive test. If the MRO concludes that there is a legitimate explanation, the MRO shall verify the test as negative.

Upon verifying a test result as positive, the MRO will inform the donor of the option for having the “split” portion of his/her specimen tested. The donor must notify the MRO of a desire to exercise this option within 72 hours of being notified of the positive result.

The MRO will not delay reporting of a verified positive test result pending “split” specimen testing. If a donor requests testing of the “split” specimen but none is available, the MRO will cancel the entire test.

Communication of Results

The MRO or his/her designated representative will report test results ONLY to the County’s DER who shall notify either the Sheriff, Undersheriff or person appointed to fulfill the duties of Sheriff or Undersheriff . Confidentiality will be strictly maintained. If the result is positive, the MRO or his/her authorized representative will report the identity of the controlled substance.

Employees may obtain copies of their test results by requesting them in writing from the MRO within 60 days of being notified of the results.

5.31.12 FAILURE TO COOPERATE

Failure to cooperate with any aspect of this Policy, including but not limited to falsifying or attempting to falsify test results or specimens or refusing to cooperate in testing will subject the employee to discipline, up to and including discharge.

5.31.13 DISCIPLINARY ACTION

A. Any employee found to be in violation of this Drug and Alcohol Testing Policy will be removed from duty and is subject to discipline, up to and including discharge.

B. Employees who have voluntarily requested assistance concerning drug and/or alcohol problems and/or voluntarily entered into drug or alcohol evaluation and treatment programs shall have their actions taken into consideration as set forth in section 5.30.3.

C. Positive Alcohol or Drug Test. Any employee who has had a verified positive breath alcohol or drug test shall be subject to progressive disciplinary procedures, including dismissal.

D. Prescription Drug Abuse. An employee who has tested positive for the presence of drugs which were originally legally prescribed, but may have been abused by the employee shall be referred to an employee assistance program or SAP for drug counseling or treatment. As an alternative to dismissal, the employee shall be subjected to a last chance agreement as a condition of continued employment, which shall include a requirement that the employee submit to unannounced drug testing if recommended by a SAP, for a period of time recommended by the SAP. If the employee violates the terms of treatment or rehabilitation, or again tests positive during such period, he or she may be immediately discharged.

CONFIRMED ALCOHOL OR PRESCRIPTION DRUG RESULT

Any employee who has had a confirmed positive alcohol test result while on duty or has abused prescription drugs shall be in violation of this policy, which may result in any of the following actions, up to and including dismissal:

- Verbal and written reprimands
- Placement on administrative leave
- Suspension or termination of employment
- Initiation of a criminal investigation

If the level of discipline allows an employee to return to duty, they must agree to the following conditions:

- Meet all recommendations/requirements of the Substance Abuse Professional (SAP).

- In the event the SAP does not specify any follow up testing, shall undergo up to six (6) periodic, alcohol tests at the discretion of the Designated Employer Representative within one (1) year of returning to duty.
- Any confirmed positive alcohol or verified positive prescription drug abuse result while the employee is undergoing required return to duty or follow-up treatment and/or testing shall result in termination.

POSITIVE DRUG TEST

Any employee who has had a verified positive drug test or has abused prescription drugs shall be in violation of this policy, which may result in any of the following actions:

- Verbal and written reprimands
- Placement on administrative leave
- Suspension or termination of employment
- Initiation of a criminal investigation
- Prosecution

If the level of discipline allows an employee to return to duty, they must agree to the following conditions:

- Meet all recommendations/requirements of the Substance Abuse Professional (SAP).
- In the event the SAP does not specify any follow up testing, shall undergo up to six (6) periodic, drug tests at the discretion of the Designated Employer Representative within one (1) year of returning to duty.
- Any confirmed positive alcohol or verified positive drug result while the employee is undergoing required return to duty or follow-up treatment and/or testing may result in termination.

5.31.14 RETURN TO DUTY PROCEDURES

Employees who have violated this policy may only return to duty if the level of discipline allows it and the employer has determined them eligible. The following statements reflect the return to duty and follow-up testing requirements of this policy:

1. Employees who have had a confirmed positive alcohol test or have abused prescription drugs must be evaluated, undergo treatment, if required, and be determined fit for return to work by the Substance Abuse Professional.
2. Employees may be subject to periodic unannounced follow-up testing as determined by the Substance Abuse Professional who evaluated the employee. If the employee was found to need assistance in resolving his/her substance misuse problem, a minimum of six (6) such follow-up tests must be conducted during the twelve (12) months following the employee's return to duty.

5.31.15 RECORD KEEPING PROCEDURES

- A. The County's DER will maintain alcohol/drug testing records in a secure filing system, separate from the County Personnel files, with information available only on a "need to know" basis.

B. An employee is entitled, upon written request, to obtain copies of any records concerning his/her use of alcohol or controlled substances. Requests for such information may be directed to the DER, SAP, or to the County drug testing management service.

C. Information regarding an individual's alcohol/drug test results or rehabilitation is considered to be personal and confidential and may be released only upon written consent of the individual, except:

1. Such information may not be released to any state official with specific regulatory authority over the Sheriff's Office or law enforcement personnel unless legally required.
2. Such information may be disclosed in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from an alcohol test and/ or a drug test.
3. When the County is compelled by a judicial determination or order that the information is not protected from disclosure.
4. The information is needed by medical personnel for the diagnosis or treatment of a patient who is physically unable to authorize disclosure.

D. The County shall release information regarding an employee's records to a subsequent employer upon receipt of a specific written request from the employee authorizing release of the records to an identified person.

E. Record Retention

The following schedule of record keeping will be maintained by the DER and his/her authorized agents:

Negative and canceled drug test records; records of alcohol test results less than 0.01 g/210L.	1 year
Records of supervisor training	Indefinite or 2 years beyond job responsibilities
Records of verified positive alcohol/drug test results; refusals to be tested for drugs and/or alcohol; SAP evaluations and referrals; follow-up tests and schedules	5 years

5.31.16 INFORMATIONAL RESOURCES

Information on this Policy and associated procedures is available by contacting the DER as outlined on the Intranet at:

http://web1.clackamas.us/mydepartment/3004.jsp?q_dept=DES&q_pagename=drugtesting.htm

Questions may also be addressed directly to the County's drug testing management service.

5.31.17 COMMERCIAL DRIVERS LICENSE DUTIES

Employees performing jobs requiring a commercial drivers license will be required to comply with the Federal Motor Carrier Safety Administration (FMCSA) drug and alcohol testing regulations, (see separate policy for DOT drivers).

ATTACHMENT A

DEFINITION OF TERMS

For the purposes of this Policy, the following definitions apply.

Abuse/Misuse of Prescription Drugs: The use of a drug not in accordance with the prescribed dosage or method of use.

Adulterated Specimen: A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol: Ethyl alcohol or ethanol.

Alcohol Screening Device (ASD): A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.

Breath Alcohol Technician (BAT): An individual who has been trained to proficiency in the operation of the evidential breath testing device he/she is using as required under 49 CFR Part 40.

Breath Alcohol Testing Site: A location which affords visual and aural privacy for the performance of breath alcohol testing. No unauthorized person shall be permitted access to the breath alcohol testing site when the evidential breath testing device is unsecured or at any time when testing is being conducted. In unusual circumstances, e.g. after an accident when a test must be conducted outdoors, the breath alcohol technician must provide visual and aural privacy to the greatest extent practicable.

CCSO: Clackamas County Sheriff's Office

CFR: United States Code of Federal Regulations

Chain of Custody: Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory be used from time of collection to receipt by the laboratory.

Collection Site: A designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collector: A person who instructs and assists applicants and employees through the urine specimen collection process.

Confirmation Test: A second analytical drug testing procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC-MS) is the usual confirmation method for drug testing at this time.

Controlled Substances: Substances listed on Schedules I through V in 21 U.S.C. 802 as they may be revised from time to time (21 CFR 1308). Controlled substances include illicit drugs and drugs which may be authorized for use by a physician or dentist for certain medical uses, but which are subject to misuse or abuse.

County: Clackamas County and/or Clackamas County Sheriff's Office

Designated Employer Representative (DER): An employee authorized by the employer to assist supervisors in taking immediate action(s) to remove employees from safety-sensitive duties and to make decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this policy.

Dilute Specimen: – A specimen with creatinine and specific gravity values that are lower than expected for human urine.

DOT: United States Department of Transportation

Drugs: Controlled Substances.

FHWA: Federal Highway Administration

FMCSA: Federal Motor Carrier Safety Administration

Initial or Screening Test: An immunoassay screen to eliminate "negative" urine specimens from further consideration.

Medical Review Officer (MRO): A licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders and drug testing who is responsible for reviewing and verifying drug testing results prior to their communication to the DER.

Negative Drug Test: A test in which initial or confirmation testing under DOT procedures did not show evidence of a prohibited drug in an employee's or applicant's system above established levels; OR, a test which is verified as negative by the MRO (e.g. review showed positive test was due to prescription medication or other authorized use of controlled substance).

On Duty: Under this policy, an employee is "on duty" when he/she is at work and ready to perform employment functions.

Positive Drug Test: A urine drug test result which indicates the presence of controlled substances beyond the cut-off levels specified by this policy.

Confirmed Positive Drug Test: A positive drug test which has undergone an initial "screening" test AND a confirmation test which validates the first result. Drug tests are confirmed by the SAMHSA certified laboratory which performs the analyses.

Verified Positive Drug Test: A confirmed positive drug test (see above) after investigation by the MRO, who has determined that no legitimate explanation exists for the presence of the controlled substance that was detected.

Prohibited Drugs: Marijuana, Cocaine, Opiates, Phencyclidine (PCP), Amphetamines, Benzodiazepines, Methadone, 6 Acetylmorphine (Heroin). (see Urine 8 Drug Panel)

Reasonable Suspicion: Specific, articulable observations of an employee's condition or performance that indicate possible drug or alcohol use. Examples include, but are not limited to, deteriorating work performance, poor attendance, tardiness, appearance (including, for example, noticeable odor of an alcoholic beverage), behavior, or speech of the employee. Poor attendance or tardiness alone or in combination do not constitute reasonable suspicion. The observations may include indications of the chronic and withdrawal effects of controlled substances, as well as include reliable information from other employees that supports the violation of policy prohibitions.

Refusal to Submit: Refusal by an individual to provide a urine specimen after receiving notice of the requirement to be tested in accordance with this Policy.

Safety Sensitive Positions: All sworn law enforcement positions, all positions regularly stationed at the Jail, and medical examiners.

SAMHSA: Substance Abuse and Mental Health Services Administration, a division of the US Department of Health and Human Services (DHHS) which is responsible for certifying laboratories to perform federal workplace drug testing.

Screening or Initial Test: Immunoassay screen to eliminate "negative" urine specimens from further consideration.

Split Specimen Collection Procedure: A collection procedure in which a urine specimen is divided or "split" between two shipping bottles, both of which are transported to the testing laboratory.

Split Test: If the results of the initial screening and confirmation tests of the "primary" specimen are positive, the "split" specimen may be tested at another qualified laboratory.

Substance Abuse Professional (SAP): Under DOT regulations, individuals who may serve as substance abuse professionals include:

- licensed physicians (Medical Doctors or Doctors of Osteopathy) or
- licensed or certified psychologists, social workers, employee assistance professionals, or addiction counselors (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with

knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

Under this Policy, the DER must inform employees who are found to have violated the alcohol prohibitions or who have had verified positive drug tests of qualified SAPs in the local area.

Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

ATTACHMENT B

The Clackamas County Risk Management Department will manage the drug and alcohol testing program for the Sheriff's Office with the following provisions:

DRUG AND ALCOHOL TESTING MANAGEMENT SERVICE

The County will maintain an agreement with a drug and alcohol testing management service to advise the County on processes, developments, and changes concerning this policy.

The firm chosen will be responsible for overseeing compliance of agents of the County with applicable federal regulations, including interacting with specimen collection and alcohol testing agents, designated drug testing laboratories and (MROs). It also submits blind specimens on behalf of the County, and maintains records as required by applicable federal regulations.

In the event of a need to change the provider of these services, the choice of provider will be made by the DER and communicated with the Peace Officers Association.

MEDICAL REVIEW OFFICERS

MRO services will be provided by the testing management service.

DRUG TESTING LABORATORIES

The County will use drug testing laboratories which are SAMHSA-certified, as required by federal drug testing regulations. The County drug testing management service may arrange for the services of a drug testing laboratory in order to best serve the interests of the County.

SUBSTANCE ABUSE PROFESSIONALS

Under this Policy, employees who refuse testing, have confirmed positive alcohol test results, and/or have verified positive drug test results must be referred by the DER to a SAP for evaluation. The County will maintain a list of such qualified individuals in its geographic area and make this list available to employees as needed.

ATTACHMENT C

LAST CHANCE AGREEMENT -- EXAMPLE

[This attachment is an example of a last chance agreement form that may be used. The form may vary to fit the facts and circumstances of a particular situation.]

This is an agreement between [*employee's name*] (the Employee); the Clackamas County Sheriffs Office and Clackamas County (the Sheriff), and the Clackamas County Peace Officer's Association (the Association).

1. This agreement serves as notice to the Employee as to what to expect for continued employment with the Sheriff. This agreement does not guarantee employment for any specific period
2. The Employee agrees to continue in a bona fide drug and/or alcohol outpatient rehabilitation program recommended and approved by a qualified substance abuse counselor (the Counselor). The Employee fully understands that s/he is to remain in such a program, including any required aftercare, until released in writing by the Counselor. For [*period of time*] from the date of this agreement, the Sheriff shall have the right to conduct random breath alcohol or urinalysis testing of [*employee's name*] on work time at the expense of the Sheriff. Should the employee refuse to cooperate with said breath alcohol or urinalysis, or test positive for alcohol/drugs or abuse prescription medication while on the job, s/he shall resign from his/her employment without challenging the termination under the Association contract.
3. The Employee agrees to grant permission to the Counselor to release verification to the County that the Employee is meeting and has completed the requirements of the program and any required aftercare. If the Employee discontinues or is released from the program without the consent of the Counselor, s/he will be terminated from his/her employment with the County. This termination will be considered a termination for performance reasons.
4. The Employee agrees that this last chance agreement constitutes a final warning and that any violation or non-compliance with its terms within [x] years, shall be considered just cause for discharge and shall result in loss of employment.
5. Except as stated in this agreement, the terms and conditions of the Employee's work shall be the same as all other employees in the Association bargaining unit.
6. The Association and the employee agree that this resolution is in lieu of termination [and in addition to *specified discipline*] of [*employee's name*] and that the agreement resolves all disputes related to proposed discipline. The Employee and the Association agree not to challenge this agreement as proper under just cause or any other provision of the collective bargaining agreement or any other legal challenges in any forum.
7. This is the complete agreement between the parties who sign in knowingly and of their own free will, after seeking advice of counsel.
8. The contents of this agreement related to the employee's involvement in alcohol/drug treatment and testing and placement on a "last chance agreement" shall be maintained in confidence and strictly on a "need to know" basis by the parties. Such information may not be released to any state official with specific

regulatory authority over the Sheriff's Office or law enforcement personnel, unless legally required.

This agreement is not a precedent between the Sheriff and the Association and shall not be used as evidence of waiver of rights by the Association or the Sheriff in any dispute between the parties.

[Employee's name]

Date

Clackamas County Peace Officers Association

Date

Clackamas County

Date

ADDENDUM 2

DRUG AND ALCOHOL TESTING POLICY

Clackamas County Sheriff's Office

Employees covered by US DOT Regulations

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DRUG AND ALCOHOL TESTING POLICY

Clackamas County Sheriff's Office *Employees covered by US DOT Regulations*

POLICY STATEMENT

The Clackamas County Sheriff's Office (CCSO or "the County") is strongly committed to providing a safe, drug-free workplace. In addition, an employee substance abuse testing program is mandated for all entities regulated by the Department of Transportation (DOT). For these reasons, the CCSO has implemented a substance abuse testing policy which applies to all applicants for, and employees who hold "covered driver" positions.

The Sheriff's Office recognizes each individual's value and contribution to the services we provide to the public. Therefore, the is Policy includes assistance to employees who wish to overcome a drug dependency problem (see "Employee Assistance Program and Self-Referral").

This Drug and Alcohol Testing Policy ("Policy") is intended to comply with DOT regulations, changes which will supersede specific policy provisions. To view revisions to this policy made by the Federal Motor Carrier Safety Administration (FMCSA) or the Federal Highway Administration (FHWA) since this publication, and additional information, go to:

http://web1.clackamas.us/mydepartment/3004.jsp?q_dept=DES&q_pagename=drugtesting.htm

EFFECTIVE DATE: February 1, 2011 **POLICY REVISED:** June 2012

WHO WILL BE TESTED AND WHEN

Covered drivers are defined as those who are required to hold commercial driver's licenses for their jobs. Such applicants and employees fall under the Federal Motor Carrier Safety Administration (FMCSA) drug and alcohol testing regulations ("Controlled Substances and Alcohol Use and Testing," 49 CFR Part 382). Generally, covered drivers are operators of commercial motor vehicles which 1) are greater than 26,000 pounds GVWR, 2) carry hazardous materials in placardable quantities, or 3) carry 16 or more passengers, including the driver.

Covered drivers may be tested for drugs or alcohol whenever they are *on duty*.

For the purposes of this Policy, "on duty" is defined as any time an individual is on the job and ready to perform safety-sensitive functions. Performing a safety-sensitive function means any period in which the driver is actually operating, preparing to operate, or immediately available to operate a vehicle requiring a Commercial Driver

License. Time spent in association with drug testing specimen collection and/or alcohol testing shall be considered "on-duty" time.

EDUCATION AND TRAINING

The CCSO will distribute information to employees on the Drug and Alcohol Testing Policy; the dangers of drug and alcohol abuse in the workplace; and drug counseling, rehabilitation, and employee assistance resources. Employees will be required to sign a form acknowledging receipt of this information.

When deputies are assigned duties that involve driving vehicles requiring a Commercial Driver License (CDL) they will receive specific information regarding the CCSO's Drug and Alcohol Testing Policy and be informed of their responsibilities with respect to compliance with federal drug and alcohol testing regulations.

Employees (see 5.31.8) who may be required to make "reasonable suspicion" determinations will receive training on recognition of the physical, behavioral, speech and performance indicators of probable alcohol and controlled substances use. The duration of the training will be at least sixty minutes EACH for 1) alcohol and 2) controlled substances use recognition, with additional follow up training to be provided, to maintain and increase supervisory proficiency.

EMPLOYEE ASSISTANCE PROGRAM AND SELF-REFERRAL

When a covered driver voluntarily reports a drug/alcohol problem BEFORE it is discovered through a drug or alcohol test, he/she will immediately be removed from driving duties.

Under the County's independent authority, employee assistance for self-referral will be handled as described in the Sheriff's Office Drug and Alcohol Policy.

PRESCRIPTION MEDICATIONS

Prescription medications can present a danger to employees and their co-workers due to their effects on alertness and job performance. Covered drivers should ask their physicians for specific instructions as to how much medication they should take and when they should take it to ensure safe use relative to work. Non-compliance with the recommended dosage of medications which results in an incident or accident will be considered a violation of this Policy.

Under the County's independent authority, all covered drivers are specifically required to notify their immediate supervisors when they are taking medications associated with warning labels (for example, relating to the operation of vehicles, heavy equipment, or machinery). An employee who is taking such medications should write, date, and sign a brief note stating that he/she has discussed use of the medication with his/her doctor in relation to job duties; the type of medication; beginning and ending dates of treatment. The employee should give the note in a sealed envelope to his/her direct supervisor for confidential delivery to the Designated Employer Representative (DER). The DER working in conjunction with CCSO Management will then determine whether to require

written medical authorization to work from a prescribing health care practitioner or if any accommodations are necessary.

The County will restrict access to medical information to the DER, the Sheriff, Undersheriff, or person appointed to fill the duties of Sheriff or Undersheriff and will protect the confidentiality and security of the information.

All medicines brought onto the CCSO property/premises must be in their original containers with the pharmacy label showing the patient's name and dosage instructions. Use of another person's prescription is a violation of federal law and of this policy.

Failure to notify management of the use of medication that could affect the performance on the job can lead to disciplinary action, up to and including discharge.

"Medical Marijuana"

Marijuana is a Class I controlled substance; its possession and use is illegal under federal law. Although the State of Oregon permits the possession and use of marijuana to treat medical conditions when supported in writing by a licensed medical doctor, this is not an acceptable explanation for a positive drug test under this Policy. The Sheriff's Office is a law enforcement agency and will observe the terms of federal law, which preempt state law in this regard. The Medical Review Officer (MRO) will automatically verify positive tests as being positive without regard to the existence of a medical marijuana card.

In addition, possession of marijuana on county property is grounds for dismissal.

PROHIBITIONS

FMCSA REGULATIONS SPECIFY the following prohibitions:

- 1) Covered drivers must not use alcohol within four (4) hours prior to reporting for duty ("pre-duty use").
- 2) Covered drivers are prohibited from possessing alcohol while on duty; from using alcohol while on duty; and from having alcohol present in their systems at a level of 0.02 g/210 L* or greater while on duty. Those with levels of 0.02 or greater as demonstrated by alcohol testing are subject to immediate removal from duty for a minimum of 24 hours (see also "Discipline")
- 3) Covered drivers are prohibited from using alcohol after an on-the-job accident until:
 - a. The DER or his/her designated alternate has determined that alcohol testing is not required, OR
 - b. An alcohol test has been completed, OR
 - c. Eight (8) hours have passed since the accident.

* Breath testing results are given in grams of alcohol per 210 liters of breath (g/210L)

- 4) Covered drivers must not show evidence of the use of controlled substances without a valid prescription.
- 5) Refusal by a covered driver to submit a urine, saliva or breath specimen when required by federal regulations will have the same consequences as a positive drug test result, or a breath alcohol test result of 0.04 or greater (see "Discipline" section), and result in the immediate removal of the employee from duty. In addition, refusal of a test after a fatal accident may result in more severe penalties under Federal law.

INVESTIGATION OF PREVIOUS TESTING

As a condition of employment, applicants for covered driver positions or current employees being assigned covered driving duties will be required to provide written consent for the CCSO to obtain the following information from DOT regulated employers who have employed the applicant during any period during the three (3) years preceding the date of application or transfer:

- Names and addresses of previous DOT covered employers;
- Alcohol tests with a result of 0.04 or greater;
- Verified positive drug tests;
- Refusal to be tested (including verified adulterated or substituted drug test results);
- Other violations of DOT agency drug and alcohol testing regulations; and
- If the applicant violated a DOT drug and alcohol regulation, documentation of the applicant's successful completion of DOT return to duty requirements. (Note: If the previous employer does not have information about the return to duty requirements, the CCSO must seek to obtain this information from the applicant.)

The County must ask the applicant or employee being assigned covered driving duties whether he/she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which they applied for, but did not attain, a DOT-regulated safety-sensitive transportation position during the three (3) years preceding date of application. (If they admit that he/she had a positive test or refusal to test, they must document successful completion of the return to duty process.)

TYPES OF DRUG AND ALCOHOL TESTING REQUIRED

The following are occasions for drug and alcohol testing under this policy:

Pre-employment Testing

Pre-employment drug testing is required for all covered driver positions. Applicants and/or current employees being assigned covered driving duties will be notified that drug testing is a requirement of the application process.

Under the County's independent authority, and as permitted by the DOT, a negative dilute result is unsatisfactory on a pre-employment test. Applicants and/or current employees being assigned covered driving duties will be given one additional opportunity to provide a valid specimen. The result of the second test will determine whether the person is eligible for employment as a covered driver.

A drug test result which is verified as positive for unauthorized use of controlled substances, or found to be substituted or adulterated, will disqualify the applicant and/or current employee being assigned covered driving duties for the covered driver position.

Random Testing

Definition of Random Test. A random test is a test that is unannounced, and where every person in the random selection "pool" has an equal chance of being selected for testing each time a selection occurs. Random testing is considered to be an effective deterrent to substance abuse. Covered drivers are required to be randomly tested under DOT regulations.

Method of Random Selection: The County has contracted with an outside drug testing management service to perform computerized random selections on its covered employees. Selections occur monthly on a randomly selected date. Selections are therefore spread reasonably throughout each 12-month period.

A number of drug tests equal to at least 50% of the number of individuals in the program will be completed annually, as required by DOT drug testing regulations; a number of alcohol tests will be completed annually, as required by current DOT regulations.

Procedure for Notification and Specimen Collection/Testing:

- 1) The drug testing management service will maintain a secure data base of individuals covered by the Federal Highway Administration's drug and alcohol testing regulations.
- 2) On a randomly selected date, the service will transmit a list of individuals who have been selected for testing to the DER.
- 3) The DER or his/her designated representative will notify the individual in person or by telephone that he/she has been selected to provide a urine and/or breath specimen for testing. The date and time of notification will be recorded on the employee instruction card.
- 4) IMMEDIATELY after being notified, each individual selected for testing must proceed to a specimen collection and/or alcohol testing facility. If the individual is in a remote location, the DER will arrange for him/her to go to a local clinical facility so that specimen collection and/or breath testing are completed expeditiously.

Reasonable Suspicion Testing

"Reasonable suspicion" means that an individual has given a supervisor or other responsible manager reason to believe that he/she may be impaired, intoxicated, or under the influence of a controlled substance or alcohol.

A reasonable suspicion test will be required under the following conditions:

- 1) The CCSO shall require a driver to submit to an alcohol test when the CCSO has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning alcohol. The CCSO's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver.
- 2) The CCSO shall require a driver to submit to a controlled substances test when the CCSO has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning controlled substances. The CCSO's determination that reasonable suspicion exists to require the driver to undergo a controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances.

The "reasonable suspicion" behavior should be witnessed by at least two persons if at all feasible, but only one observation is required. A drug and/or alcohol test can be required only by a Lieutenant who has first consulted with a Captain or higher ranking officer, a Lieutenant who has been designated to act temporarily as a Captain, or a Captain or higher ranking officer. The officer ordering the test may rely on the observation of and recommendation of Sergeants, bargaining unit or non-bargaining unit personnel. Those who make a decision to test an employee will be trained in identifying appearance or conduct that indicates the possible use of controlled substances or misuse of alcohol.

Any "reasonable suspicion" incident will be documented as soon after the incident as possible and the CCPOA will be provided with a copy of that documentation. The employee involved will be immediately removed from the workplace and escorted by a supervisor to a urine specimen collection or alcohol testing site. The employee will NOT be allowed to proceed to the site unaccompanied. UNDER THE COUNTY'S OWN AUTHORITY, and as permitted by the DOT, a negative dilute result is unsatisfactory on a reasonable suspicion test. The employee will be given one additional opportunity to provide a valid specimen. The result of the second test will prevail.

Employees will have access to union representation if requested at every step of the "reasonable suspicion" testing procedures, except during specimen collection. The County will inform the union representative of the reasonable suspicion that supports the testing requirement. A union representative shall be notified immediately upon the request of the employee and the representative shall be afforded two (2) hours to respond. This representation shall not delay established collection and testing procedures. A list of qualified union representatives will be provided to the County.

Post-Accident Testing

A *reportable accident* under Federal Highway Administration regulations is defined as an accident in which a covered driver was operating a commercial motor vehicle and in which:

- 1) A fatality occurred; or
- 2) The driver received a citation for a moving traffic violation AND a person involved in the accident needed medical care away from the scene of the accident; or
- 3) The driver received a citation for a moving traffic violation AND one or more vehicles involved in the accident needed to be towed from the scene of the accident.

UNDER FMCSA REGULATIONS, employees involved in a reportable accident are required to be:

- Tested for alcohol as soon as possible, but in no case later than 8 hours after the incident.
- Drug tested as soon as possible, but in no case later than 32 hours after the incident.

The CCSO will ensure that the employee involved in a *reportable accident* will be immediately removed from duty, and escorted to a collection/testing site. A union representative shall be notified immediately upon the request of the employee and the representative shall be afforded two (2) hours to respond. This representation shall not delay established testing procedures. A list of qualified union representatives will be provided to the County.

An employee who is seriously injured and cannot provide a specimen for testing may be requested to authorize the release of relevant hospital reports and other documentation that would indicate whether there were any controlled substance(s) in his/her system at the time of the incident.

The CCSO will provide its covered drivers with any necessary information and procedures to enable them to meet federal requirements for post-accident testing.

Covered drivers are prohibited from using alcohol for eight (8) hours following an accident/crash or until they have undergone a post-accident alcohol test, whichever occurs first.

An alcohol test should be administered within two (2) hours following the accident/crash, but no later than eight hours.

A drug test should be administered as soon as possible but no later than thirty-two (32) hours after the occurrence of an accident/crash.

Return to Duty and Follow-up Testing

FMCSA regulations require return to duty and follow-up drug and/or alcohol testing when a covered driver has engaged in prohibited drug or alcohol-related behavior. A negative drug and/or alcohol test is required prior to return to duty. Follow-up testing may continue for no longer than sixty months following return to duty. The CCSO will comply with any mandated testing requirements outlined by the SAP.

Please refer to "Return to Duty Procedures " and " Disciplinary Action and Procedures " for additional information.

Costs of Testing

The County will be responsible for payment of all pre-employment, pre-duty, post-accident, random, and reasonable suspicion tests.

The County will be responsible for payment of any requested split tests, return to duty, and follow-up tests with a negative or canceled test result.

The employee will be responsible for payment of any requested split tests, return to duty, and follow-up tests with a positive result. The County will pay for the test and then collect from the employee.

DRUG AND ALCOHOL TESTING PROCEDURES

Drug Testing

- 1) Urine specimen collection for drug testing will be performed by qualified individuals in conformance with current standards of practice, using chain of custody procedures specified by DOT regulations (49 CFR Part 40) and with respect for the privacy and dignity of the person giving the specimen. Drug test specimens will be collected to provide at least 30 mL of urine in a "primary specimen" shipping bottle and at least 15 mL of urine in a "split specimen" shipping bottle.
- 2) If an employee is unable to provide an adequate volume of urine on the first attempt ("shy bladder"), he/she will have an opportunity to drink up to 40 ounces of fluids for up to three hours. At the end of this period, if no sample of adequate volume has been provided, the employee will be referred to a physician acceptable to the MRO to determine whether the incident constituted a refusal to test per 49 CFR 40.193.
- 3) Only laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services will perform drug testing.

- 4) When an initial screening test for drugs is positive, a second, confirmatory test will automatically be performed. Confirmed positive drug tests will be reported by the testing laboratory to the MRO for verification (see "Drug Test Results Review").

Breath Alcohol Testing

- 1) Breath alcohol testing will be performed only by qualified Breath Alcohol Technicians. Testing will be conducted using evidential breath alcohol testing devices listed on the Conforming Products List of the National Highway Traffic Safety Administration.
- 2) Breath alcohol tests with results below 0.02 require no further action.
- 3) Tests with results of 0.02 or above will be confirmed as follows:
 - a. The individual being tested is instructed not to smoke, use mouthwash, drink, or eat for a period of 15 minutes.
 - b. Within 30 minutes of completion of the initial screening test, a confirmatory breath test is conducted per 49 CFR Part 40. The result is recorded in the "Confirmation Test Results" section of the Alcohol Test Form.
- 4) If the result of the confirmed breath alcohol test is 0.02 or greater, the Breath Alcohol Technician must immediately notify the DER or his/her designated representative, who will arrange for transportation of the individual from the alcohol testing site. The Breath Alcohol Technician will then forward a copy of the Alcohol Test Form to the DER.

DRUG TEST RESULTS REVIEW

Drug test results on a covered driver which are reported as positive, adulterated, or substituted by the testing laboratory will be reviewed and verified by the MRO.

A POSITIVE drug test result is defined as the detection of any one or more of the substances listed in the table shown below.

<u>Substance or Class</u>	<u>Initial Screening Cut-off</u>	<u>Confirmation Cut-off</u>
Amphetamines	500 ng/mL*	250 ng/mL*
Methamphetamines*		
MDMA (Ecstasy)*		
Cocaine	150 ng/mL*	100 ng/mL+
Marijuana (THC)	50 ng/mL	15 ng/mL
Opiates	2000 ng/mL	2000/10ng/mL
Codeine/Morphine		
6 Acetylmorphine (Heroin)	10 ng/mL*	10 ng/mL*
Phencyclidine (PCP)	25 ng/mL	25 ng/mL

**Effective 10/1/10 new DOT cutoffs.*

- *Methamphetamines, MDMA (Ecstasy), Codeine/Morphine and 6 Acetylmorphine (Heroin) all act as "metabolites" tested under the main substance or class.*
- *Drug testing cutoff levels are the minimum concentrations of drugs or metabolites that must be present in specimens, before labs will report the drug testing results as positive.*

A confirmed positive test from a certified laboratory does not automatically identify an employee or applicant as having used drugs in violation of a DOT regulation. The MRO brings detailed knowledge of possible alternate medical explanations to his/her review of the test results. This review is performed by the MRO prior to the transmission of results to the County.

MRO Reporting Options and Employer Actions

- "Negative" – self explanatory
- "Negative Dilute" – Upon receipt of a "negative dilute," the employee shall be required to immediately provide another specimen. The collection shall be conducted with the minimum possible advance notice and the employee shall be escorted to the collection facility by the DER, Supervisor, or other designated person. In the event the second test result is "negative dilute," no further action will be taken and the second test shall become the test of record. If the employee is directed to take a second test and the employee declines to do so, this is a "Refusal to Test" under the regulations.
- "Canceled – Split specimen test could not be performed." This will occur when the primary specimen was positive, and the donor requests an independent test, and the split specimen is not available for testing. The employer must ensure an immediate collection of another specimen, under direct observation, with no advance notice to the donor.

- “Canceled – Test Not Performed, Fatal Flaw (with flaw stated) or Uncorrected Flaw.” No further action required unless a “Negative” test result is required for pre-employment, return to duty, or follow up. A canceled drug test is neither positive nor negative and no consequences must be attached to it.
- “Cancelled Invalid Result.” An “invalid result” means the laboratory was unable to obtain a valid result when attempting to test the specimen. If the MRO has accepted the donor’s explanation as to why the laboratory was unable to obtain a valid result, then the MRO will advise the employer “direct observation not required.” The employer is not required to take any further action unless a “negative result is required (i.e., pre-employment, return to duty, or follow up). If the MRO has not accepted the donor’s explanation, then the MRO will advise the employer “a second collection must take place immediately under direct observation”.
- “Positive or Positive Dilute” – The employer must comply with the requirements for a positive test under the regulations.
 - Immediately remove employee from safety-sensitive functions; and
 - Referral to a SAP – If the employee is terminated, he/she is to be furnished with a list of SAP resources (names, addresses, and telephone numbers).
 - Return to Duty provisions must be followed.
- “Adulterated-Refusal to Test” – Follow same procedures as required on a positive test result.
- “Substituted-Refusal to Test” – Follow same procedures as required on a positive test result.

MRO Verification Without Notifying the Employee

The MRO is permitted to verify a test as positive, or as a refusal to test because of a laboratory report of a positive adulterated, or substituted specimen without interviewing the employee under the following circumstances:

- The employee expressly declines the opportunity to discuss the test with the MRO;
- The MRO has successfully made and documented a contact with the employee, and instructed the employee to directly contact him/her , and more than 72 hours have passed since the time the MRO contacted the employee.

NOTE: If a test is verified positive under the latter circumstances, the donor may give the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented him/her from contacting the MRO. On the basis of this information, the MRO may re-open the verification, allowing the donor to present information concerning a legitimate explanation for the positive test. If the MRO concludes that there is a legitimate explanation, the MRO shall verify the test as negative.

Upon verifying a test result as positive, the MRO will inform the donor of the option for having the “split” portion of his/her specimen tested. The donor must notify the MRO of a desire to exercise this option within 72 hours of being notified of the positive result.

The MRO will not delay reporting of a verified positive test result pending “split” specimen testing. If a donor requests testing of the “split” specimen but none is available, the MRO will cancel the test.

Communication of Results

The MRO or his/her designated representative will report test results ONLY to the County's Designated Employee representative who shall notify either the Sheriff, Undersheriff, or person appointed to fill the duties of Sheriff or Undersheriff. Confidentiality will be strictly maintained. If the result is positive, the MRO or his/her authorized representative will report the identity of the controlled substance.

Employees and applicants may obtain copies of their test results by requesting them in writing from the MRO within 60 days of being notified of the results.

FAILURE TO COOPERATE

Failure to cooperate with any aspect of this Policy, including but not limited to falsifying or attempting to falsify test results or specimens or refusing to cooperate in testing will subject the employee to progressive discipline, up to and including discharge. Any covered driver who refuses to take a drug or alcohol test to comply with FMCSA regulations (49 CFR Part 382) will be immediately removed from duty as required by these federal regulations.

DISCIPLINARY ACTION AND PROCEDURES

- 1) An otherwise qualified applicant for a covered driver position whose drug test results are negative and who has documented satisfactory participation in a previous employer's drug and alcohol testing program, will be considered qualified for the position offered. Applicants with verified positive drug test results will be considered ineligible for the position.
- 2) Any covered driver found to be in violation of this Drug and Alcohol Testing Policy will be removed from duty and will be subject to progressive discipline, up to and including discharge. Violations include:
 - a. Alcohol possession or use in violation of the prohibitions stated in this Policy (e.g. pre-duty, post-accident; see pages 6 and 7)
 - b. An alcohol test result of 0.04 or greater
 - c. A verified positive drug test result
 - d. Refusal to test or to cooperate
- 3) A covered driver determined to have evidence of alcohol in his/her system in the range of 0.02 – 0.039 will be subject to progressive discipline.
 - a. On any occasion in which a covered driver has a breath alcohol test result of 0.02 or greater, but less than 0.04, he/she will be immediately removed from work for a period of at least 24 hours. The employee may deduct this time away from work from any available paid time except sick leave, or choose leave of absence without pay. No further alcohol testing will be required prior to resuming work at the beginning of the next shift following the end of the 24-hour period. These occasions will be considered

violations of this Policy, and will subject the employee to progressive discipline.

- 4) Covered drivers who have volunteered information concerning drug or alcohol problems and/or voluntarily entered into drug and/or alcohol evaluation and treatment programs shall not have that admission used against them in progressive disciplinary proceedings.
- 5) **ALCOHOL RESULT OF 0.04 OR ABOVE**
Under the County's independent authority, any covered driver who has had a **confirmed alcohol result of 0.04** or above shall be subject to progressive disciplinary procedures up to and including discharge. If returned to duty, he/she must agree to meet all return to duty requirements of the FMCSA.
- 6) **POSITIVE DRUG TEST**
Under the County's independent authority, any covered driver who has had a verified positive drug test shall be subject to progressive disciplinary procedures up to and including discharge. If returned to duty, he/she must agree to meet all return to duty requirements of the FMCSA.

RETURN TO DUTY PROCEDURES

The following statements reflect the return to duty and follow-up testing requirements of the FMCSA:

- 1) Covered drivers who have had alcohol test results of 0.04 or greater must be evaluated, undergo treatment, if required, and be recommended for return to work by the SAP. A "return to duty" alcohol test with a result less than 0.02 is required prior to resumption of safety-sensitive or covered driving functions.
- 2) Covered drivers who have had verified positive drug tests must be evaluated, undergo treatment, if required, and be recommended for return to work by the SAP. A negative "return to duty" drug test is required prior to resumption of safety-sensitive or covered driving functions.
- 3) Covered drivers may be subject to periodic unannounced follow-up alcohol and/or drug testing as determined by the SAP who evaluated the employee.

Under the County's independent authority covered drivers who have had alcohol test results of 0.04 or greater and/or a verified positive drug test and are awaiting recommendation for return to duty shall deduct this time away from work from any available paid time except sick leave (unless provided by law), or choose leave of absence without pay.

RECORD KEEPING PROCEDURES

The CCSO's DER will maintain drug/alcohol testing records in a secure filing system, separate from the County Personnel files, with information available only on a "need to know" basis.

A driver is entitled, upon written request, to obtain copies of any records concerning his/her use of alcohol or controlled substances. Requests for such information may be directed to the DER or to the County drug testing management service.

The County shall release information regarding a covered driver's records to a subsequent employer upon receipt of a specific written request, by the covered driver, authorizing release of the records to an identified person.

Information regarding an individual's drug test results or rehabilitation is considered to be personal and confidential and may be released only upon written consent of the individual, except:

- 1) Such information must be released to the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the employer or any of its drivers.
- 2) Such information may be disclosed in a lawsuit, grievance, or other proceeding initiated by or on behalf of the covered driver and arising from an alcohol test and/ or a verified positive drug test or from the CCSO's determination that the driver engaged in conduct prohibited by FMCSA regulations.
- 3) When requested by the National Transportation Safety Board as part of an accident investigation, the CCSO will disclose information regarding post-accident alcohol and/or drug testing.

Under the County's independent authority,

- 4) Such information may not be released to any state official with specific regulatory authority over the Sheriff's Office or law enforcement personnel unless legally required.
- 5) When the County is compelled by a judicial determination or order that the information is not protected from disclosure.
- 6) The information is needed by medical personnel for the diagnosis or treatment of a patient who is physically unable to authorize disclosure.

Record Retention

The following schedule of record keeping will be maintained by the DER and his/her authorized agents:

- Negative and canceled drug test records; records of alcohol test results less than 0.02 1 year
- Information obtained from previous employers 3 years
- Records of supervisor training Indefinite or 2 years beyond job responsibilities
- Records of verified positive drug test results; alcohol test results of 0.02 or greater; refusals to be tested for drugs and/or alcohol; SAP evaluations and referrals; follow-up tests and schedules 5 years
- Documentation of EBT calibration; Custody Control Forms; Specimen collection/alcohol test records 2 years
- Calendar year record of total number of employees tested and the results of tests 5 years

SUPPLEMENT A

DEFINITION OF TERMS

For the purposes of this Policy, the following definitions apply.

Abuse/Misuse of Prescription Drugs: The use of a drug not in accordance with the prescribed dosage or method of use.

Accident:

Reportable accident (covered drivers): An accident involving a commercial motor vehicle in which:

- a. A fatality occurred; OR
- b. The driver received a citation for a moving traffic violation AND a person involved in the accident needed medical care away from the scene of the accident; OR
- c. The driver received a citation for a moving traffic violation AND one or more vehicles involved in the accident needed to be towed from the scene of the accident.

Adulterated Specimen: A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol: Ethyl alcohol or ethanol.

Alcohol Screening Device (ASD): 49 CFR 40.3 – A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.

Breath Alcohol Technician (BAT): An individual who has been trained to proficiency in the operation of the evidential breath testing device he/she is using as required under 49 CFR Part 40.

Breath Alcohol Testing Site: A location which affords visual and aural privacy for the performance of breath alcohol testing. No unauthorized person shall be permitted access to the breath alcohol testing site when the evidential breath testing device is unsecured or at any time when testing is being conducted. In unusual circumstances, e.g. after an accident when a test must be conducted outdoors, the breath alcohol technician must provide visual and aural privacy to the greatest extent practicable.

CCSO: Clackamas County Sheriff's Office

CFR: United States Code of Federal Regulations

Chain of Custody: Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (DHHS), Substance Abuse and

Mental Health Services Administration (SAMHSA) certified laboratory be used from time of collection to receipt by the laboratory.

Collection Site: A designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collector: A person who instructs and assists applicants and employees through the urine specimen collection process.

Confirmation Test: A second analytical drug testing procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC-MS) is the usual confirmation method for drug testing at this time.

Controlled Substances: Substances listed on Schedules I through V in 21 U.S.C. 802 as they may be revised from time to time (21 CFR 1308). Controlled substances include illicit drugs and drugs which may be authorized for use by a physician or dentist for certain medical uses, but which are subject to misuse or abuse.

County: Clackamas County and/or Clackamas County Sheriff's Office

Covered Driver: Individual who is required to hold a Commercial Driver's License (CDL) for his/her job with the CCSO and who is subject to drug testing under Federal Highway Administration, Department of Transportation regulations (49 CFR Parts 40 and 382).

Designated Employer Representative (DER): An employee authorized by the employer to assist supervisors in taking immediate action(s) to remove employees from safety-sensitive duties and to make decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of Part 40.

Dilute Specimen: 49 CFR 40.3 – A specimen with creatinine and specific gravity values that are lower than expected for human urine.

DOT: United States Department of Transportation

Drugs: Controlled Substances

FHWA: Federal Highway Administration

FMCSA: Federal Motor Carrier Safety Administration

GVWR: Gross Vehicular Weight Rating; size criterion for determining classification of a commercial motor vehicle under federal regulations.

Initial or Screening Test: An immunoassay screen to eliminate "negative" urine specimens from further consideration.

Medical Review Officer (MRO): A licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders and drug testing who is responsible for reviewing and verifying drug testing results prior to their communication to the DER.

Negative Drug Test: A test in which initial or confirmation testing under DOT procedures did not show evidence of a prohibited drug in an employee's or applicant's system above established levels; OR, a test which is verified as negative by the MRO (e.g. review showed positive test was due to prescription medication or other authorized use of controlled substance).

On Duty: Under this policy, a covered driver is "on duty" when he/she is at work and ready to perform safety-sensitive functions, e.g., qualified and available to drive a commercial motor vehicle.

Positive Drug Test: A urine drug test result which indicates the presence of controlled substances beyond the cut-off levels specified by 49CFR Part 40.

Confirmed Positive Drug Test: A positive drug test which has undergone an initial "screening" test AND a confirmation test which validates the first result. Drug tests are confirmed by the SAMHSA certified laboratory which performs the analyses.

Verified Positive Drug Test: A confirmed positive drug test (see above) after investigation by the MRO, who has determined that no legitimate explanation exists for the presence of the controlled substance that was detected.

Prohibited Drugs: Marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.

Random Testing: Computerized random selection and testing for drugs in which each person in the computer data base has an equal chance of selection each time a selection occurs, in accordance with regulatory requirements.

Reasonable Suspicion: Specific, articulable observations of an employee's condition or performance that indicate possible drug or alcohol use. Examples include, but are not limited to, deteriorating work performance, poor attendance, tardiness, appearance (including, for example, noticeable odor of an alcoholic beverage), behavior, or speech of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances, as well as include reliable information from other employees that support the violation of policy prohibitions.

Refusal to Submit: Refusal by an individual to provide a urine or breath specimen after receiving notice of the requirement to be tested in accordance with this Policy.

Safety Sensitive Functions: Ready to perform, performing, or just finished performing, the following duties: waiting to be dispatched, inspecting equipment, driving, loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate a vehicle, repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

SAMHSA: Substance Abuse and Mental Health Services Administration, a division of the US Department of Health and Human Services (DHHS) which is responsible for certifying laboratories to perform federal workplace drug testing.

Screening or Initial Test: Immunoassay screen to eliminate “negative” urine specimens from further consideration.

Split Specimen Collection Procedure: A collection procedure in which a urine specimen is divided or “split” between two shipping bottles, both of which are transported to the testing laboratory.

Split Test: If the results of the initial screening and confirmation tests of the “primary” specimen are positive, the “split” specimen may be tested at another qualified laboratory.

Substance Abuse Professional (SAP): Under DOT regulations, individuals who may serve as SAPs include:

- licensed physicians (Medical Doctors or Doctors of Osteopathy) or
- licensed or certified psychologists, social workers, employee assistance professionals, or addiction counselors (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

Under this Policy, the DER must inform employees or applicants who are found to have violated the alcohol prohibitions or who have had verified positive drug tests of qualified SAPs in the local area.

Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

SUPPLEMENT B

SERVICE PROVIDERS

The Clackamas County Risk Management Department will manage the drug and alcohol testing program for the Sheriff's Office with the following provisions:

DRUG AND ALCOHOL TESTING MANAGEMENT SERVICE

The County will maintain an agreement with a drug and alcohol testing management service(s) to advise the County on processes, developments, and changes concerning this policy.

The firm(s) chosen will be responsible for overseeing compliance of agents of the CCSO with federal regulations, including interacting with specimen collection and alcohol testing agents, designated drug testing laboratories and MROs. It also performs random selections and maintains records as required by federal regulations.

In the event of a need to change the provider of these services, the choice of provider will be made by the DER and communicated with the Peace Officers Association.

MEDICAL REVIEW OFFICERS

MRO services will be provided by the testing management service.

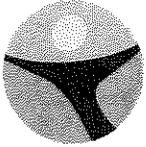
DRUG TESTING LABORATORIES

The County will use drug testing laboratories which are SAMHSA-certified, as required by federal drug testing regulations. The County's drug testing management service may arrange for the services of a drug testing laboratory in order to best serve the interests of the County.

SUBSTANCE ABUSE PROFESSIONALS

Under this Policy, covered employees who refuse testing, have alcohol test results of 0.04 or greater, and/or have verified positive drug test results must be referred by the DER to a SAP for evaluation. The County will maintain a list of such qualified individuals in its geographic area and make this list available to covered drivers as needed.

The County's drug testing management service will assist the County in locating SAPs in the driver's community upon request.



**NORTH CLACKAMAS
PARKS & RECREATION DISTRICT**

Administration

150 Benvercreek Rd.
Oregon City, OR 97045
503 742-4300 phone 503 742-4349 fax
ncprd.com

January 22, 2015

The Board of Commissioners acting as the Governing Body
of the North Clackamas Parks and Recreation District

Members of the Board:

Approval of an Oregon Parks and Recreation Department
Recreational Trails Program Agreement, RT14-021, Sunnyside Village Trail

Purpose/Outcome	NCPRD requests approval of an Oregon Parks and Recreation Department (OPRD) Recreational Trails Program (RTP) Grant to construct Sunnyside Village Trail Phase 1.
Dollar Amount and Fiscal Impact	\$40,624 in federal funding provided through the OPRD RTP grant. \$11,259 NCPRD 2015/2016 FY matching funds.
Funding Source	NCPRD Capital Projects, 2015/2016 FY
Safety Impact	RTP grant funds will allow development of several trail sections to occur, assuring a safe environment for public use.
Duration	Grant funds are available for two years
Previous Board Action/Review	The Board authorized NCPRD to apply for the grant on July 10, 2014 as Board Order 2014-75
Contact Person	Jeroen Kok, NCPRD Planning, Development and Resource Manager, 503-742-4421

BACKGROUND:

The Sunnyside Village Trail (SVT) is identified as a linear park/trail corridor in the 2004 NCPRD Master Plan, which identifies linear parks as an opportunity to provide connections between parks, residential areas, and other uses. The Sunnyside Village Plan was originally adopted within the Clackamas County Comprehensive Plan in 1993. NCPRD and Clackamas County Service District #1 (CCSD#1) have acquired property and easements that have allowed the concept of an east-west trail corridor to become a reality. Oregon Parks and Recreation Department (OPRD) has awarded NCPRD a \$40,624 Recreational Trails Program grant to begin construction of Phase 1 of the SVT, which will connect several neighborhood parks within Sunnyside Village, including; Pfeifer Park, Sieben Park, and Village Green Park. The project is a priority for funding in the 2004 NCPRD Master Plan and 2007 SDC Capital Improvements Plan.

RECOMMENDATION:

Staff respectfully recommends that The Board of Commissioners, acting as the Governing Body of the North Clackamas Parks and Recreation District, approve and sign the attached agreement (project number RT14-021) between NCPRD and OPRD.

Respectfully submitted,

Gary Barth
Director

Oregon Parks and Recreation Department Recreational Trails Program Agreement

THIS AGREEMENT is made and entered into, by and between, the State of Oregon, acting through Oregon Parks and Recreation Department (OPRD) and North Clackamas Parks and Recreation District, hereinafter referred to as the "Grantee".

OPRD Grant Number: RT14-021

Project Title: Sunnyside Village Trail

Project Description: Construction of 0.45 miles of new and improved trail corridor and installation of way-finding signage connecting several NCPRD parks within the Sunnyside Village neighborhood. Project is described further in the Project Application included as Attachment B.

**Grant Award /
Maximum Reimbursement:** \$40,624.00 (78.30%)

Local Match: \$11,259.00 (21.70%)

Total Project Cost: \$51,883.00

Grant Payments: Grant funds are awarded by OPRD and paid on a reimbursement basis only for the Project described in this Agreement, including Attachment B. The source of the Grant funds is the United States Department of Transportation, Federal Highway Administration, as specified in the Recreational Trails Program Federal Aid Project Agreement.

Reimbursement Procedures: Based on the Project Budget of \$51,883.00, **the initial reimbursement rate will be 78.30%**. Upon successful completion of the Project and receipt of the final reimbursement request, OPRD will pay Grantee the remaining Grant Funds balance, or **80%** of the total cost of the Project, whichever is less.

To request reimbursement, Grantee shall submit to OPRD a Request for Reimbursement form, copies of project invoices, and documentation confirming project invoices have been paid. Grantee shall submit written Progress Reports on forms provided by the State with each reimbursement request. Grantee may request advance payments, which OPRD, in its sole discretion, may provide under hardship conditions.

OPRD shall disburse up to **75%** of the Grant Award, in this case **\$30,468.00** to Grantee on a cost reimbursement basis upon approval of invoices submitted. OPRD will disburse the final 25 percent of the Grant Award upon approval of the Final Report and the completed project, which is subject to final inspection by OPRD staff.

Substantial Work: Grantee must commence substantial work and submit a reimbursement to OPRD within **nine months** from the start date of the project, **3/31/2016**. Projects not in compliance with this requirement may be cancelled unless OPRD determines that the Grantee has provided sufficient justification.

Matching Funds: The Grantee shall contribute matching funds or the equivalent in labor, materials, or services, in accordance with the rules, policies and guidelines for the Recreational Trails Program, including that volunteer labor used as a match requires a log with the name of volunteer, dates volunteered, hours worked, work location and the rate used for match.

Agreement Period: The effective date of this Agreement is the date on which it is fully executed by both parties and shall run for two years. Unless otherwise terminated or extended, the project shall be completed by **6/30/2017**. This Agreement shall expire on the date final reimbursement payment is made by OPRD to Grantee.

Publicity: Grantee shall make every effort to acknowledge and publicize OPRD's participation and assistance with the project. Grantee agrees to place signs at the project location acknowledging program support. Sponsor also

agrees to maintain the signs throughout the life of the project. OPRD may withhold final reimbursement until signage has been placed.

Agreement Documents: Included as part of this Agreement are:

- Attachment A: Standard Terms and Conditions
- Attachment B: Project Application including Description and Budget
- Attachment C: Sample Progress Report form
- Attachment D: Sample Request for Reimbursement form

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents is as follows, listed from highest precedence to lowest precedence: this Agreement without Attachments; Attachment A; Attachment B; Attachment C; Attachment D.

Contact Information: A change in the contact information for either party is effective upon providing notice to the other party:

Grantee Administrator

Katie Dunham - (NCPRD)
150 Beavercreek Road, 4th Floor
Oregon City, OR 97045
503-742-4358
kdunham@clackamas.us

Grantee Billing Contact

Katie Dunham - (NCPRD)
150 Beavercreek Road, 4th Floor
Oregon City, OR 97045
503-742-4358
kdunham@clackamas.us

OPRD Contact

Pamela Berger
Oregon Parks & Rec Dept.
725 Summer ST NE STE C
Salem, OR 97301
503-986-0785
pamela.berger@oregon.gov

Signatures: In witness thereof: the parties hereto have caused this Agreement to be properly executed by their authorized representatives as of the last date hereinafter written.

Grantee

Oregon Parks and Recreation Department

By: _____
Signature

By: _____
Roger Roper, OPRD Assistant Director

Printed Name

Date

Title

By: _____
Steve Kay, OPRD Grants Division Manager

Date

Date

By: _____
Pamela Berger, OPRD Grant Program Coordinator

Date

Attachment A – Standard Terms and Conditions

Oregon Parks and Recreation Department Recreational Trails Program Agreement

1. **Compliance with Law:** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation 23 USC 206 and ORS 390.980 which makes funds available by for the purposes of the Oregon Recreation Trails System Act.
2. **Compliance with Workers Compensation Laws:** All employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS.656.017 and provide the required Worker's Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included.
3. **Amendments:** This Agreement may be amended only by a written amendment to the Agreement, executed by the parties.
4. **Project Change Request (PCR) Process** – Agency must obtain approval from OPRD for changes in scope or budget as specified below. The Grantee shall be fully responsible for all costs that occur outside the established project scope, schedule or budget and prior to an approved PCR. Amendments to this agreement are required for all approved PCRs.

Scope – A PCR is required for any significant change or reduction in the scope of work described in the Project Description of Attachment B (Project Application including description and budget).

Budget – A PCR is required if the Grantee anticipates that the project will deviate from the original budget set forth in Attachment B. The PCR shall explain what change is being requested, the reason for the change, and any efforts to mitigate the change. OPRD may reject the PCR at their discretion.

5. **Expenditure Records:** Grantee shall document, maintain and submit records to OPRD for all Project expenses in accordance with generally accepted accounting principles, and in sufficient detail to permit OPRD to verify how Grant moneys were expended. These records shall be retained by the Grantee for at least six years after the contract terminates, or until all audits initiated within four years have been completed, whichever is later. The Grantee agrees to allow State auditors, and State Agency Staff, access to all records related to this Agreement, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
6. **Progress:** Once work has begun the grantee shall report to OPRD on work completed on a quarterly basis. Progress Reports will give an account of the work accomplished during that time and must be provided in the form provided on OPRD website.

Sponsors have **nine months** from the effective date of this Agreement to commence substantial work, projects not in compliance with this schedule may be cancelled unless OPRD determines in its sole discretion that the Grantee has provided to OPRD justification for an extension.

The grantee must submit a **Final Report** and final reimbursement request to OPRD within 45 days of the Project Completion Date using the forms provided on the OPRD website. The final report shall include a full account of all expenditures, a description of the work accomplished and photos of completed project work. A request for final inspection can be required at the time of the final report based on OPRDs discretion.

7. **Equipment:** Equipment purchased with Recreational Trails Program grant funds must be used as described in the Project Agreement and Application throughout the equipment's useful life. The Grantee will notify the State prior to the disposal of equipment and will coordinate with the State on the disposal to maximize the equipment's ongoing use for the benefit of the Recreational Trails Program. In addition, any equipment over \$5,000 must complete an RTP Equipment Record Form found on OPRD website. The Equipment Record Form should be updated and submitted every other year, until equipment value is estimated to be less than \$5,000.

8. **Use of Project Property:** Grantee warrants that the land within the project boundary described in the Application (Attachment B) shall be dedicated and used for a period of no less than 25 years from the completion of the Project. Grantee agrees to not change the use of, sell, or otherwise dispose of the land within the Project boundary, except upon written approval by OPRD. Leases for projects placed on federally owned property must be at least 25 years.
9. **Conversion of Property:** Grantee further warrants that if the Grantee converts lands within the Project boundary to a use other than as described in the grant application or disposes of such land by sale or any other means, the Grantee must provide replacement property acceptable to OPRD within 24 months of either the conversion or the discovery of the conversion.

If replacement property cannot be obtained within the 24 months, the Grantee will provide payment of the grant program's prorated share of the current fair market value to the State. The prorated share is that percentage of the original grant (plus any amendments) as compared to the original project cost(s). The replacement property must be equal to the current fair market value of the converted property, as determined by an appraisal. The recreation utility of the replacement property must also be equal to that of the lands converted or disposed.

If conversion should occur through processes outside of the Grantee's control such as condemnation or road replacement or realignment, the Grantee will be required to pass through to the State that prorated share of whatever consideration is provided to the Grantee by the entity that caused the conversion. The monetary value of whatever consideration provided by the taking will normally consist of the fair market value of the property established by an appraisal.

The warranties set forth above are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

10. **Contribution:** 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 State is jointly liable with the Grantee (or would be if joined in the Third Party Claim), the State 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 Grantee in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Grantee 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 State on the one hand and of the Grantee 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 State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the Grantee is jointly liable with the State (or would be if joined in the Third Party Claim), the Grantee 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 State in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of the State 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 Grantee on the one hand and of the State 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 Grantee'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.

Grantee 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 ("Indemnatee") 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 Grantee'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 Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.

11. **Condition for Disbursement:** Disbursement of grant funds by OPRD is contingent upon OPRD having received sufficient funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to make the disbursement.
12. **No Third Party Beneficiaries.** OPRD and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as intended beneficiary of the terms of this Agreement.
13. **Repayment:** In the event that the Grantee spends grant funds in any way prohibited by state or federal law, or for any purpose other than the completion of the project, the Grantee shall reimburse the State for all such unlawfully or improperly expended funds. Such payment shall be made within 15 days of demand by the State.
14. **Termination:** This contract may be terminated by mutual consent of both parties, or by either party upon a 30-day notice in writing, delivered by certified mail or in person to the other party's contact identified in the Agreement. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination. Full credit shall be allowed for reimbursable expenses and the non-cancelable obligations properly incurred up to the effective date of the termination.
15. **Governing Law:** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any 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.
16. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. 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 regarding this Agreement. The Grantee, by signature of its authorized representative on the Agreement, acknowledges that the Grantee has read this Agreement, understands it, and agrees to be bound by its terms and conditions."
17. **Public Access:** The Grantee shall allow open and unencumbered public access to the completed project to all persons without regard to race, color, religious or political beliefs sex, national origin or place of primary residence.
18. **Extensions:** A request for an extension of the Project Completion Date for a one year period may be granted if requested by the Grantee in writing at least 30 days prior to the Project completion Date and the request includes a compelling need, as determined in OPRD's sole discretion for the extension.

Grant Application for

Sunnyside Village Trail

Contact

Sponsor Name:

North Clackamas Parks and Recreation District

First Name:

Katie

Last Name:

Dunham

Title:

Address 1:

150 Beaver Creek Road

Address 2:

City:

Oregon City

State:

OR

Zip Code:

97045

Contact Phone:

503-742-4358

Cell Phone (optional):

Contact Email:

kdunham@clackamas.us

Federal Tax ID:

93-6002286

Project

PROJECT INFORMATION:

Project Name:
Sunnyside Village Trail

Funds Requested:
\$40,624.00

Matching Funds:
\$11,259.00

Total Cost:
\$51,883.00

Brief Project Description:

Construction of 0.45 miles of new and improved trail corridor and installation of way-finding signage connecting several NCPRD parks within the Sunnyside Village neighborhood in urban Clackamas County, Oregon. The trail will consist of base rock, decomposed granite and native soil.

Select the eligibility category that most closely describes the type of project proposed::

Construction of new recreational trails

SITE INFORMATION:

Site Name:
Sunnyside Village Trail

Site Town - City:
Clackamas

Site County:
Clackamas

Land Control:
Fee Simple

Site Acreage:
1.00

Site Description:

The proposed Sunnyside Village Trail (SVT) is located in a densely urban part of Clackamas County, Oregon. Surrounded by residential subdivisions, parks, schools, library and commercial shopping centers, the SVT will serve as a pedestrian corridor for area residents. This portion of trail to be constructed parallels Rose Creek, (a tributary of the Clackamas River) and is home to a diverse mix of coniferous and deciduous trees and shrubs.

Latitude:

45.421387000000003

Longitude:

-122.512522000000000

PROJECT TIMELINE:

If the project is awarded in January/February of 2015 what is your anticipated::

Start Date:

July 1, 2015

End Date:

October 1, 2015

ENVIRONMENTAL:

Is the project located on Federal Land?:

No

If the project is not on Federal Lands, please consult with the Natural Resource Agencies and attach the RTP environmental screening form.:

If the project is on Federal Lands, is it considered EXEMPT from NEPA because of the following reason::

If the project is NOT EXEMPT from NEPA please attach the FONSI or Decision memo.:

Finance

What percent of your total project costs are considered engineering, environmental evaluation or permits? (maximum allowed is 15%):

8.67

Federal Land Managers - 5% of your total project cost must be non-federal:

What percent of the project comes from non-federal funding?:

Please list the source of this non-federal match (such as volunteer labor, state grants, donated cash)::

Supplemental

PROJECT NARRATIVE (page 13):

Describe all elements of the project, project objectives and the need for assistance in one (1) page or less.:

The proposed Sunnyside Village Trail (SVT) is located in the neo-traditional community of Sunnyside Village, within the North Clackamas Parks and Recreation District (NCPRD). The trail has been designed to serve as a vital, non-motorized, east-west linkage that connects several NCPRD parks, with the eastern terminus at Hood View Park and the western terminus at Mt. Talbert Nature Park. Phase One of trail development is an approximately 0.45 mile section that stretches from SE 142nd Avenue, through Sieben Park, and eastward onto SE 152nd Avenue. The proposed route currently includes sections of unimproved, social trails and areas that are devoid of any trail development. NCPRD is applying for RTP funds to construct a trail that consists of compacted, decomposed granite, and accessibility standards that meets Americans with Disabilities Act requirements, where applicable.

The SVT project will construct a new recreational trail located in a densely urban environment, where local citizens can connect to other parts of their community removed from vehicular traffic and congestion. The SVT will provide important connections and alternate pedestrian routes to several different residential areas, a local elementary school, county library, and nearby commercial shopping areas. The SVT also meets the project objective to provide close to home, active recreational opportunities to nearby residents, who have limited opportunities from living in a densely urban environment.

This project will strengthen the efforts to rehabilitate Rose Creek (part of the Clackamas River Watershed) by producing formal trails, decreasing use of social trails close to the creek, which runs parallel to this proposed section of the SVT. Our project partner, Water Environment Services (WES), is currently implementing a Conceptual Site Plan for Rose Creek to protect and improve water quality, manage urban stormwater flows, stabilize eroding stream banks, enhance degraded riparian habitat and promote public education and access. Also occurring this year is the Clackamas River Basin Council's "Shade Our Streams," program, which works with landowners, local partnerships, nurseries, volunteers, and professional restoration crews to plant native plants in the lower Clackamas watershed. Efforts are underway to focus on properties along the tributaries of nearby Sieben Creek and Rose Creek for native plantings. While these plans are not directly connected to this grant proposal, construction of the SVT while these efforts are occurring will further support the District's goal to provide area residents with opportunities to learn about this local ecosystem while enjoying active recreation close to home.

The need for assistance is apparent by the adjacent City of Happy Valley's rapid growth, which experienced a population increase of 153% between 2000 and 2008. In this highly developed urban area, the opportunities for people to experience nature and also enjoy active recreation close to home are limited, yet vitally important. NCPRD trails and parks provide local residents with places to experience outdoor recreation and enjoy natural scenery. NCPRD has acquired property with these goals in mind, yet needs assistance to develop a trail that meets current standards, in addition to assuring that accessibility and safety is provided to all users.

1. FIRST TIME AWARDS (page 15):

Have you received a RTP grant before?:

No

If Yes, please provide the project number and name of all previous awards.:

2. PHYSICAL ACTIVITY INDEX (page 15):

Is the project located in a county not meeting the Physical Activity Index?:

No

If Yes, please select your county::

3. ECONOMIC DEVELOPMENT OPPORTUNITIES (page 15):

Is your project located in a Economic Distressed County or City?:

No

If Yes, please select which County or City the project falls in.:

County::

City::

4. NST, NRT, NHT, SHT or SDT (page 16):

Is your project located on a National Scenic Trail, National Recreation Trail, National Historic Trail, State Designated Recreation Trail, State Historic Trail or Scenic Waterway?:

No

If Yes, please list name of designated trail system::

Also provide a map and documentation indicating that the project location on the designated trail.:

5. TOP STATEWIDE TRAIL ISSUES (page 17-18):

Please select which issue(s) your project is addressing.:

ISSUE A|ISSUE B|ISSUE C

Please describe how the project addresses appropriate statewide trail issues.:

Issue A: Trail Connectivity The proposed Sunnyside Village Trail (SVT) addresses the statewide issue identified in the 2013-2017 SCORP by adding more recreational trails and better trail connectivity between NCPRD parks, the City of Happy Valley, and the communities of urban Clackamas County and Sunnyside Village within the boundaries of NCPRD. SVT will link existing trail sections with currently undeveloped portions to connect community parks, neighborhoods, and schools through a non-motorized, urban, alternative transportation route.

Once completed, the Sunnyside Village Trail will connect the regional 240 acre Mt. Talbert Nature Park to the west, with Hood View Park to the east. The SVT will also serve as a valuable connector to seven NCPRD parks and will be in close proximity to several others. Sections of the SVT will provide vital connections to other proposed or existing trail segments including the Power Line Corridor which is part of the larger, proposed regional Mt. Scott/Scouter Mountain Trail Loop, a trail of regional significance. The Mt. Scott/Scouter Mountain Trail Loop will span 37.5 miles and will provide an active transportation and recreation link between the Springwater Corridor, I-205 bike path, and Clackamas River, while connecting area residents to open space jewels including Powell Butte, Scouters Mountain, Mount Talbert Natural Area and Happy Valley Nature Park.

Issue B: Trail Rehabilitation The proposed route of the SVT currently includes several sections of informal/social trails that need to be rehabilitated to bring the trail up to standards that are suitable for public use and to prevent any significant damage that could take place due to natural disasters or acts of nature. Several sections of trail surface are currently made of compacted native soil, which prohibits rainwater from percolating; instead the trail becomes muddy and migrates into nearby Rose Creek negatively affecting water quality and clarity.

Issue C: Close to Home Projects The SVT is located within the Portland metropolitan area's urban growth boundary. This project also satisfies priorities of the Clackamas County Comprehensive Plan, which identifies the need for a transportation network that emphasizes connections within Sunnyside Village, which this trail will provide. The 2013-2017 SCORP also highlighted that close to home activities dominate the total user occasions for Oregon residents, who have identified walking on local trails/paths consisting of dirt or other soft-surfaced materials as a high public priority. This close to home project encourages use by members of the local community due to its proximity to residential areas, schools and businesses.

6. LOCAL NEEDS AND BENEFITS (page 18):

Public Planning Process - Is the project identified within a comprehensive plan?:

This project is identified in a number of local planning documents, including the 2004 NCPRD Master Plan (Linear Parks), and the 2007 NCPRD SDC Capital Improvements Plan. The Clackamas County Comprehensive Plan identifies the need for a transportation network that emphasizes pedestrian connections within Sunnyside Village, which the SVT will provide. The Sunnyside Corridor Community Plan, Section 3.1 states: "A system of pedestrian connections shall be provided from subdivisions and multi-family developments to the following commercial or public facilities: existing or planned transit facility, school, park, outdoor activity area, plaza, day care center, children's play area, library, church, or similar facility." The Clackamas County Comprehensive Plan Sunnyside Village Plan Land Use Map identifies the SVT as a pedestrian accessway.

The NCPRD Draft 2014-2024 Capital Improvement Plan identifies the trail as a high priority project. This plan also identifies specific System Development Charges to be used for park and

trail development in the Sunnyside neighborhood. The 2009 City of Happy Valley Pedestrian System and Trail Master Plan also proposes an unpaved local trail where the SVT route will be constructed.

Demonstrate Public Support - Please list all letters of support and any other supportive information.:

This grant proposal includes Letters of Support from the following:

City of Happy Valley Sunnyside Library Water Environment Services (WES) Clackamas County Pedestrian/Bicycle Advisory Committee Happy Valley Hikers Friends of Trees

7. SUSTAINABLE TRAIL DESIGN (page 19):

Please describe how the trail project will result in a well-designed, managed and sustainable trail or trail system. How will impacts and damage to trail facilities be proactively prevented or minimized through innovative and sustainable trail and facility design and management practices?:

NCPRD is dedicated to constructing and maintaining sustainable trails that are well-designed and integrate well with the natural surroundings. The proposed Sunnyside Village Trail (SVT) route and current condition lends itself to minimal disturbance and a long foreseeable lifespan. NCPRD trail construction projects are designed to utilize the natural topography of the land, with rolling dips to drain water away from the trail. Trail grades meet the Half Rule and are designed to keep users on the trail. Most materials used for the project will be purchased locally, reducing the environmental impact of construction.

Erosion and sediment controls are required for all NCPRD trail construction projects, and the SVT's alignment will minimize water retention on the trail tread. The proposed trail route follows a long-used informal/social trail that will greatly minimize site disturbance and will enhance the area's plant and wildlife habitat. While not in the scope of the grant proposal, this project also includes plant conservation components including the removal of invasive plants, and an increase of native tree and shrub plantings along Rose Creek. The planting component will be carried out through a partnership with Friends of Trees, which works with students from nearby Oregon Trail Elementary School, to increase tree canopy along Rose Creek to decrease stream temperatures.

With the soft-surface trail consisting of decomposed granite, nearby streams will benefit from improved water quality, habitat and complexity through reduced sediment runoff during rainfall events. Grade reversals and full bench construction will also prevent violent erosion to take place when water is present. This project also benefits from the input of two professional ecologists that assisted with project design and maintenance plans for the SVT.

8. LONG TERM COMMITMENT TO MAINTENANCE (page 21):

Explain the plan to continue trail operation and maintenance after the project is complete. List maintenance requirements (including the level of annual maintenance required for the trail) and strategies to be used. Also describe the degree of commitment by reporting on such items as on-going funding, partnerships with other agencies, or volunteer maintenance (e.g. youth conservation or service corps). Where appropriate, include documentation such as volunteer hour tracking reports, cooperative agreements, donations, private sponsorship, support letters, or signed memoranda of understanding.:

A successful maintenance program begins with sound planning and design during trail construction. Once established, the urban SVT trail will require quarterly inspections for deficiencies and developing hazards, in addition to prompt responses to citizen concerns and complaints. Since the SVT will wind through Sieben Park which is already maintained by NCPRD, park maintenance workers will have even more opportunities to monitor and evaluate trail conditions throughout the year.

Water Environment Services (WES), our project partner, which owns land where a portion of the SVT will be constructed, is active in conducting stream and habitat restoration work in nearby Rose Creek. The similar objectives of WES and NCPRD for the Rose Creek/SVT corridor provide additional opportunities for observing trail conditions and notifying NCPRD staff of potential issues or maintenance needs.

NCPRD is a full service parks and recreation district with a full time maintenance and natural resources staff dedicated to the maintenance of parks, trails, and natural areas. Maintenance of District facilities are funded by the District's general fund which is supported by a dedicated property tax of .54/\$1000 assessed value. Estimated maintenance cost of Sunnyside Village Trail is \$4,000/year (109 man hours). NCPRD is extremely committed to the Sunnyside Village Trail project. The project matching funds are an approved part of the NCPRD Capital Improvement Project Budget and NCPRD has committed a significant amount of staff time to the project. The Natural Resources staff is dedicated to maintaining the proposed trail improvements. Please see the attached letters of support from project partners, community members, and local volunteer organizations.

Do you have a Trail Maintenance Plan? What is your trail condition assessment process? Please explain.:

While NCPRD does not have a formal Trail Maintenance Plan, the completed sections of the SVT will become part of NCPRD's park system and will be included in our annual parks maintenance program. The Draft 2014 NCPRD Master Plan and Capital Improvement Plan also includes a proposal to develop a Trails and Natural Resources Management Plan in 2016. NCPRD's Natural Resources Department follows established Best Management Practices (BMPs) and in-house protocols for maintaining trails and assuring that trails benefit from regular upkeep. BMPs include identifying trails needs through an assessment process, including reviewing the natural topography and surface water behaviors on-site. NCPRD works with regional and local partners including Metro and Portland Parks and Recreation on trail development and these partnerships foster a collective understanding of sound trail conditions and established trail maintenance standards.

9. NATURAL SURFACE TRAILS (page 21):

Is your project building a non-paved trail?:

Yes

If Yes, please briefly describe the surface treatment::

Yes, the project focus is building a non-paved trail. Several sections of trail have undergone varying levels of improvement over the years which have resulted in a patchwork of trail materials and trail construction standards. Initial construction efforts will focus on defining the current level of trail condition, specifically focusing on the types of material that the trail foundation consists of. Those sections that were built with an acceptable level of aggregate base rock will be left intact, while other areas that did not receive such treatment will require trail foundation construction. Since the trail has undergone several iterations of trail construction, the entire trail surface consists

of a variety of trail materials including native soil, bark chips, natural turf, and loose gravel. In an effort to maintain trail consistency and provide for a long-lasting surface that can withstand severe weather conditions, the chosen surface treatment for Sunnyside Village Trail is crushed, decomposed granite, which has a number of valuable attributes as a trail surface. Decomposed granite has a natural coloration and texture, compacts well while still allowing water to percolate, and provides consistent traction even in wet conditions. Two inches of decomposed granite will be compacted onto a two inch base of crushed rock foundation and two inches of basalt for improved stability and drainage. Also, trail surface erosion measures will be employed that take into account surface drainage. Edging to keep trail shape and minimize runoff will be installed and consist of rounded, wooden posts anchored into the ground. Existing trees and shrubs found along the trail alignment will also be utilized to take advantage of their ability to mitigate surface erosion.

10. MULTI-USE TRAILS (page 21):

Please select the users groups that will be allowed to use the trail::

ADA accommodations | Hikers (walking, running, backpacking)

11. PROJECT URGENCY (page 22):

Is there an urgent need for time-sensitive land acquisition, immediate threat of closure because of non-compliance with state and federal law, threat of lost opportunity, meeting project completion deadlines, public health and safety concerns or impacts on cultural and natural resources?:

Yes

If Yes, please explain.:

This project involves a partnership with Water Environment Services to construct Sunnyside Village Trail concurrently with stream habitat restoration work. Timing these events to occur at the same time will minimize disruption to the environment and lessen the impacts construction will have to wildlife. Coordinating trail construction with stream habitat restoration work will also greatly limit the amount of time this area will be closed to the public. Funding for this project is scheduled for the 2015-2016 fiscal year.

Description	Qty	Unit	\$/Unit	Cost	Match	Request	Source of Funding
Decomposed Granite	84	Cubic Yards	\$132.00	\$11,088.00	\$0.00	\$11,088.00	2015-16
Clearing and Grubbing	13500	Square Feet	\$0.32	\$4,320.00	\$864.00	\$3,456.00	General Fund
Sod Removal	6000	Square Feet	\$0.32	\$1,920.00	\$384.00	\$1,536.00	2015-16
Surface Grading	13500	Square Feet	\$0.18	\$2,430.00	\$486.00	\$1,944.00	General Fund
Mobilization	1	Each	\$5,000.00	\$5,000.00	\$1,000.00	\$4,000.00	2015-16
Erosion/Construction Fencing	2250	Linear Feet	\$2.40	\$5,400.00	\$1,080.00	\$4,320.00	General Fund
Construction Signs	4	Each	\$120.00	\$480.00	\$96.00	\$384.00	2015-16
Crush Rock (Aggregate) Base	84	Cubic Yards	\$60.00	\$5,040.00	\$1,008.00	\$4,032.00	General Fund
Subgrade Geotextile Fabric	1950	Square Yards	\$1.08	\$2,106.00	\$421.00	\$1,685.00	2015-16
Basalt (1/4)	84	Cubic Yards	\$42.00	\$3,528.00	\$705.00	\$2,823.00	General Fund
Wooden Edging and Support	3700	Linear Feet	\$1.55	\$5,735.00	\$1,147.00	\$4,588.00	2015-16
Trail Wayfinding Signage	6	Each	\$56.00	\$336.00	\$68.00	\$268.00	General Fund
Construction Documents and Management	1	Each	\$4,500.00	\$4,500.00	\$4,000.00	\$500.00	2015-16
Totals				\$51,883.00	\$11,259.00	\$40,624.00	General Fund

Total Project Cost:	\$51,883.00
Total Match for Sponsor:	\$11,259.00
Grant Funds Requested:	\$40,624.00

As an authorized representative of North Clackamas Parks and Recreation District, I certify that the applicant agrees that as a condition of receiving Recreational Trails Grant Program assistance, it will comply with all applicable local, state and federal laws and regulations.

This application has been prepared with full knowledge of, and in compliance with, the Oregon Parks and Recreation Department's (OPRD) Grants Manual for the Recreational Trails Grant program.

I also certify that to my best knowledge, information contained in this Application is true and correct.

I will cooperate with Oregon Parks and Recreation Department by furnishing any additional information that may be requested in order to execute a State/Local Agreement, should the project receive funding assistance.



Request for Reimbursement Guide

All files for projects benefiting from Oregon Parks and Recreation Department administered grant funds must be able to pass a State audit. When preparing to submit a Request for Reimbursement, plan on submitting the following documentation:

RTP Progress Form – Available online at:
http://www.oregon.gov/oprd/GRANTS/Pages/trails_more.aspx → Billing/Reimbursement Forms

Standardized Reimbursement Request - Available online at:
http://www.oregon.gov/oprd/GRANTS/Pages/trails_more.aspx → Billing/Reimbursement Forms

Project Invoices – Please submit copies of all project **bills/invoices**.

Bill Payment Confirmation – Please submit documentation confirming that all project bills/invoices have indeed been paid. The best way to document this is with some type of **Accounts Paid Report** for the project that lists **Payments, Payee, Payment Date and Check Number**. (This is different from an Accounts Payable Report which would only list payments pending.) If an Accounts Paid Report is not available, please submit copies of canceled payment checks (with account numbers blocked out).

Once the project is completed . . .

Project Pictures – Please plan to submit 5-10 digital pictures of the completed project site, for the project file. Digital pictures can be sent as email attachments.

Acknowledgement Sign - Is there any type of signage on site acknowledging OPRD grant support for the project? If not, we will send you one.

If you have questions, please contact:

Pamela Berger
Grant Program Coordinator
Oregon Parks and Recreation Dept.
725 Summer St. NE Suite C
Salem, OR 97301-1266
pamela.berger@oregon.gov
503-986-0785
www.oregon.gov/OPRD/GRANTS/index.shtml

PROGRESS REPORT

RTP Grant Program



DATE: _____

Sponsor Name:	RTP Agreement #:	Billing #:
Project Title:		
Billing Period:	Start Date:	End Date:

Description of Work Completed:

Project Problems or Delays:

Percentage of Project Completed to Date:

Report Completed By: _____

Title: _____

Received by OPRD: _____ **Date:** _____

Progress Reports are due no less than one per quarter. Progress Reports are required as part of all RTP Agreements.

