

AGENDA

Thursday November 8, 2018 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2018-115

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. HOUSING AUTHORITY CONSENT AGENDA

1. Approval to Execute an Intergovernmental Agreement between the Housing Authority of Clackamas County and Clackamas County for the Director of Housing Development Position
2. Approval of Amendment No. 1 to the Environmental Engineering Service Contract between the Housing Authority of Clackamas County and PBS Environmental

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

1. Recognition of Veterans Day – Erika Silver, Health, Housing, and Human Services

III. 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.)*

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 Work Sessions. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of Amendment No. 13 for the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Operation as the Local Public Health Authority for Clackamas County – *Public Health*
2. Approval of a Service Agreement with Legacy Laboratory Services Partnering with Clackamas County Health Centers Division for Laboratory Testing Services – *Health Centers*
3. Approval of a Ground Lease between Clackamas County Health, Housing & Human Services and the Clackamas County Development Agency Pertaining to the Property Located at 16575 SE 115th Ave. – *Community Development*

B. Department of Transportation & Development

1. Consent to the Annexation of a Portion of SE Armstrong Circle to the City of Happy Valley
2. Consent to the Annexation of a Portion of SE Hemrich Road (9,234 sqft) to the City of Happy Valley
3. Consent to the Annexation of a Portion of SE Hemrich Road (20,849 sqft) to the City of Happy Valley
4. Consent to the Annexation of a Portion of SE Crosswater Way to the City of Happy Valley
5. Approval of the Termination of the Construction Contract between Clackamas County and PCR, Inc. for the Jennings Lodge Pedestrian Improvements Project

C. Finance Department

1. Approval of Contracts with National Interpreting Services Inc. for On-Call Interpreter Services for Clackamas County Departments

D. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC

E. Public and Government Affairs

1. Approval of an Intergovernmental Agreement between Clackamas County and the City of West Linn for Payment of Services Related to Willamette Falls Locks State Commission

F. Technology Services

1. Approval of a Service Level Agreement between Clackamas Broadband eXchange and Portland General Electric for Eight Fiber Connections Along Highway 26
2. Approval of Amendment No. 2 to the Service Level Agreement between Clackamas Broadband eXchange and the City of Milwaukie for Dark Fiber Connection
3. Approval of a Service Level Agreement between Clackamas Broadband eXchange and West Linn-Wilsonville School District for Redundant School Connections

V. DEVELOPMENT AGENCY

1. Approval of a Ground Lease between Clackamas County and the Clackamas County Development Agency Pertaining to the Property Located at 16575 SE 115th Ave.

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. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel. <https://www.clackamas.us/meetings/bcc/business>

November 8, 2018

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

Approval to execute an Intergovernmental Agreement between the
Housing Authority of Clackamas County and Clackamas County
for the Director of Housing Development Position

Purpose/Outcomes	Approval to execute an Intergovernmental Agreement between the Housing Authority of Clackamas County and Clackamas County for the Director of Housing Development position.
Dollar Amount and Fiscal Impact	\$150,000/year - 3 Year Commitment \$450,000 total contract value
Funding Source(s)	County General Funds – Policy Level Proposal Submitted by Health, Housing & Human Services
Duration	10/1/18 - 9/30/21
Previous Board Action	Approval of the Policy Level Proposal
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Sustainable and affordable housing 2. Individuals and families in need are healthy & safe 3. Ensure safe, healthy and secure communities
Contact Person	Chuck Robbins, HACC Executive Director (503) 650-5666
Contract Number	Contract #8941

BACKGROUND:

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval to enter into an Intergovernmental Agreement (IGA) with Clackamas County, for the funding of the HACC Director of Housing Development.

The Director of Housing Development is a new position at the Housing Authority and will take the lead in the development of affordable housing throughout the county. This position will work to implement and manage HACC development goals and objectives, negotiate capitalization and the financing of HACC units both for new development and rehabilitation, to serve as liaison for complex real estate development related issues, and supervise professional development staff and contractors.

The primary work responsibilities of the Development Manager is as follows:

- Create development plans
- Conceptualize feasible real estate project that align with HACC's mission and values
- Lead the negotiations on property acquisition and development siting activities
- Determine feasible funding packages for development projects
- Participate as a member of HACC's management team
- Represent HACC to public and private agencies and groups
- Hire and direct professional, technical, and administrative support staff

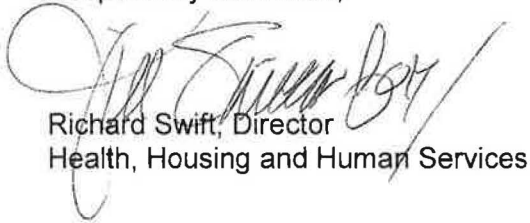
The proposal is to use General Funds from the Policy Level Proposal to partially fund this position for the first 3 years. After that time HACC should be able to generate enough revenue from its development activities to permanently fund the position. County Counsel reviewed the IGA.

RECOMMENDATION:

Staff recommends the Board approve the Intergovernmental Agreement with Social Services for the case management of Public Housing residents.

Staff also recommends the Board authorize Chuck Robbins, HACC Executive Director, to sign the IGA on behalf of the Housing Authority Board of Commissioners, and Richard Swift to sign on behalf of the Clackamas County Board of County Commissioners.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", is written over the typed name and title. The signature is fluid and cursive, with a large initial "R" and "S".

Richard Swift, Director
Health, Housing and Human Services

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www.clackamas.us

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
HOUSING AUTHORITY OF CLACKAMAS COUNTY
AND
CLACKAMAS COUNTY**

I. Purpose.

A. This Agreement is entered into between the Housing Authority of Clackamas County (HACC) and Clackamas County through its Health Housing and Human Services Department, Administration Division, for the provision of a full time Development Manager. HACC is a Public Corporation, established under the Federal Housing Act of 1937 and the provisions of Chapter 456 of the Oregon Revised Statutes.

B. This Agreement provides the basis for a cooperative working relationship for the Development Manager to implement and manage HACC development goals and objectives, negotiate capitalization and the financing of HACC units both for new development and rehabilitation, to serve as liaison for complex real estate development related issues, and supervise professional development staff and contractors. The Scope of Work to be accomplished is described in Exhibit A (attached as "Exhibit A").

II. Scope of Cooperation.

A. H3S Administration agrees to:

1. Pay the wage for the Development Manager yearly for three (3) years.

B. HACC agrees to:

1. The Scope of Work in Exhibit A of this Agreement;

2. Hire a qualified Development Manager.

C. Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.

D. Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, familial or marital status, age, genetic information, domestic violence victim status, medical condition or disability.

III. Budget and Terms of Payment for Services Rendered.

A. Budget: the cost of purchasing the services of a full-time case manager will be \$450,000.00 for three years.

The budget components are detailed as follows:

Salary & Benefits	\$150,000 yearly
<u>Number of years</u>	<u>3</u>
TOTAL	\$450,000

B. Terms of Payment:

1. H3S Administration payments will be made yearly starting Oct. 1, 2018.

IV. Other Terms.

A. Monitoring and Measurement. H3S Administration and HACC will develop benchmarks or metrics for monitoring the Development Manager's impact on outcomes listed in Exhibit A, Section II of this Agreement.

B. Amendments. This Agreement may be amended at any time upon written agreement between H3S Administration and HACC. Amendments become a part of this Agreement only after any written amendment has been signed by the proper signatories for each department.

C. **Insurance Requirements.** H3S Administration is insured by Clackamas County and HACC is insured by the Housing Authority Risk and Retention Pool (HARRP). H3S Administration requires all vendors and services providers who enter into a service contract with H3S Administration to provide a certificate of insurance that names H3S Administration as additional insured.

V. Debt Limitation Clause.

This agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein that would conflict with law are deemed inoperative to that extent.

VI. Subcontracts and Assignments.

Neither party will subcontract or assign any part of this agreement without the written consent of the other party.

VII. Term of Agreement. This agreement is effective October 1, 2018 and will terminate on September 30, 2021. The term of this Agreement may be extended by Amendment as noted in Section IV above.

VIII. Termination. This agreement may be terminated by either party upon a written notice submitted 45 days prior to requested termination date or immediately if extraordinary circumstances emerge, such as but not limited to, loss of funding, personnel terminations, lack of need for services or other situations beyond the control of one or both parties to this agreement.

IX. Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the party granting such waiver.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below:

**HOUSING AUTHORITY OF
CLACKAMAS COUNTY BOARD**

Commissioner Jim Bernard, Chair
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader
Resident Commissioner Paul Reynolds

Signing on Behalf of the Housing Authority Board

Chuck Robbins, Executive Director
Housing Authority of Clackamas County

Date

CLACKAMAS COUNTY

Commissioner Jim Bernard, Chair
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader

Signing on Behalf of the Board

Richard Swift, Director
Health, Housing & Human Services Department

Date

Exhibit A - Scope of Work

Development Manager for Housing Authority of Clackamas County (HACC)

I. Logistics and Management of Position:

- Development Manager to implement and manage HACC development goals and objectives, negotiate capitalization and the financing of HACC units both for new development and rehabilitation, to serve as liaison for complex real estate development related issues, and supervise professional development staff and contractors

II. Primary Work Responsibilities of Development Manager:

- Creates development plans; organizes, and implements HACC's development goals; analyzes policy objectives and plans for implementation; plans, coordinates and oversees funding initiatives related to the directive, including HUD, other financial products, and grant applications; plans, organizes and coordinates development initiatives across County divisions.
- Conceptualizes feasible real estate projects that align with HACC's mission and values; evaluates and analyzes development, redevelopment, and land acquisition opportunities; acts as project manager on large scale or very complex development projects; prepares long-range project strategies; oversees the preparation of work plans, schedules and budgets for a broad range of development projects; evaluates feasibility analyses and monitors project progress and compliance issues.
- Leads the negotiations on property acquisition and development siting activities; ensures compliance with applicable local, state and federal building, safety and health codes and regulations.
- Determines feasible funding packages for development projects; explores and negotiates terms with lenders and investors on property acquisition and development siting activities; pursues grants and low interest loans available from agencies; review complex financial agreements and loan documents; ensures compliance with applicable local, state and federal building, safety and health codes and regulations.
- Participates as a member of HACC's management team; participates in department budgeting and long range planning processes; prepares and oversees annual and supplemental development budgets; monitors and reviews development section and project budgets, revenues and expenditures; coordinates presentation of development proposals; participates in policy and program decisions with other members of management team.
- Represents the Housing Authority to public and private agencies and groups; makes technical presentations before commissions, boards and the public; participates in task forces to coordinate intergovernmental programs; promotes Housing Authority activities with the public; meets with neighborhood groups on project-related issues; responds to and resolve difficult and sensitive citizen inquiries and complaints.
- Hires and directs, professional, technical and administrative support staff to provide quality service to citizens and County staff; prepares performance evaluations; recommends and administers progressive discipline; conducts and/or facilitates staff training and development programs; promotes cooperative team efforts among staff and with other County departments.

November 8, 2018

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

Approval of Amendment Number One (1) to the Environmental Engineering Service Contract between Housing Authority of Clackamas County and PBS Environmental

Purpose/Outcomes	Approval of Amendment #1 between Housing Authority of Clackamas County (HACC) and PBS Environmental
Dollar Amount and Fiscal Impact	\$75,000 Amendment No. 1 Total Contract Value \$150,000
Funding Source(s)	Housing Authority of Clackamas County No County General Funds
Duration	March 22, 2018 through March 31, 2018
Previous Board Action	None
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Ensure safe, healthy and secure communities 2. Sustainable and Affordable Housing
Contact Person	Chuck Robbins, HACC Executive Director (503) 650-5666
Contract Number	H3S Contract #8736

BACKGROUND:

The Clackamas County Housing Authority (HACC) a Division of the Health, Housing & Human Services Department requests approval to execute Amendment Number 1 to an Environmental Service Contract with PBS Environmental.

PBS provides HACC with a range of consulting services for assessment of environmental conditions throughout its Public Housing portfolio as well as future sites that HACC may want to acquire for development and/or redevelopment of affordable housing. PBS also provides, if needed, geotechnical testing and analysis for HACC as required for affordable housing development under a separate contract.

PBS Environmental performs the following tasks under the current contract with HACC:

- Phase I environmental site assessments meeting ASTM standards and any HUD requirements.
- Phase II site assessments to confirm presence or absence of hazardous materials.
- Individual hazardous materials testing based on reported suspected presence. Materials testing may include, but are not limited to, presence of lead, asbestos, PCBs, and other regulated or hazardous substances.
- Testing for underground storage tanks. Soil and groundwater investigations.
- Testing for radon and recommendations based on results.
- NEPA studies meeting HUD requirements.
- Testing for moisture intrusion and mold evaluations.

- Review of historical data and existing documents.
- Development of recommended protocols for abating or addressing hazardous materials.
- Reporting on hazardous materials including locations sampled, observations made and tabulated results.
- Identification of Federal, State and local laws and regulations project must satisfy.
- Assistance with cost estimates for abatement work.

PBS was selected through a competitive RFP process and has been under contract since March 22nd, 2018. The Amendment increases the contract amount by \$75,000, bringing the total not to exceed amount to \$150,000.00. The Amendment covers the remainder of the 3 year contract period, through March 31, 2021. At the conclusion of the contract HACCC will again advertise an RFP for environmental services.

No County General Funds used. County Counsel has reviewed and approved the contract amendment.

RECOMMENDATION:

Staff recommends the Board approve Amendment #1 and staff recommends the Board authorizes Richard Swift, H3S Director to sign on behalf of the Housing Authority of Clackamas County

Respectfully submitted,



Richard Swift, Director
Health, Housing and Human Services

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ENVIRONMENTAL ENGINEERING SERVICES
for the **HOUSING AUTHORITY OF CLACKAMAS COUNTY**
P.O BOX 1510, 13900 S. GAIN STREET, OREGON CITY, OR 97045

CONTRACT AMENDMENT #1

TO: PBS Environmental
Attention: S. Derek May

Subject: Environmental Engineering Services
Contract No. 8736
Amount \$75,000 (Not to Exceed \$150,000 for March 22, 2018 through March 31, 2021)

Pursuant to the terms of your contract dated March 22, 2018 for Contract #8736 – Environmental Engineering Consultant for HACC you are hereby authorized to increase the contract total for the 3 year contract period by a maximum of \$75,000, bringing the total amount of the contract to \$150,000.

Except as set forth herein, the County and the Contractor ratify the remainder of the Contract and affirm that no other changes are made hereby.

Pursuant to Article II of the original Contract dated March 22, 2018: Compensation. The PHA shall amend the Contract to pay the Contractor for the performance of the Contract, in current funds, according to the Fee schedule attached as Attachment B, for a not to exceed sum of one hundred fifty thousand dollars (\$150,000.00) on a fee-for-service basis.

You are informed that Chuck Robbins, Executive Director, has been appointed as Contracting Officer, and is duly authorized to administer your contract for and in the name of this Housing Authority of the County of Clackamas.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in **one or more** original counterparts, each of which shall be deemed an original, as of the day and year first above written.

**HOUSING AUTHORITY OF
CLACKAMAS COUNTY BOARD**

Commissioner Jim Bernard, Chair
Commissioner Sonya Fischer
Commissioner Ken Humberston
Commissioner Paul Savas
Commissioner Martha Schrader
Resident Commissioner Paul Reynolds

PBS Environmental

S. Derek May, Vice President

Date

Signing on Behalf of the Housing Authority Board

Richard Swift, Director
Department of Health, Housing and Human
Services

Date

November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Recognition of Veterans Day

Purpose/Outcomes	Acknowledge the service, commitment and sacrifices of those who have served our great nation. Appreciation and support for those who have served and those who are currently serving, and for the family and friends who are also impacted by military service.
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Safety Impact	N/A
Duration	N/A
Previous Board Action	N/A
Contact Person	Erika Silver, Manager, Social Services Division 503-650-5725
Contract No.	N/A

BACKGROUND:

The Social Services Division of the Health, Housing & Human Services Department present the recognition of Veteran's Day. Since 1938, the United States has commemorated the sacrifices of its armed forces by designating November 11th as a national holiday. Today, the Program Manager of the Clackamas County Veterans Service Office and of Community Solutions for Clackamas County come before the Board of County Commissioners to acknowledge the service, commitment and sacrifices of those who have served our great nation. While Veterans Day is an annual commemoration and reminder, appreciation and support for those who have served and are currently serving, and for the family and friends who are also impacted by military service, is needed every day.

Clackamas County is engaged in a broad range of efforts to support our veterans including:

The County Veterans Service Office (CVSO) assists veterans to obtain Veteran's Administration (VA) financial and medical benefits. Last year, CVSO staff members Janice Harlan, Gina Thomas, Heather Miewald, Felicia Ridings and Jackie Bauer worked intensively with 1,776 veterans. Current data indicates that the CVSO helped secure more than \$7.6 million in new federal benefits for Clackamas County veterans, however there is a backlog being worked through at the VA and Oregon Department of Veterans Affairs and this number will increase as more awards data is uploaded.

Community Solutions assists veterans in need of training and employment with intensive case management and customized career plans. Veterans engaging in these services overcome multiple complex barriers including PTSD and Traumatic Brain Injury. Last year 41 veterans were served, 78% became employed and the remaining veterans continue to be actively

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engaged in case management and employment training. Average wage for those who became employed was \$16.73 an hour, 19% more than last year's average.

In support of the Performance Clackamas **Ending Veteran Homelessness** goal, within Social Services three programs housing and supporting homeless veterans, 62 veteran households were served including 79 adults and 14 children. The number of Veterans Administration Supportive Housing (VASH) vouchers administered by the Housing Authority of Clackamas County was recently more than doubled from last year (51 to 106). VASH provides a rent subsidy and a VA case manager for formerly homeless veterans. Of these, 51 are housing formerly homeless veterans, ten have been issued to veterans searching for housing now, ten are on hold for the new Pleasant Avenue project and 35 are still available.

The **Homeless Veteran Coordination Team** is convened monthly and includes the Clackamas County Department of Health, Housing and Human Services, the VA and numerous community partners serving homeless veterans. This team is committed to collaboration and the efficient and effective use of resources.

The newly opened **Veterans Village** has sheltered 12 veterans including one female veteran, three veterans 62 or older, four veterans who identify as people of color and one veteran living with a physical disability. All homeless veterans are vulnerable but the veterans mentioned have added vulnerabilities. The Veterans Village provides a much safer alternative to the streets and facilitates engagement for housing placement and connection to other needed services.

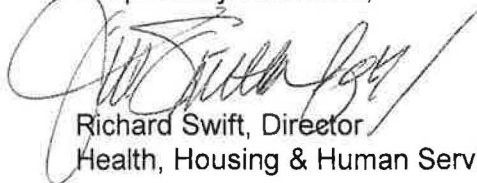
The County maintains an active **Veterans Advisory Committee** that ensures that the perspective of a broad diversity of Clackamas County veterans have the opportunity to impact County plans and services.

Oregon Department of Veterans Affairs (ODVA) recently selected Clackamas County as one of two counties in Oregon to pilot a new **Volunteer Veteran outreach program for aging veterans** that ODVA will be investing in. The county was selected due to the variety of effective, innovative and creative ways that Clackamas County supports its veterans.

Recommendation

Staff respectfully requests that the Board recognize and honor the service, commitment and sacrifices of all Veterans, military personnel, reservists and their families.

Respectfully submitted,



Richard Swift, Director
Health, Housing & Human Services

November 8, 2018

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Amendment #13 for the Intergovernmental Agreement with the State of Oregon, acting by and through its Oregon Health Authority, for Operation as the Local Public Health Authority for Clackamas County

Purpose/Outcomes	Amendment #13 makes the following changes: 1. Updated language for PE #12 "Public Health Preparedness Program (PHEP) 2. Updated language for PE #13 "Tobacco Prevention Education Program (TPEP) 3. Updated language for Exhibit J "Information required by 2CFR Subtitle B with guidance at 2 CFR Part 200 4. PE 12 PHEP increased by \$1,832 5. PE 46 – RH Community Participation & Assurance of Access increased by \$29,909
Dollar Amount and Fiscal Impact	Amendment #13 increases this Agreement by \$31,741 for a new Contract maximum value of \$6,141,685.00.
Funding Source	State of Oregon, Oregon Health Authority. No County General Funds are involved.
Duration	Effective upon signature and terminates on June 30, 2019
Strategic Plan Alignment	1. Improved community safety and health 2. Ensure safe, health and secure communities
Previous Board Action	The Board previously reviewed and approved this agreement on October 26, 2017 Agenda item 102617-A6, June 22, 2017, Agenda item 062217-A3 and October 5, 2017, Agenda item 100517-A2, April 12, 2018 Agenda item 041218-A2, June 7, 2018, Agenda item 060718-A11, June 14, 2018, Agenda item 061418-A3, September 27, 2018 – 092718-A5
Contact Person	Dawn Emerick, Public Health Director – 503-655-8479
Contract No.	8327-13

BACKGROUND:

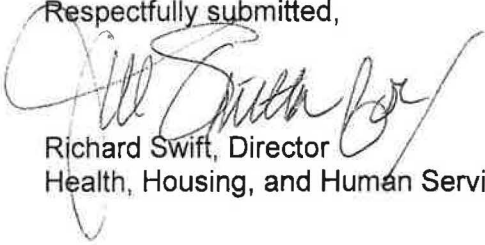
The Clackamas County Public Health Division (CCPHD) of the Health, Housing & Human Services Department requests the approval of Amendment #13 for the Intergovernmental Agreement with State of Oregon, Oregon Health Authority. Amendment #13 increases this Agreement by \$31,741 for a new Contract maximum value of \$6,141,685.00.

This Amendment is effective upon signature and continues through June 30, 2019. This contract has been reviewed by County Counsel on October 24, 2018.

RECOMMENDATION:

Staff recommends the Board approval of this amendment and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", written in a cursive style.

Richard Swift, Director
Health, Housing, and Human Services

**THIRTEENTH AMENDMENT TO OREGON HEALTH AUTHORITY
2017-2019 INTERGOVERNMENTAL AGREEMENT FOR THE
FINANCING OF PUBLIC HEALTH SERVICES**

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Thirteenth Amendment to Oregon Health Authority 2017-2019 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2017, and restated July 1, 2018 (as amended the "Agreement"), is between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and Clackamas County, acting by and through its Public Health Department ("LPHA"), the entity designated, pursuant to ORS 431.003, as the Local Public Health Authority for Clackamas County.

RECITALS

WHEREAS, OHA and LPHA wish to modify the set of Program Element Descriptions set forth in Exhibit B of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Fiscal Year 2019 (FY19) Financial Assistance Award set forth in Exhibit C of the Agreement.

WHEREAS, OHA and LPHA wish to modify the Exhibit J information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Exhibit B Program Element #12 "Public Health Preparedness Program (PHEP)" is hereby superseded and replaced in its entirety by Attachment A attached hereto and incorporated herein by this reference.
2. Exhibit B Program Element #13 "Tobacco Prevention Education Program (TPEP)" is hereby superseded and replaced in its entirety by Attachment B attached hereto and incorporated herein by this reference.
3. Section 1 of Exhibit C entitled "Financial Assistance Award" of the Agreement for FY19 is hereby superseded and replaced in its entirety by Attachment C attached hereto and incorporated herein by this reference. Attachment C must be read in conjunction with Section 3 of Exhibit C as restated July 1, 2018, entitled "Explanation of Financial Assistance Award" of the Agreement.
4. Exhibit J "Information required by 2 CFR Subtitle B with guidance at 2 CFR Part 200" is amended to add to the federal award information datasheet as set forth in Attachment D, attached hereto and incorporated herein by this reference.
5. LPHA represents and warrants to OHA that the representations and warranties of LPHA set forth in Section 2 of Exhibit E of the Agreement are true and correct on the date hereof with the same effect as if made on the date hereof.
6. Capitalized words and phrases used but not defined herein shall have the meanings ascribed thereto in the Agreement.

7. Except as amended hereby, all terms and conditions of the Agreement remain in full force and effect.
8. The parties expressly ratify the Agreement as herein amended.
9. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Amendment so executed shall constitute an original.
10. This Amendment becomes effective on the date of the last signature below.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the dates set forth below their respective signatures.

11. Signatures.

By: _____
 Name: /for/ Lillian Shirley, BSN, MPH, MPA
 Title: Public Health Director
 Date: _____

CLACKAMAS COUNTY LOCAL PUBLIC HEALTH AUTHORITY

By: _____
 Name: _____
 Title: _____
 Date: _____

DEPARTMENT OF JUSTICE – APPROVED FOR LEGAL SUFFICIENCY

Agreement form group-approved by D. Kevin Carlson, Assistant Attorney General, Tax and Finance Section, General Counsel Division, Oregon Department of Justice by email on August 16, 2018, copy of email approval in Agreement file.

REVIEWED BY OHA PUBLIC HEALTH ADMINISTRATION

By: _____
 Name: Derrick Clark (or designee)
 Title: Program Support Manager
 Date: _____

November 8, 2018

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Service Agreement with Legacy Laboratory Services partnering with Clackamas County Health Centers Division for Laboratory Testing Services

Purpose/Outcomes	The intent of the Service Agreement is to provide laboratory urinalysis specimen collection and testing services to clients of the Sandy Behavioral Health clinic.
Dollar Amount and Fiscal Impact	This agreement has a maximum contract value of \$200,000.
Funding Source	No County General Funds are involved. Health Centers fee for services.
Duration	Effective upon signature and terminates on November 30, 2023.
Strategic Plan Alignment	1. Efficient and Effective Services. 2. Ensure safe, healthy and secure communities
Previous Board Action	No Previous Board Action has been taken.
Contact Person	Deborah Cockrell, FQHC Director – 503-742-5495
Contract No.	8486

BACKGROUND:

The Clackamas County Health Centers Division (CCHCD) of the Health, Housing & Human Services Department requests the approval of the Professional Services Agreement with Legacy Laboratory Services for urinalysis collection and testing.

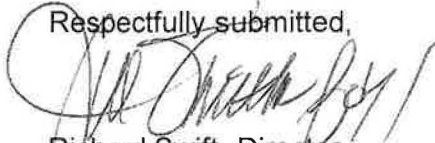
This agreement provides laboratory testing services for clients seeking therapy and treatment for Substance Use Disorders at the Sandy Behavioral Health clinic. This agreement will allow for more therapy time with the clients as well as a better turn-around for results. This is the only on-site drug testing/specimen collection lab in the Sandy, Oregon area. This Agreement has not been previously reviewed by the Board of County Commissioners. The total compensation amount is \$200,000 for a five year term.

County Counsel reviewed this document on October 30, 2018. No County General Funds are involved. This agreement is effective upon signature and terminates on November 30, 2023.

RECOMMENDATION:

Staff recommends the Board's approval of this agreement and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,



Richard Swift, Director
 Health, Housing, and Human Services

PROFESSIONAL SERVICES CONTRACT DOCUMENTS

for

Legacy Laboratory Services

Sandy Behavioral Health Clinic Agreement

Contract #8486

BOARD OF COUNTY COMMISSIONERS

Commissioner Jim Bernard, Chair

Commissioner Sonya Fischer

Commissioner Ken Humberston

Commissioner Paul Savas

Commissioner Martha Schrader

Don Krupp
County Administrator

Amy Council
Contract Analyst

PROFESSIONAL, TECHNICAL, AND CONSULTANT SERVICE CONTRACT

Contract #8486

This contract is between Clackamas County acting by and through its Health, Housing, and Human Services Department, Health Centers Division (CCHCD), hereinafter called "COUNTY", and LEGACY LABORATORY SERVICES, hereinafter called "CONTRACTOR".

I. SCOPE OF SERVICES

- A. CONTRACTOR agrees to accomplish the following work under this contract as outlined in Attachment A.
- B. Services required under the terms of this agreement shall commence upon signature. This agreement shall terminate November 30, 2023.

II. COMPENSATION AND RECORDS

- A. Compensation: COUNTY shall compensate CONTRACTOR for satisfactorily performing the services identified in Attachment A at rates as outlined on Attachment A. The total payment to CONTRACTOR shall not exceed \$200,000.

Payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, travel expenses, mileage, and incidentals necessary to perform the work and services.

- B. Method of Payment: To receive payment, CONTRACTOR shall submit invoices as follows:

CONTRACTOR shall submit an invoice to COUNTY for payment on a monthly basis. The invoice shall contain slips for each trip billed, indicating name of COUNTY staff authorizing the services, the date, beginning and ending destinations, number of miles, any waiting time or additional stops, amounts charged for each trip, the total amount due and any other appropriate information.

Invoices shall be submitted to:

Clackamas County Health Centers Division
Attn: Accounts Payable
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

HealthCenterAP@clackamas.us

When submitting electronically, designate CONTRACTOR name and contract #8486 in the subject of the e-mail.

Within thirty (30) days after receipt of the bill, provided COUNTY has approved the service specified on the invoice, COUNTY shall pay the amount requested to CONTRACTOR.

Withholding of Contract Payments: Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to submit required reports when due, or submit reports which appear patently inaccurate or inadequate on their face, or fail to perform or document

LEGACY LABORATORY SERVICES

Professional Services Contract # 8486

Page 3 of 21

the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding of payment for cause may continue until CONTRACTOR submits required reports, performs required services, or establishes to COUNTY's satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

- C. Record and Fiscal Control System: All payroll and financial records pertaining in whole or in part to this contract shall be clearly identified and readily accessible. Such records and documents should be retained for a period of five (5) years after receipt of final payment under this contract; provided that any records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.
- D. Access to Records: The COUNTY, the State of Oregon, and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of CONTRACTOR which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcripts.

If an audit discloses that payments to CONTRACTOR were in excess of the amount to which the CONTRACTOR was entitled, then CONTRACTOR shall repay the amount of the excess to COUNTY.

III. MANNER OF PERFORMANCE

- A. Compliance with Applicable Laws and Regulations: CONTRACTOR shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Contract. CONTRACTOR must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of CONTRACTOR'S warranty, in this Contract that CONTRACTOR has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle COUNTY to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- i. Termination of this Contract, in whole or in part;
- ii. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to CONTRACTOR, in an amount equal to COUNTY'S setoff right, without penalty; and
- iii. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. COUNTY shall be entitled to recover any and all damages suffered as the result of CONTRACTOR'S breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and COUNTY may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- B. Special Federal Requirements: Common rule restricts lobbying. See Volume 55, No. 38 of Federal Register, February 1990.

LEGACY LABORATORY SERVICES

Professional Services Contract # 8486

Page 4 of 21

- C. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the COUNTY.
- D. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of the COUNTY, State, or Federal Government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the sole responsibility of the CONTRACTOR.
- E. Tax Laws. CONTRACTOR shall pay all taxes owed to a public body, as defined in ORS 305.620, and ORS Chapters 316, 317 and 318. CONTRACTOR will continue to comply with the tax laws of this state or a political subdivision of the state during the term of this contract. Failure to comply with this contract term is a default for which the COUNTY may terminate the contract and seek damages and other relief available.

IV. GENERAL CONDITIONS

- A. Governing Law: This contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between COUNTY and CONTRACTOR that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- B. Indemnity: CONTRACTOR agrees to indemnify, defend and hold harmless the COUNTY, its officers, commissioners and employees against all liability, loss and costs arising from actions, suits, claims or demands attributable in whole or in part to the acts or omissions of CONTRACTOR and CONTRACTOR's officers, agents and employees, in performance of this contract.
- C. Representations and Warranties: CONTRACTOR represents and warrants to COUNTY that (A) CONTRACTOR has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of CONTRACTOR enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) CONTRACTOR shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- D. Severability: If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- E. Foreign Contractor: If the CONTRACTOR is not domiciled in or registered to do business in the State of Oregon, CONTRACTOR shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies

relative to this Contract. CONTRACTOR shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

- F. Force Majeure: Neither COUNTY nor CONTRACTOR shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, COUNTY's or CONTRACTOR's reasonable control. CONTRACTOR shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- G. Insurance: During the term of this contract, CONTRACTOR shall maintain in force at its own expense, each insurance noted below:

1. Commercial General Liability

Required by COUNTY Not required by COUNTY

CONTRACTOR shall obtain, at CONTRACTOR's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.

2. Commercial Automobile Liability

Required by COUNTY Not required by COUNTY

CONTRACTOR shall also obtain at CONTRACTOR's expense, and keep in effect during the term of the contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000.

3. Professional Liability

Required by COUNTY Not required by COUNTY

CONTRACTOR agrees to furnish the COUNTY evidence of Professional Liability Insurance in the amount of not less than \$1,000,000 combined single limit per occurrence/\$2,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of the COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this contract. COUNTY, at its option, may require a complete copy of the above policy.

4. Additional Insured Provisions

All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "Clackamas County, its agents, officers, and employees" as an additional insured.

5. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to the COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

6. Insurance Carrier Rating

Coverages provided by CONTRACTOR must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

7. Certificates of Insurance

As evidence of the insurance coverage required by this contract, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY. No contract shall be in effect until the required certificates have been received, approved and accepted by COUNTY. The certificate will specify that all insurance-related provisions within the contract have been compiled with. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.

8. Independent Contractor Status

The service or services to be rendered under this contract are those of an independent contractor. CONTRACTOR is not an officer, employee or agent of COUNTY as those terms are used in ORS 30.265.

9. Primary Coverage Clarification

CONTRACTOR's coverage will be primary in the event of a loss.

10. Cross-Liability Clause

A cross-liability clause or separation of insureds condition will be included in all general liability, professional liability, and errors and omissions policies required by the contract.

- C. Amendments: The terms of this contract shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.
- D. Termination: This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' notice in writing and delivered by certified mail or in person.
 - 1. COUNTY may terminate this contract effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

- a. If COUNTY funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
 - b. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this contract.
 - c. If any license or certificate required by law or regulation to be held by the CONTRACTOR to provide the services required by this contract is for any reason denied, revoked, or not renewed.
 - d. If CONTRACTOR fails to provide services, outcomes, reports as specified by COUNTY in this contract.
 - e. Any such termination of this contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
2. COUNTY by written notice of default (including breach of contract) to CONTRACTOR may terminate the whole or any part of this agreement:
- a. If CONTRACTOR fails to provide services called for by this contract within the time specified herein or any extension thereof; or
 - b. If CONTRACTOR fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.
 - c. If CONTRACTOR fails to provide services, outcomes, or reports as specified by COUNTY in this contract.
 - d. The rights and remedies of COUNTY provided in the above clause related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- E. Oregon Public Contracting Provisions and Constitutional Limitations: Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235, and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this contract:
1. CONTRACTOR shall:
 - a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the prosecution of the work provided for in this contract.
 - b. Pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of this agreement.
 - c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.

- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- 2. If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.
- 3. Employees shall be paid at least time and one-half for all overtime worked in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC Section 201 to 209 from receiving overtime.
- 4. CONTRACTOR shall promptly, as due, make payment to any person, partnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness and injury, to the employees of CONTRACTOR, of all sums which CONTRACTOR agrees to pay for the services and all moneys and sums that CONTRACTOR collected or deducted from the wages of its employees under any law, contract or agreement for the purpose of providing or paying for the services.
- 5. CONTRACTOR, if it is an employer of one or more workers subject to workers compensation coverage under ORS Chapter 656, shall qualify as an insured employer under ORS 656.017 or as an exempt employer under ORS 656.126. CONTRACTOR shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.
- 6. This contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. Future Support: COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this contract.
- G. Ownership of Work Product: All work products of CONTRACTOR which result from this contract are the exclusive property of COUNTY.
- H. Integration: This contract contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

LEGACY LABORATORY SERVICES

Professional Services Contract # 8486

Page 9 of 21

This contract consists of four (4) sections plus the following exhibits which by this reference is incorporated herein.

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

The undersigned, by its signature, agrees to perform the scope of work as described in the Contract documents and meet the performance standards set forth therein. By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

LEGACY LABORATORY SERVICES

1225 NE 2nd Avenue
Portland, OR 97232

**CLACKAMAS COUNTY BOARD OF
COUNTY COMMISSIONERS by:**

Authorized Signature

Richard Swift, Director
Health, Housing, and Human Services Department

Name / Title

Date

Date

Telephone / Fax Number

Oregon Business Registry #



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Consent to the Annexation of a Portion of
SE Armstrong Circle to the City of Happy Valley**

Purpose/Outcomes	Provide consent to the annexation of a portion of SE Armstrong Circle into the City of Happy Valley.
Dollar Amount and Fiscal Impact	None. The County will transfer jurisdiction and maintenance responsibilities after annexation.
Funding Source	N/A
Duration	Indefinite
Previous Board Action	October 18, 2018. Board approval of a transfer of roadway jurisdiction of SE Armstrong Circle to the City of Happy Valley.
Strategic Plan Alignment	Build public trust through good government.
Contact Person	Rick Maxwell – 503-742-4651
Contract No.	N/A

BACKGROUND:

Recently, the Board authorized the transfer of right of way jurisdiction to the City of Happy Valley for SE Armstrong Circle. The majority of this road is already inside city limits. The remainder of the road must be within city limits in order to finalize the jurisdictional transfer.

ORS 222.125 permits a city to annex property without an election or a hearing where all of the owners of land in the territory to be annexed and not less than 50 percent of the electors, if any, residing in the territory to be annexed consent in writing to the annexation and file a statement of their consent with the city. Because this annexation only involves a portion of SE Armstrong Circle, and because recent case law has clarified that the County is the “owner” of right of way for purposes of providing the required consent under ORS 222.125, the City must receive the County’s consent before processing the annexation using the procedures set forth in ORS 222.125. The City of Happy Valley represents that any other consents required under state law have been obtained.

A copy of the annexation petition, along with a map and legal description identifying the right of way proposed to be annexed is attached to this report.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Consent to the Annexation of a Portion of
SE Hemrich Road to the City of Happy Valley**

Purpose/Outcomes	Provide consent to the annexation of a portion of SE Hemrich Road into the City of Happy Valley.
Dollar Amount and Fiscal Impact	None. The County will transfer jurisdiction and maintenance responsibilities after annexation.
Funding Source	N/A
Duration	Indefinite
Previous Board Action	October 18, 2018. Board approval of a transfer of roadway jurisdiction of SE Hemrich to the City of Happy Valley.
Strategic Plan Alignment	Build public trust through good government.
Contact Person	Mike Bezner– 503-742-4651
Contract No.	N/A

BACKGROUND:

Recently, the Board authorized the transfer of right of way jurisdiction to the City of Happy Valley for SE Hemrich Road. In order to finalize the jurisdictional transfer, this section of SE Hemrich Road must be within city limits. The portion of SE Hemrich Road subject to this particular annexation request contains 9,234 square feet.

ORS 222.125 permits a city to annex property without an election or a hearing where all of the owners of land in the territory to be annexed and not less than 50 percent of the electors, if any, residing in the territory to be annexed consent in writing to the annexation and file a statement of their consent with the city. Because this annexation only involves a portion of SE Hemrich Road, and because recent case law has clarified that the County is the “owner” of right of way for purposes of providing the required consent under ORS 222.125, the City must receive the County’s consent before processing the annexation using the procedures set forth in ORS 222.125. The City of Happy Valley represents that any other consents required under state law have been obtained.

A copy of the annexation petition, along with a map and legal description identifying the right of way proposed to be annexed is attached to this report.

RECOMMENDATION:

Staff respectfully requests that the Board indicate its consent to a portion of SE Hemrich Road to the City of Happy Valley by signing the attached annexation petition.

Respectfully submitted,

Mike Bezner

Assistant Director of Transportation – Department of Transportation and Development

Attachments:

Annexation Petition

Legal Description

Maps



16000 SE Misty Drive
 Happy Valley, OR 97086
 Phone: 503-783-3800 Fax: 503-658-5174

PETITION TO ANNEX APPLICATION

To the City Council of the
 City of Happy Valley, Oregon

I (we), the undersigned owner(s) of the property described below and/or elector(s) residing at the location below described, hereby petition and give consent to, annexation of said property to the City of Happy Valley.

The consent for annexation is for the following described property:

SEE ATTACHED
 Street Address of Property (if address has been assigned)

 Tax Map and Tax Lot Number

SIGNATURE(S) OF LEGAL OWNER(S) AND/OR REGISTERED VOTER(S)

_____ Signature	_____ Owner Initial	_____ Voter Initial	_____ Date
_____ Signature	_____ Owner Initial	_____ Voter Initial	_____ Date
_____ Other Authorized Signature	_____ Owner Initial	_____ Voter Initial	_____ Date

Street Address

Home Phone

Work Phone

Mailing Address

City, State and Zip Code

Please submit a copy of the applicable Clackamas County Assessor's Map for the subject site, and mark or outline the property.

We, the owner(s) of the property described above and/or elector(s) residing on said property understand the annexation process can take more than a year. Therefore, we agree to waive the one-year time limitation on this consent established by ORS 222.173, and further agree that this contract shall be effective Indefinitely, or until 12/31/19.

Signature

Date

Signature

Date

The Population Research Center at Portland State University compiles population estimates which they report to the State of Oregon on an annual basis. The State of Oregon then uses these estimates to determine the City's Fair Share of state funds. If applicable, please help us with this effort by indicating below the number of housing units on the above indicated tax lots and the number of people residing in these housing units. THANK YOU!

Number of housing unit on above lot: _____

Types of housing units: ___ Single Family ___ Multi-Family ___ Mobile Home or Trailer

Number of people occupying these units: _____



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

AKS Job #2582

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - KEIZER, OR - BEND, OR

EXHIBIT A

Annexation Description

A portion of right-of-way located in the Southwest One-Quarter of Section 29 and the Southeast One-Quarter of Section 30 and the Northeast One-Quarter of Section 31 and the Northwest One-Quarter of Section 32, Township 1 South, Range 3 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the Southwest One-Quarter corner of said Section 29, also being on the centerline of SE Hemrich Road; thence along said centerline, South 89°15'46" West 74.37 feet to the southerly extension of the easterly line of Document Number 2002-012198, Clackamas County Deed Records, and the City of Happy Valley city limits line, and the Point of Beginning; thence along said southerly extension and said city limits line, North 00°09'15" West 30.00 feet to the southeasterly corner of said deed, also being on the northerly right-of-way line of SE Hemrich Road (30.00 feet from centerline); thence leaving said city limits line along said northerly right-of-way line, North 89°15'46" East 147.86 feet to the westerly right-of-way line of SE Foster Road (30.00 feet from centerline); thence along said westerly right-of-way line, South 11°34'25" East 61.09 feet to the southerly right-of-way line of SE Hemrich Road (30.00 feet from centerline); thence along said southerly right-of-way line, South 89°15'46" West 159.95 feet to the southerly extension of the easterly line of said deed and said city limits line; thence along said southerly extension and said city limits line, North 00°09'15" West 30.00 feet to the Point of Beginning.

The above described tract of land contains 9,234 square feet, more or less.

9/13/2018

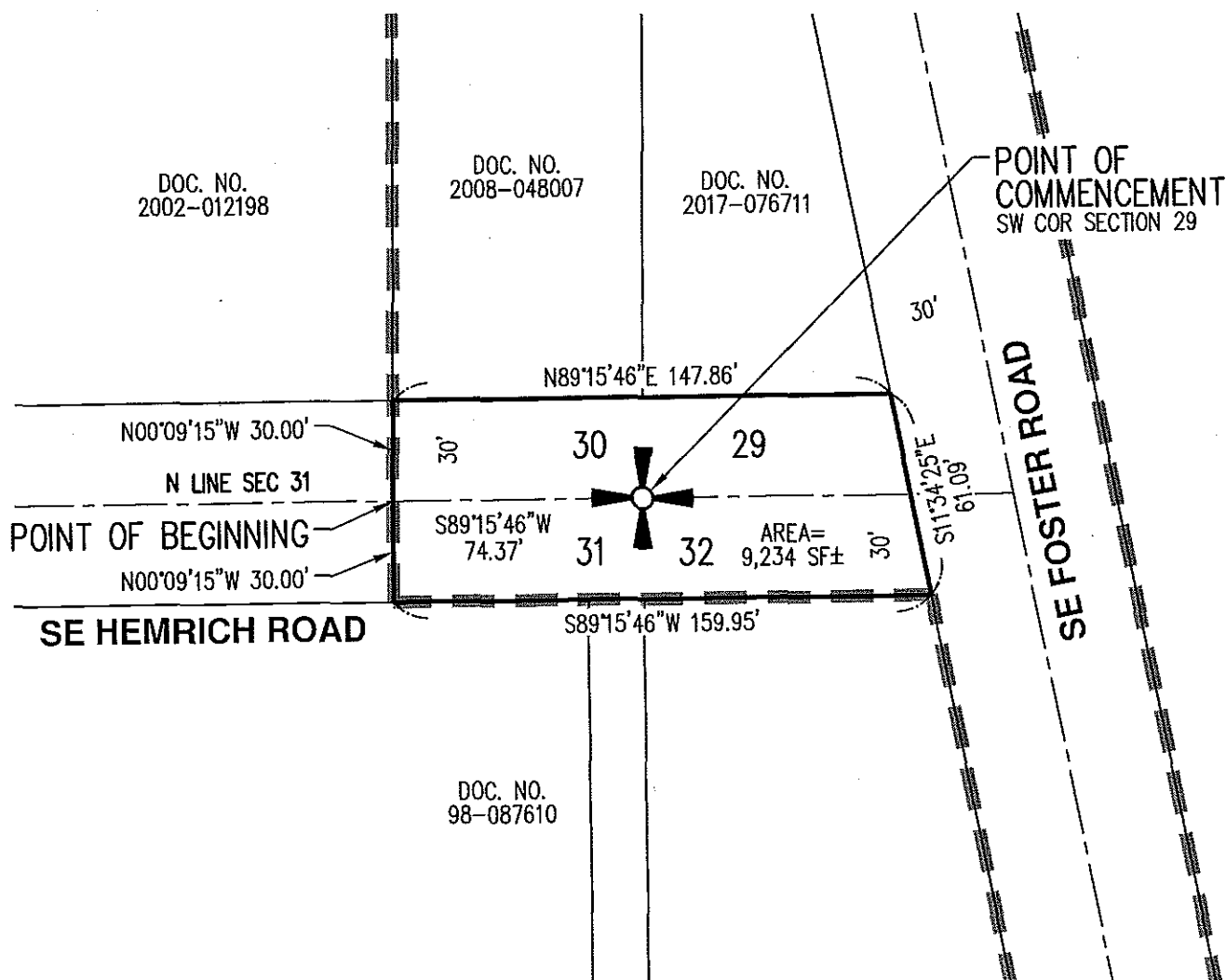
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/20

EXHIBIT A

A PORTION OF RIGHT-OF-WAY LOCATED IN THE SOUTHWEST 1/4 OF SECTION 29 AND THE SOUTHEAST 1/4 OF SECTION 30 AND THE NORTHEAST 1/4 OF SECTION 31 AND THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON



LEGEND

--- CITY OF HAPPY VALLEY CITY LIMITS LINE

9/13/2018

REGISTERED PROFESSIONAL LAND SURVEYOR

Nick White

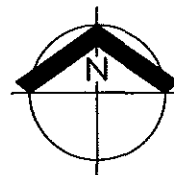
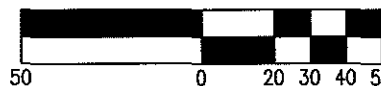
OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/20

PREPARED FOR

CITY OF HAPPY VALLEY
 16000 SE MISTY DRIVE
 HAPPY VALLEY, OR 97086

SCALE: 1" = 50 FEET



ANNEXATION MAP

AKS ENGINEERING & FORESTRY, LLC
 12965 SW HERMAN RD, STE 100
 TUALATIN, OR 97062
 P: 503.563.6151 F: 503.563.6152 aks-eng.com



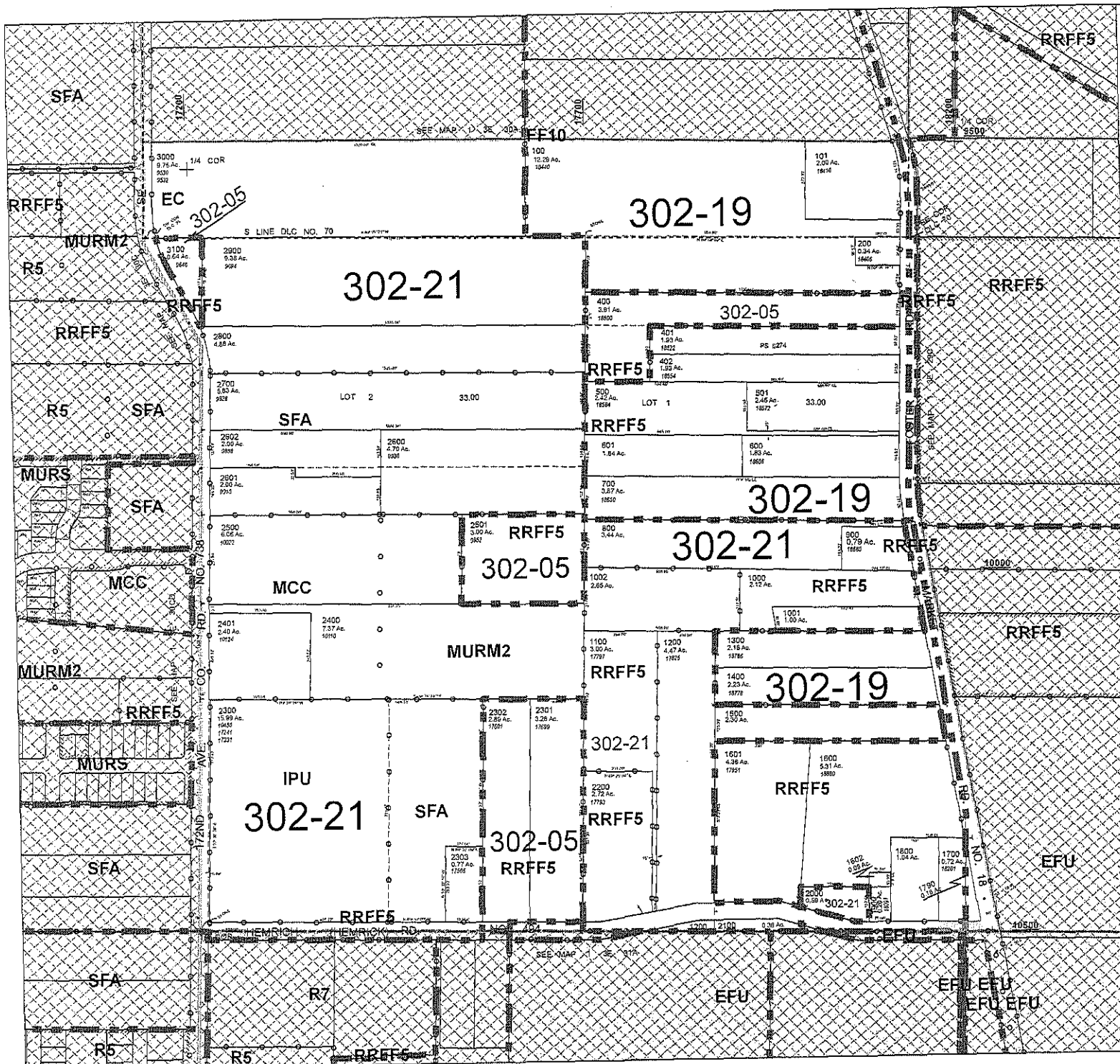
EXHIBIT
A

DRWN: WCB
 CHKD: NSW
 AKS JOB:
 2582

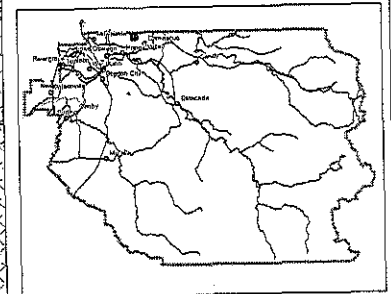
S.E. 1/4 SEC. 30 T.1S. R.3E. W.M.
CLACKAMAS COUNTY
1" = 200'

Cancelled Taxlots

- 1700
- 300
- 220E1
- 230A



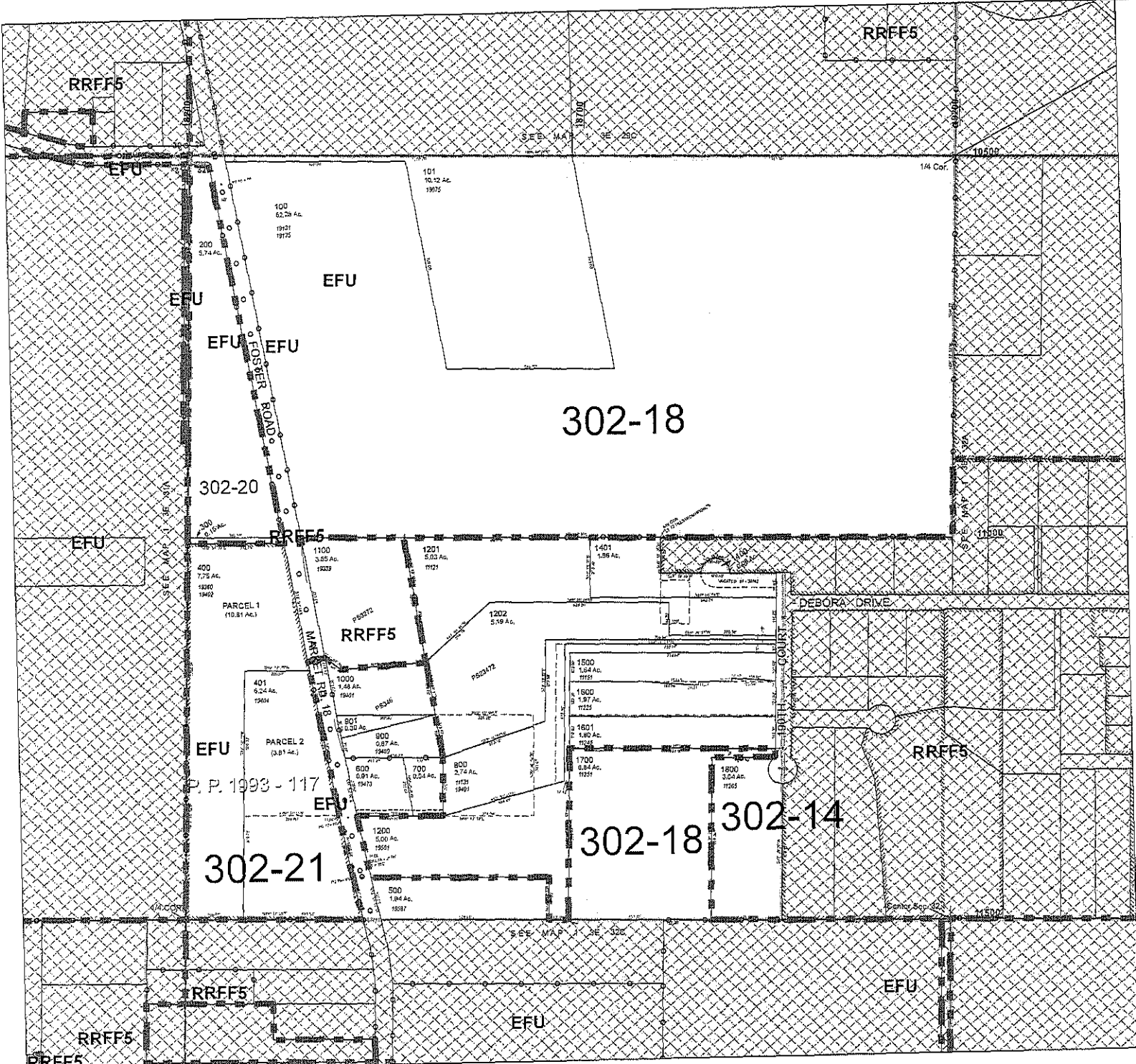
- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



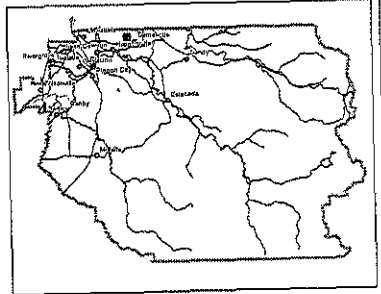
THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

N.W.1/4 SEC.32 T.1S. R.3E. W.M.
CLACKAMAS COUNTY
1" = 200'

Cancelled Taxlots
1300



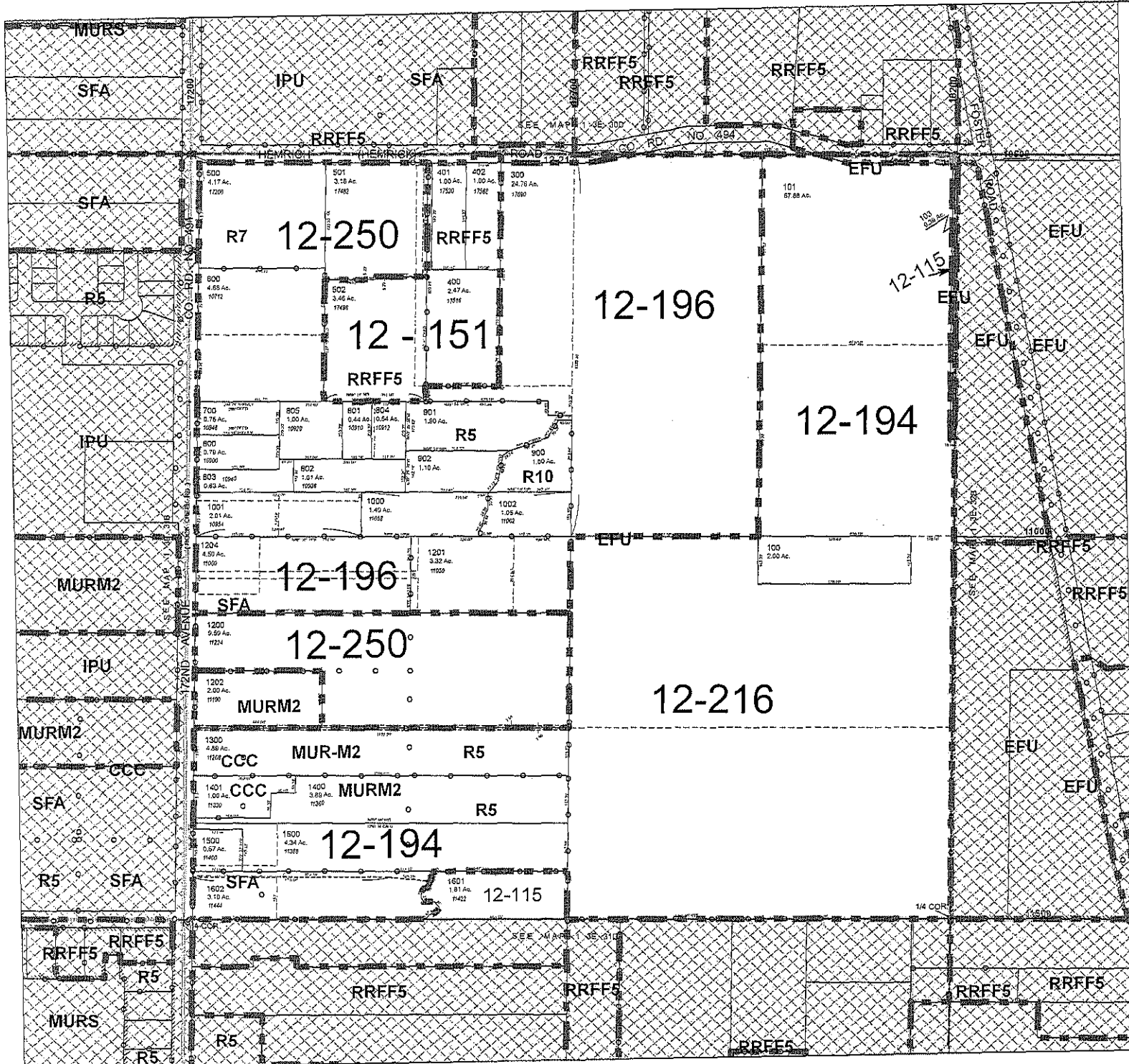
- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- - - WaterLines
- Land Use Zoning
- Plats
- Water
- ⊙ Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- - - DLC Line
- - - Meander Line
- - - PLSS Section Line
- ⊙ Historic Corridor 40'
- ⊙ Historic Corridor 20'



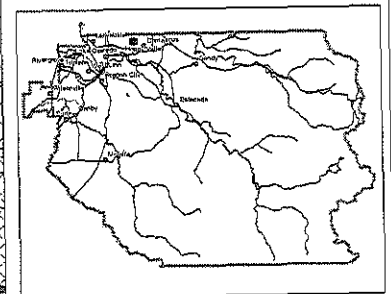
THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

N.E.1/4 SEC.31 T.1S. R.3E. W.M.
CLACKAMAS COUNTY
1" = 200'

Cancelled Taxlots
1200
1100
1200



- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



RECOMMENDATION:

Staff respectfully requests that the Board indicate its consent to a portion of SE Armstrong Circle to the City of Happy Valley by signing the attached annexation petition.

Respectfully submitted,

Rick Maxwell
Engineering Technician
Department of Transportation and Development

Attachments:
Annexation Petition
Legal Description
Maps



16000 SE Misty Drive
 Happy Valley, OR 97086
 Phone: 503-783-3800 Fax: 503-658-5174

PETITION TO ANNEX APPLICATION

To the City Council of the
 City of Happy Valley, Oregon

I (we), the undersigned owner(s) of the property described below and/or elector(s) residing at the location below described, hereby petition and give consent to, annexation of said property to the City of Happy Valley.

The consent for annexation is for the following described property:

SEE ATTACHED
 Street Address of Property (if address has been assigned)

 Tax Map and Tax Lot Number

SIGNATURE(S) OF LEGAL OWNER(S) AND/OR REGISTERED VOTER(S)

_____ Signature	_____ Owner Initial	_____ Voter Initial	_____ Date
_____ Signature	_____ Owner Initial	_____ Voter Initial	_____ Date
_____ Other Authorized Signature	_____ Owner Initial	_____ Voter Initial	_____ Date

Street Address

Home Phone

Work Phone

Mailing Address

City, State and Zip Code

Please submit a copy of the applicable Clackamas County Assessor's Map for the subject site, and mark or outline the property.

We, the owner(s) of the property described above and/or elector(s) residing on said property understand the annexation process can take more than a year. Therefore, we agree to waive the one-year time limitation on this consent established by ORS 222.173, and further agree that this contract shall be effective Indefinitely, or until 12/31/19.

Signature

Date

Signature

Date

The Population Research Center at Portland State University compiles population estimates which they report to the State of Oregon on an annual basis. The State of Oregon then uses these estimates to determine the City's Fair Share of state funds. If applicable, please help us with this effort by indicating below the number of housing units on the above indicated tax lots and the number of people residing in these housing units. THANK YOU!

Number of housing unit on above lot: _____

Types of housing units: ___ Single Family ___ Multi-Family ___ Mobile Home or Trailer

Number of people occupying these units: _____



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

AKS Job #2582

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - KEIZER, OR - BEND, OR

EXHIBIT A

Annexation Description

A tract of land and portion of right-of-way, located in the Northeast One-Quarter of Section 7, Township 2 South, Range 3 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the East One-Quarter corner of said Section 7; thence along the south line of said Northeast One-Quarter, North $88^{\circ}50'26''$ West 278.80 feet; thence continuing along said south line, North $88^{\circ}52'56''$ West 404.95 feet; thence leaving said south line, North $01^{\circ}07'04''$ East 30.00 feet to the intersection of the northeasterly right-of-way line of SE Armstrong Circle (30.00 feet from centerline) and the northerly right-of-way line of State Highway 212 (30.00 feet from centerline), also being on the City of Happy Valley city limits line and the Point of Beginning; thence leaving said city limits line along said northerly right-of-way line, North $88^{\circ}52'56''$ West 635.52 feet to the southwesterly corner of Document Number 2008-051073, Clackamas County Deed Records; thence along the westerly line of said deed, North $01^{\circ}57'02''$ East 168.62 feet to the southwesterly right-of-way line of SE Armstrong Circle (30.00 feet from centerline); thence along said southwesterly right-of-way line, North $67^{\circ}53'58''$ West 17.04 feet to the northwesterly corner of Document Number 2005-111064, Clackamas County Deed Records, and said city limits line; thence leaving said southwesterly right-of-way line along said city limits line, North $01^{\circ}38'01''$ East 64.04 feet to the southwesterly corner of Document Number 2009-077394, Clackamas County Deed Records, also being on the northeasterly right-of-way line of SE Armstrong Circle (30.00 feet from centerline); thence along said northeasterly right-of-way line and said city limits line, South $67^{\circ}53'58''$ East 179.32 feet to the southwesterly corner of Document Number 2018-026295, Clackamas County Deed Records; thence leaving said city limits line along said northeasterly right-of-way line, South $67^{\circ}53'58''$ East 189.60 feet to the southeasterly corner of said deed and said city limits line; thence along said northeasterly right-of-way line and said city limits line, South $67^{\circ}53'58''$ East 253.63 feet; thence along a curve to the left with a Radius of 256.48 feet, a Delta of $15^{\circ}27'29''$, a Length of 69.20 feet, and a Chord of South $75^{\circ}37'43''$ East 68.99 feet to the Point of Beginning.

The above described tract of land contains 1.65 acres, more or less.

9/13/2018

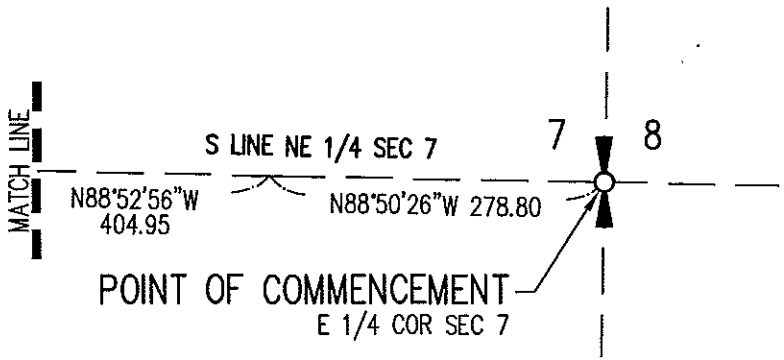
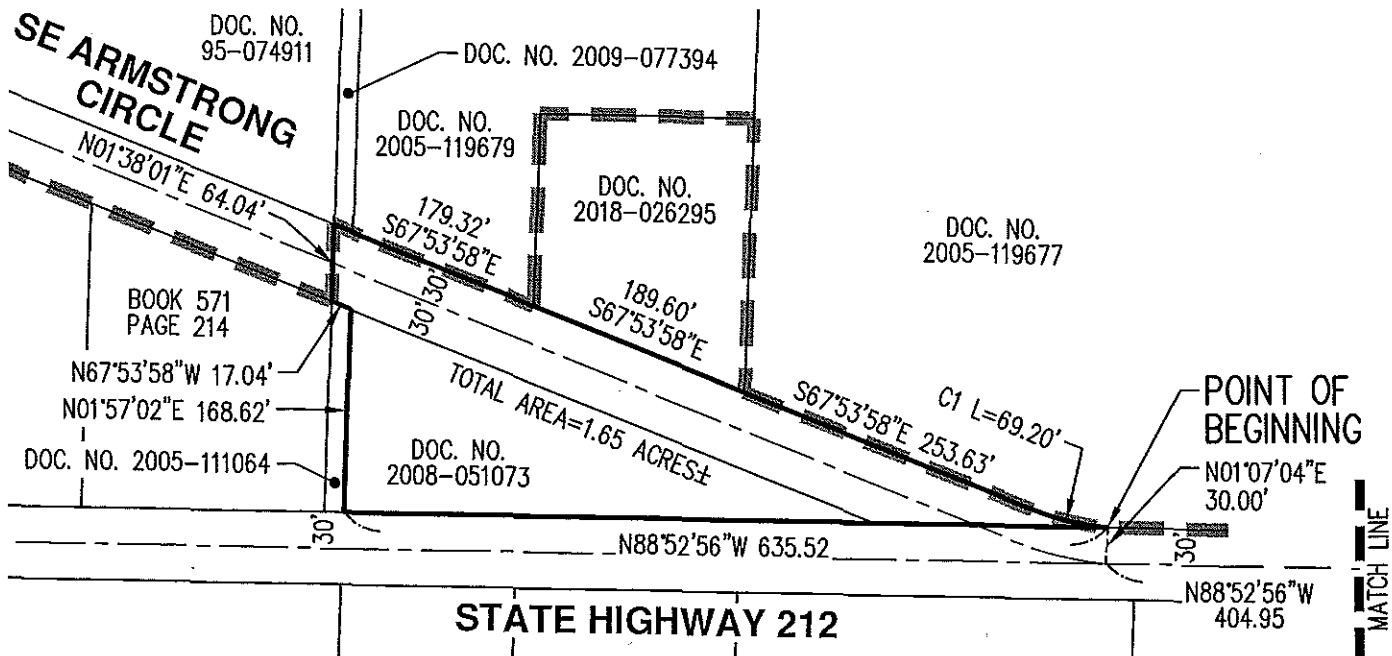
REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/20

EXHIBIT A

A TRACT OF LAND AND A PORTION OF RIGHT-OF-WAY,
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 7,
 TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON



CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	256.48'	15°27'29"	69.20'	S75°37'43"E 68.99'

LEGEND

CITY OF HAPPY VALLEY CITY LIMITS LINE

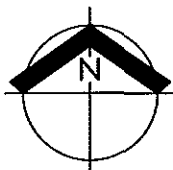
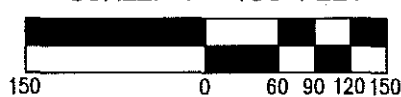
9/13/2018

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

PREPARED FOR

CITY OF HAPPY VALLEY
 16000 SE MISTY DRIVE
 HAPPY VALLEY, OR 97086

SCALE: 1" = 150 FEET



Nick White
 OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS
 RENEWS: 6/30/20

ANNEXATION MAP		EXHIBIT A
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 P: 503.563.6151 F: 503.563.6152 aks-eng.com		DRWN: WCB CHKD: NSW AKS JOB: 2582



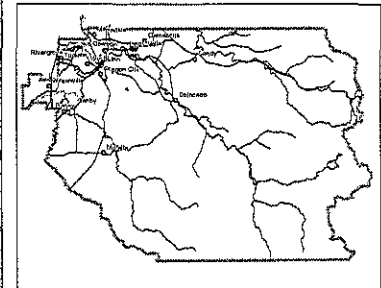
N.E.1/4 SEC.7 T.2S. R.3E. W.M.
CLACKAMAS COUNTY
1" = 200'

Cancelled Taxlots

- 100
- 101
- 104
- 105
- 1060



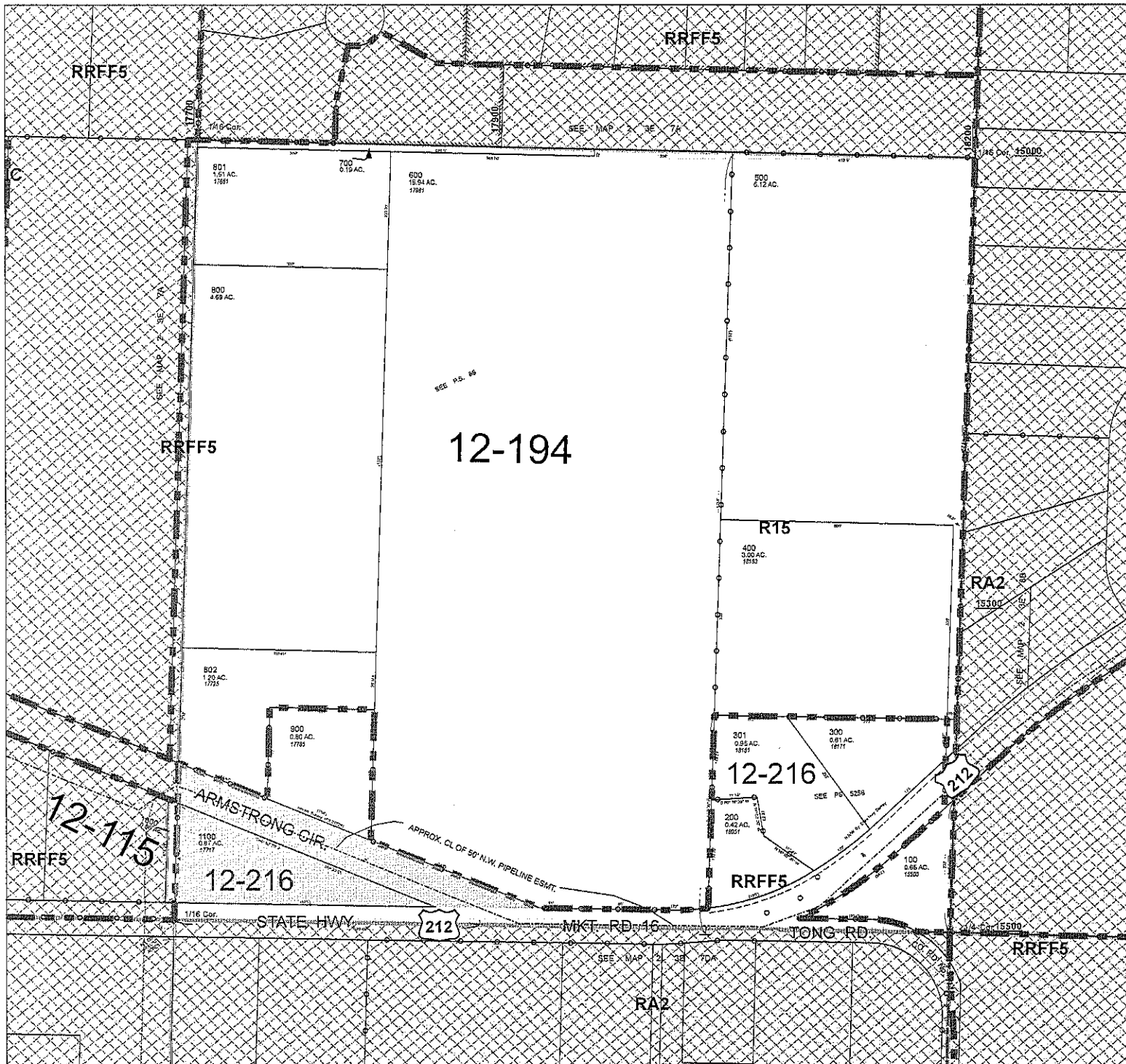
- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



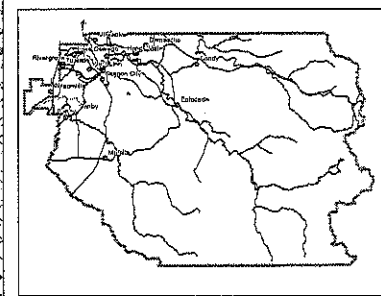
THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

S.E.1/4 N.E.1/4 SEC.7 T.2S. R.3E. W.M.
CLACKAMAS COUNTY
1" = 100'

Cancelled Taxlots
1090



- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
- Railroad Centerline
- ▬ TaxCodeLines
- ▬ Map Index
- ▬ WaterLines
- Land Use Zoning
- ▬ Plats
- ▬ Water
- ⊙ Corner
- ⊙ Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- ⊙ Historic Corridor 40'
- ⊙ Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Consent to the Annexation of a Portion of
SE Hemrich Road to the City of Happy Valley**

Purpose/Outcomes	Provide consent to the annexation of a portion of SE Hemrich Road into the City of Happy Valley.
Dollar Amount and Fiscal Impact	None. The County will transfer jurisdiction and maintenance responsibilities after annexation.
Funding Source	N/A
Duration	Indefinite
Previous Board Action	October 18, 2018. Board approval of a transfer of roadway jurisdiction of SE Hemrich to the City of Happy Valley.
Strategic Plan Alignment	Build public trust through good government.
Contact Person	Rick Maxwell– 503-742-4671
Contract No.	N/A

BACKGROUND:

Recently, the Board authorized the transfer of right of way jurisdiction to the City of Happy Valley for SE Hemrich Road. In order to finalize the jurisdictional transfer, this section of SE Hemrich Road must be within city limits. The portion of SE Hemrich Road subject to this particular annexation request contains 20,849 square feet.

ORS 222.125 permits a city to annex property without an election or a hearing where all of the owners of land in the territory to be annexed and not less than 50 percent of the electors, if any, residing in the territory to be annexed consent in writing to the annexation and file a statement of their consent with the city. Because this annexation only involves a portion of SE Hemrich Road, and because recent case law has clarified that the County is the “owner” of right of way for purposes of providing the required consent under ORS 222.125, the City must receive the County’s consent before processing the annexation using the procedures set forth in ORS 222.125. The City of Happy Valley represents that any other consents required under state law have been obtained.

A copy of the annexation petition, along with a map and legal description identifying the right of way proposed to be annexed is attached to this report.

RECOMMENDATION:

Staff respectfully requests that the Board indicate its consent to a portion of SE Hemrich Road to the City of Happy Valley by signing the attached annexation petition.

Respectfully submitted,

Rick Maxwell
Engineering Technician
Department of Transportation and Development

Attachments:
Annexation Petition
Legal Description
Maps



16000 SE Misty Drive
 Happy Valley, OR 97086
 Phone: 503-783-3800 Fax: 503-658-5174

PETITION TO ANNEX APPLICATION

To the City Council of the
 City of Happy Valley, Oregon

I (we), the undersigned owner(s) of the property described below and/or elector(s) residing at the location below described, hereby petition and give consent to, annexation of said property to the City of Happy Valley.

The consent for annexation is for the following described property:

SEE ATTACHED
 Street Address of Property (if address has been assigned)

 Tax Map and Tax Lot Number

SIGNATURE(S) OF LEGAL OWNER(S) AND/OR REGISTERED VOTER(S)

_____ Signature	_____ Owner Initial	_____ Voter Initial	_____ Date
_____ Signature	_____ Owner Initial	_____ Voter Initial	_____ Date
_____ Other Authorized Signature	_____ Owner Initial	_____ Voter Initial	_____ Date

Street Address

Home Phone

Work Phone

Mailing Address

City, State and Zip Code

Please submit a copy of the applicable Clackamas County Assessor's Map for the subject site, and mark or outline the property.

We, the owner(s) of the property described above and/or elector(s) residing on said property understand the annexation process can take more than a year. Therefore, we agree to waive the one-year time limitation on this consent established by QRS 222.173, and further agree that this contract shall be effective Indefinitely, or until 12/21/19.

_____ Signature	_____ Date	_____ Signature	_____ Date
--------------------	---------------	--------------------	---------------

The Population Research Center at Portland State University compiles population estimates which they report to the State of Oregon on an annual basis. The State of Oregon then uses these estimates to determine the City's Fair Share of state funds. If applicable, please help us with this effort by indicating below the number of housing units on the above indicated tax lots and the number of people residing in these housing units. THANK YOU!

Number of housing unit on above lot: _____

Types of housing units: __ Single Family ____ Multi-Family ____ Mobile Home or Trailer

Number of people occupying these units: _____



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

AKS Job #2582

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - KEIZER, OR - BEND, OR

EXHIBIT A

Annexation Description

A portion of right-of-way located in the Southeast One-Quarter of Section 30 and the Northeast One-Quarter of Section 31, Township 1 South, Range 3 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the North One-Quarter corner of said Section 31, also being on the intersection of SE 172nd Avenue and SE Hemrich Road; thence along the north line of said Section 31, North 89°37'09" East 976.27 feet to the southerly extension of the westerly line of Document Number 97-014071, Clackamas County Deed Records, and the City of Happy Valley city limits line, and the Point of Beginning; thence along said southerly extension and said city limits line, North 00°03'14" West 30.00 feet to the southwesterly corner of said deed, also being on the northerly right-of-way line of SE Hemrich Road (30.00 feet from centerline); thence leaving said city limits line along said northerly right-of-way line, North 89°37'09" East 347.49 feet to the southeasterly corner of Document Number 2004-059781, Clackamas County Deed Records, and the City of Happy Valley city limits line; thence along said city limits line, South 00°03'14" East 60.00 feet to the southerly right-of-way line of SE Hemrich Road (30.00 feet from centerline); thence along said southerly right-of-way line and said city limits line, South 89°37'09" West 252.62 feet to the northeasterly corner of Document Number 91-052820, Clackamas County Deed Records; thence leaving said city limits line along said southerly right-of-way line, South 89°37'09" West 94.87 feet to the southerly extension of the westerly line of said Document Number 97-014071 and the City of Happy Valley city limits line; thence along said southerly extension and said city limits line, North 00°03'14" West 30.00 feet to the Point of Beginning.

The above described tract of land contains 20,849 square feet, more or less.

9/13/2018

REGISTERED
PROFESSIONAL
LAND SURVEYOR

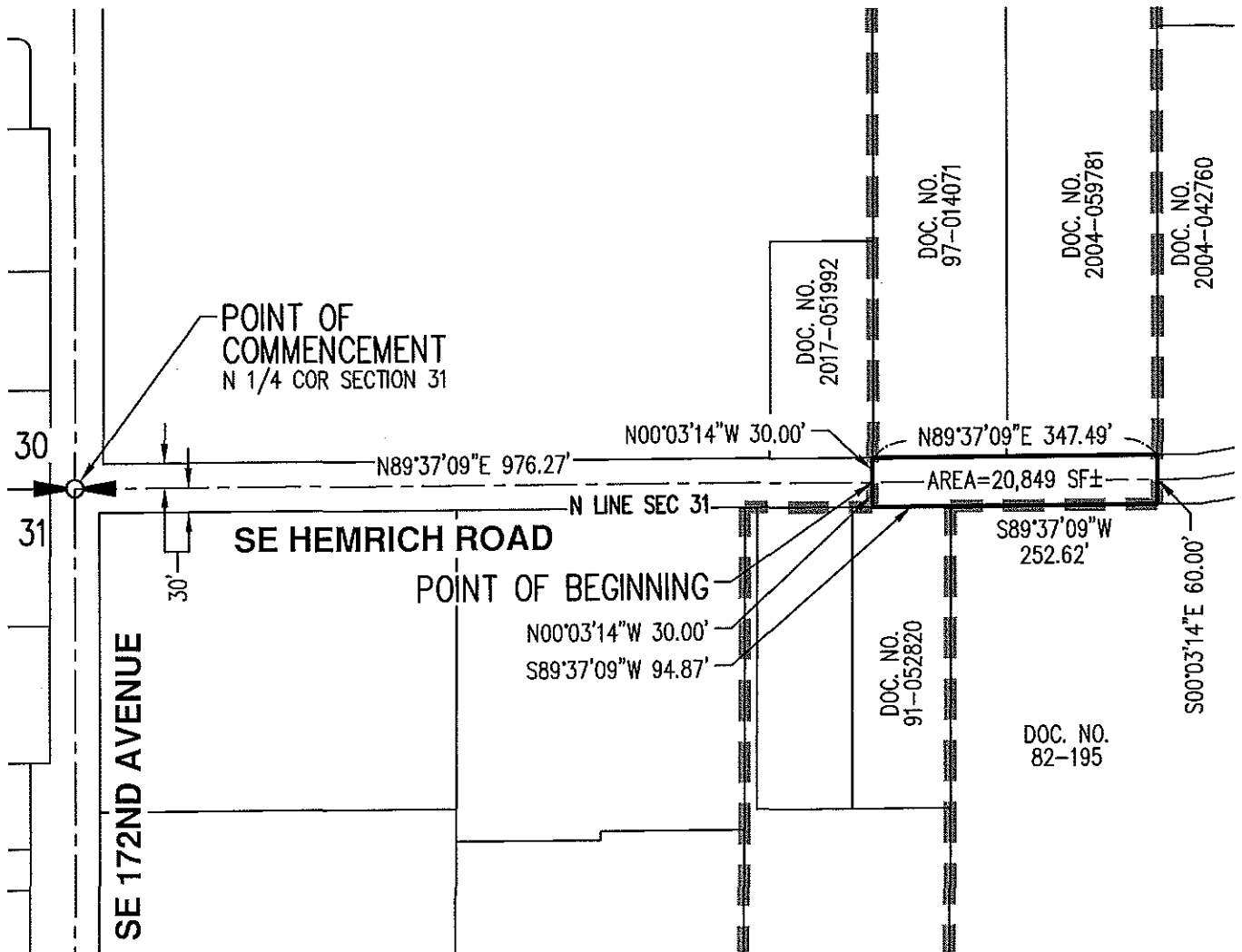
Nick White

OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/20

EXHIBIT A

A PORTION OF RIGHT-OF-WAY
 LOCATED IN THE SOUTHEAST 1/4 OF SECTION 30 AND
 THE NORTHEAST 1/4 OF SECTION 31,
 TOWNSHIP 1 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON



LEGEND

CITY OF HAPPY VALLEY CITY LIMITS LINE

9/13/2018

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Nick White

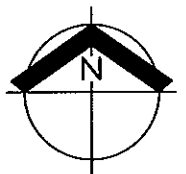
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/20

PREPARED FOR

CITY OF HAPPY VALLEY
16000 SE MISTY DRIVE
HAPPY VALLEY, OR 97086

SCALE: 1" = 200 FEET



ANNEXATION MAP

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
P: 503.563.6151 F: 503.563.6152 aks-eng.com



EXHIBIT
A

DRWN: WCB
CHKD: NSW
AKS JOB:
2582

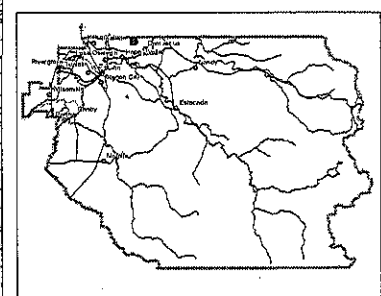
S.E.1/4 SEC.30 T.1S. R.3E. W.M.
CLACKAMAS COUNTY
1" = 200'

Cancelled Taxlots

- 1700
- 300
- 250E1
- 2004



- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
- - - Railroad Centerline
- ▬ TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- ⊙ Corner
- Section Corner
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- - - PLSS Section Line
- ⊗ Historic Corridor 40'
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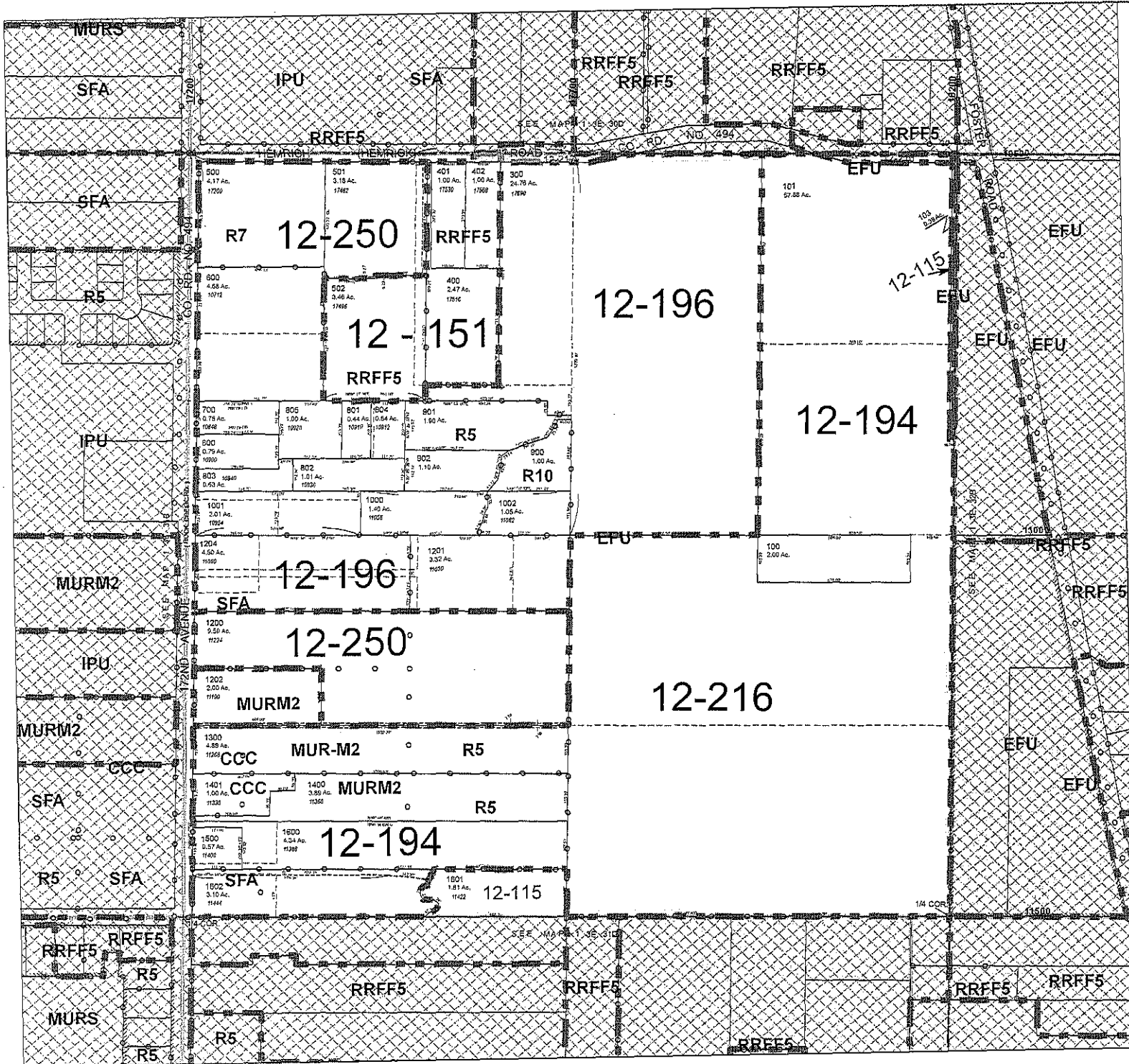


THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

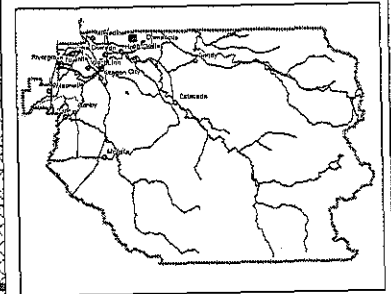
N.E.1/4 SEC.31 T.1S. R.3E. W.M.
CLACKAMAS COUNTY
1" = 200'

Cancelled Taxlots

200
1100
1200



- Parcel Boundary
- - - Private Road ROW
- - - Historical Boundary
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- ⊙ Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Consent to the Annexation of a Portion of
SE Crosswater Way to the City of Happy Valley**

Purpose/Outcomes	Provide consent to the annexation of a portion of SE Crosswater Way into the City of Happy Valley.
Dollar Amount and Fiscal Impact	None. The County will transfer jurisdiction and maintenance responsibilities after annexation.
Funding Source	N/A
Duration	Indefinite
Previous Board Action	October 18, 2018. Board approval of a transfer of roadway jurisdiction of SE Crosswater Way to the City of Happy Valley.
Strategic Plan Alignment	Build public trust through good government.
Contact Person	Rick Maxwell– 503-742-4671
Contract No.	N/A

BACKGROUND:

Recently, the Board authorized the transfer of right of way jurisdiction to the City of Happy Valley for several roads including SE Hemrich Road, a portion of SE Armstrong Circle, SE Vogel Road, SE Rock Creek Court, SE Stoneybrook Court, a portion of SE Sunnyside Road. Because these roads are defined as County Roads pursuant to ORS 368, state law prescribes specific procedures in order to formally transfer jurisdiction do a city for those County Roads within the limits of that city. The same procedural requirements to not apply to “local access roads” as that term is defined in ORS 368. Once a local access road is annexed into a city, jurisdiction automatically transfers to the annexing city.

SE Crosswater Way is a local access road. Along with the County Roads identified for transfer above, the City of Happy Valley desires to assume jurisdiction over the half of SE Crosswater Way that is outside of city limits. As described above, a jurisdictional transfer can be accomplished simply through annexation.

ORS 222.125 permits a city to annex property without an election or a hearing where all of the owners of land in the territory to be annexed and not less than 50 percent of the electors, if any, residing in the territory to be annexed consent in writing to the annexation and file a statement of their consent with the city. Because this annexation only involves a portion of SE Crosswater Way, and because recent case law has clarified that the County is the “owner” of right of way for

purposes of providing the required consent under ORS 222.125, the City must receive the County's consent before processing the annexation using the procedures set forth in ORS 222.125. The City of Happy Valley represents that any other consents required under state law have been obtained.

A copy of the annexation petition, along with a map and legal description identifying the right of way proposed to be annexed is attached to this report.

RECOMMENDATION:

Staff respectfully requests that the Board indicate its consent to a portion of SE Crosswater Way to the City of Happy Valley by signing the attached annexation petition.

Respectfully submitted,

Rick Maxwell
Engineering Technician
Department of Transportation and Development

Attachments:
Annexation Petition
Legal Description
Maps



16000 SE Misty Drive
 Happy Valley, OR 97086
 Phone: 503-783-3800 Fax: 503-658-5174

PETITION TO ANNEX APPLICATION

To the City Council of the
 City of Happy Valley, Oregon

I (we), the undersigned owner(s) of the property described below and/or elector(s) residing at the location below described, hereby petition and give consent to, annexation of said property to the City of Happy Valley.

The consent for annexation is for the following described property:

SEE ATTACHED
 Street Address of Property (if address has been assigned)

 Tax Map and Tax Lot Number

SIGNATURE(S) OF LEGAL OWNER(S) AND/OR REGISTERED VOTER(S)

_____ Signature	_____ Owner Initial	_____ Voter Initial	_____ Date
_____ Signature	_____ Owner Initial	_____ Voter Initial	_____ Date
_____ Other Authorized Signature	_____ Owner Initial	_____ Voter Initial	_____ Date

Street Address

Home Phone

Work Phone

Mailing Address

City, State and Zip Code

Please submit a copy of the applicable Clackamas County Assessor's Map for the subject site, and mark or outline the property.

We, the owner(s) of the property described above and/or elector(s) residing on said property understand the annexation process can take more than a year. Therefore, we agree to waive the one-year time limitation on this consent established by ORS 222.173, and further agree that this contract shall be effective Indefinitely, or until 12/31/19.

_____ Signature	_____ Date	_____ Signature	_____ Date
--------------------	---------------	--------------------	---------------

The Population Research Center at Portland State University compiles population estimates which they report to the State of Oregon on an annual basis. The State of Oregon then uses these estimates to determine the City's Fair Share of state funds. If applicable, please help us with this effort by indicating below the number of housing units on the above indicated tax lots and the number of people residing in these housing units. THANK YOU!

Number of housing unit on above lot: _____

Types of housing units: __ Single Family _____ Multi-Family ____ Mobile Home or Trailer

Number of people occupying these units: _____



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

AKS Job #2582

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - KEIZER, OR - BEND, OR

EXHIBIT A

Annexation Description

A portion of right-of-way located in the Northwest One-Quarter of Section 12, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the southwesterly corner of Lot 14 of the plat "Wyatt's Park", Plat No. 4448, Clackamas County Plat Records, also being on the City of Happy Valley city limits line and on the right-of-way line of SE Crosswater Way (variable width from centerline); thence leaving said city limits line along said right-of-way line along a non-tangent curve to the right with a Radius of 56.00 feet, a Delta of $184^{\circ}54'57''$, a Length of 180.73 feet, and a Chord of South $16^{\circ}43'05''$ East 111.90 feet; thence continuing along said right-of-way line along a curve to the left with a Radius of 19.00 feet, a Delta of $75^{\circ}40'48''$, a Length of 25.10 feet, and a Chord of South $37^{\circ}54'00''$ West 23.31 feet; thence continuing along said right-of-way line (25.00 feet from centerline), South $00^{\circ}03'36''$ West 102.61 feet; thence continuing along said right-of-way line (variable width from centerline) along a curve to the left with a Radius of 20.00 feet, a Delta of $31^{\circ}01'22''$, a Length of 10.83 feet, and a Chord of South $15^{\circ}27'05''$ East 10.70 feet; thence continuing along said right-of-way line along a curve to the right with a Radius of 50.00 feet, a Delta of $75^{\circ}09'04''$, a Length of 65.58 feet, and a Chord of South $06^{\circ}36'46''$ West 60.98 feet to the southwesterly corner of Tract 'B' of said plat, also being on the northerly right-of-way line of SE Wenzel Drive (variable width); thence along said northerly right-of-way line, South $89^{\circ}58'30''$ East 62.37 feet to the northwesterly corner of Tract C of the plat "Wenzel Park Estates", Plat No. 4049, Clackamas County Plat Records; thence along the easterly right-of-way line of SE Wenzel Drive, South $00^{\circ}01'53''$ West 15.23 feet to the northeasterly corner of Lot 7 of said plat; thence along the southerly line of SE Wenzel Drive (variable width), North $89^{\circ}58'07''$ West 76.24 feet to the City of Happy Valley city limits line; thence leaving said southerly right-of-way line along said city limits line, North $00^{\circ}01'30''$ East 44.39 feet to a line which is parallel with and 7.00 feet easterly of, when measured at right angles to, the centerline of SE Crosswater Way; thence along said parallel line, North $00^{\circ}03'36''$ East 269.88 feet to the Point of Beginning.

The above described tract of land contains 12,008 square feet, more or less.

6/19/2018

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

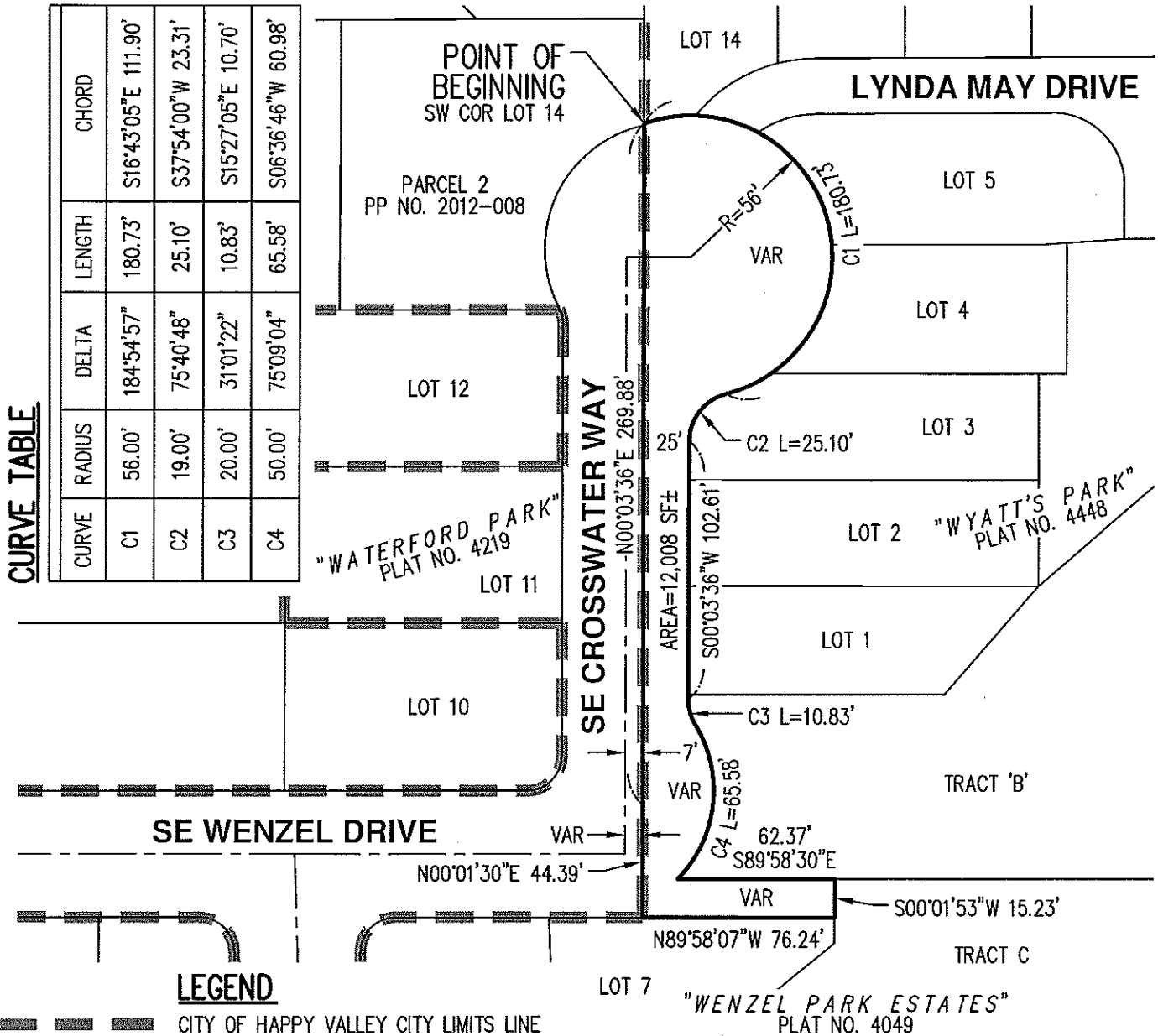
Nick White

OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/20

EXHIBIT A

A PORTION OF RIGHT-OF-WAY LOCATED IN THE NORTHWEST 1/4 OF SECTION 12,
TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN,
CLACKAMAS COUNTY, OREGON



6/19/2018

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Nick White

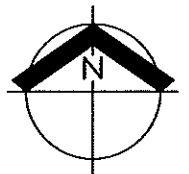
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/20

PREPARED FOR

CITY OF HAPPY VALLEY
16000 SE MISTY DRIVE
HAPPY VALLEY, OR 97086

SCALE: 1" = 60 FEET



CITY OF HAPPY VALLEY ANNEXATIONS
CROSSWATER WAY & WENZEL DRIVE

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062

P: 503.563.6151 F: 503.563.6152 aks-eng.com



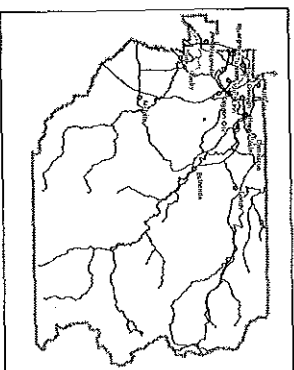
EXHIBIT
A

DRWN: WCB
CHKD: NSW

AKS JOB:
2582

Cancelled Taxlots
5000
3000
4000
2000
1000

- Private Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Taxlot Lines
- Map Index
- Washlines
- o o Land Use Zoning
- Plats
- Vias
- o Corner
- Station Corner
- 575th Line
- Gert Lot Line
- OLC Line
- Meander Line
- P.L.S.S Section Line
- Historic Corridor 40
- Historic Corridor 20

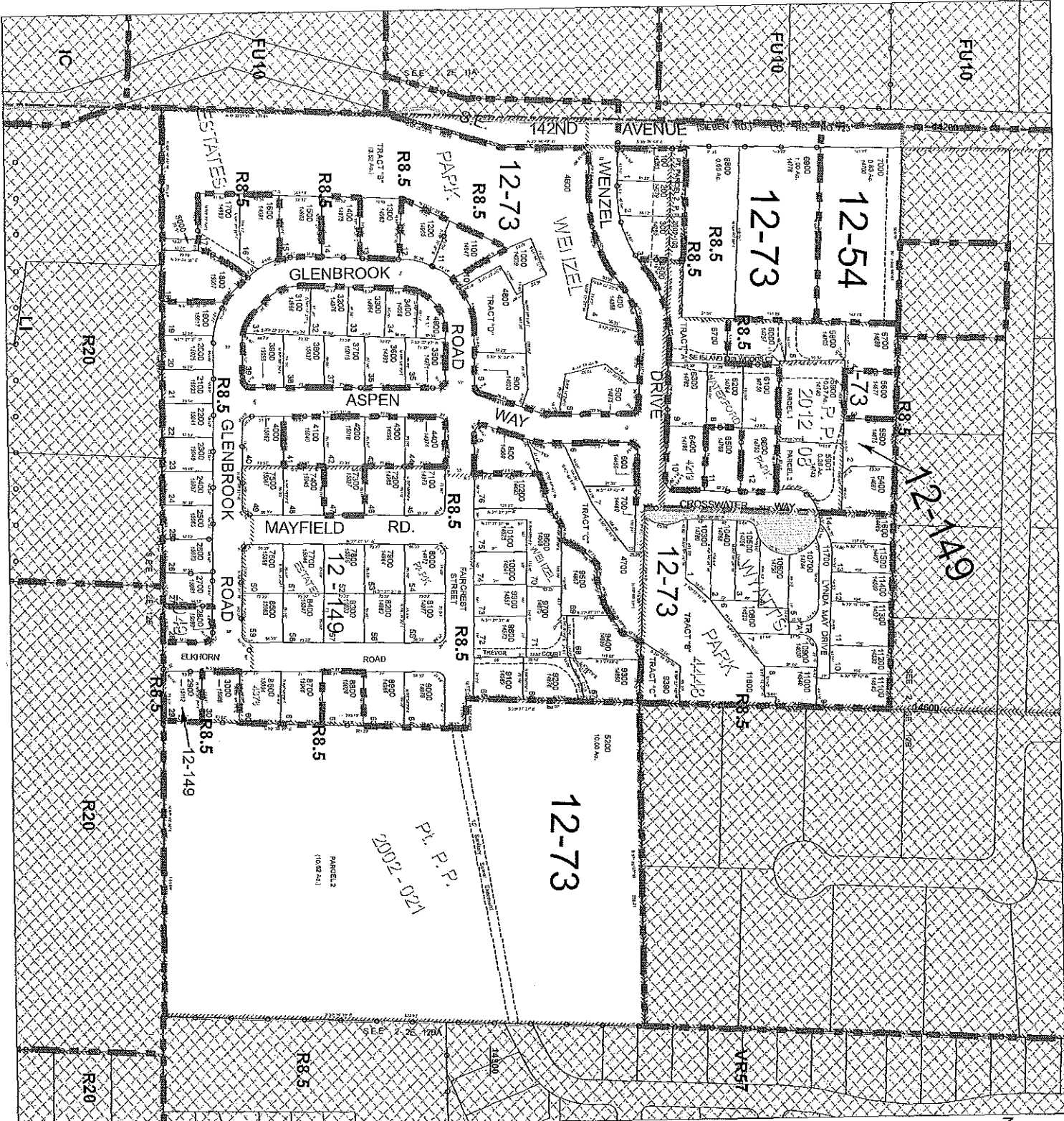


THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



8/22/2017

2 2 E 12BB





DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of the Termination of the Construction Contract and
Settlement Agreement between Clackamas County and PCR, Inc.
for the Jennings Lodge Pedestrian Improvements Project**

Purpose/Outcomes	Approval will allow staff to terminate the contract with PCR Inc. for the Jennings Lodge Pedestrian Improvements Project and resolve any outstanding claims.
Dollar Amount and Fiscal Impact	Community Development Block Grant funds in the amount of \$240,000 County Road Fund: \$87,700
Funding Source	U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) funds matched by County Road funds.
Duration	Not Applicable
Previous Board Action	05/05/16: CDBG Action Plan Approved 06/07/18: Approval of a Construction Contract between Clackamas County and PCR Inc. for the Jennings Lodge Pedestrian Improvements Project 10/30/18: Executive session to discuss settlement terms
Strategic Plan Alignment	1. Ensure safe, healthy and sure communities
Contact Person	Joel Howie, Civil Engineering Supervisor: Ext. 4658 Steve Kelly, Housing and Community Development: Ext. 5665

BACKGROUND:

Contract Number H3S 8862 with PCR Inc. was approved by the Board for construction of the Jennings Lodge Pedestrian Improvements Project. The project will provide approximately 1,000 linear feet of sidewalk along Portland Avenue between Jennings and Hull avenues adjacent to Candy Lane Elementary School.

The County's relationship with PCR Inc. has been challenging and PCR Inc. has submitted over \$430,000 in claims. The claims relate to utility delays and claims of defective plans. DTD staff met with PCR Inc. and their Surety to discuss terminating the contract. An agreement was made to terminate the contract for public convenience and pay PCR Inc. \$60,000 to settle all claims on the project and payment for outstanding work. The terms of the proposed settlement are set forth in the attached draft Settlement Agreement and General Release of Claims. Upon termination of this contract, DTD will modify the contract plans and special provisions and rebid the contract for the remaining work to complete the project.

The Settlement Agreement and General Release of Claims has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve terminating for public convenience Contract Number H3S 8862 with PCR Inc. for the Jennings Lodge Pedestrian Improvements Project and settling all potential outstanding claims consistent with the terms generally set forth in the draft Settlement Agreement and General Release of Claims.

Respectfully submitted,

Joel Howie- DTD Civil Engineering Supervisor

Attachment:

Draft Settlement Agreement and General Release of Claims

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF CLAIMS

This Settlement Agreement and General Release of Claims (“Agreement”) is entered between Clackamas County (“County”) and P.C.R., Inc. (“PCR”).

In or about June, 2018, the County and (“PCR”) entered into a contract (No. 53526) (“Contract”) under which PCR was to construct the Jennings Lodge Pedestrian Improvement Project and related improvements (“Project”). The Project included approximately 1,000 linear feet of sidewalk along Portland Avenue between Jennings and Hull avenues adjacent to Candy Lane Elementary School.

The County’s relationship with PCR has been challenging and PCR has submitted over \$430,000 in claims. The claims relate to utility delays and claims of defective plans.

The Parties desire to settle and compromise fully and finally any and all differences between them including, but not limited to, formal claims filed by PCR, all claims asserted in correspondence between the Parties, and all matters which could have been asserted.

After extensive investigation of the Project and as a result of discussions, meetings and an informal mediation, the parties hereto have reached a settlement as follows:

1. In consideration of this Agreement, the County shall pay PCR the one-time sum of \$60,000 plus retainage in the amount of \$9,964.85 for a total of \$69,964.85, which is inclusive of all costs and fees. Payment shall be made by the County upon the later of 30 days of when this Agreement is fully executed, or when PCR provides all documents identified in an October 25, 2018 letter from Steve Kelly to Jeff Cox, a copy of which is attached to this Agreement. The County, in its reasonable discretion, shall determine whether the “Payroll Documents,” the “Other Documents,” and the “Final Documents” identified in the letter described herein and submitted by PCR are sufficient to allow the County to close out the project and fulfill the County’s administrative labor compliance requirements.

2. The Contract shall be deemed terminated in its entirety for convenience after the County provides PCR and its surety 7 calendar days’ written note of termination per Section 00180.90(c). Other than those terms specifically included in this Agreement, PCR and the County will have no further obligations under the Contract or for any aspect of the Project to the other and PCR will remove its equipment and materials and provide the County immediate and peaceful possession of the project site.

3. The County hereby releases PCR’s performance and retainage bonds for the Project.

4. PCR will load out the temporary protective fencing that was actually utilized for the Project and that shall remain the property of PCR. All unused materials purchased for use in the Project shall be the property of County, including, but not limited to, erosion control materials such as sediment fencing, inlet protection, and temporary orange protective fencing. PCR shall have no further claim against the County that would obligate the County to purchase these unused materials.

5. Subject to the terms herein, PCR hereby generally releases and discharges the County and their employees, elected officials, officers, agents, insurers, and all those parties for whom they may be responsible for from any and all claims, demands, suits or actions of any kind, whether known or unknown arising out of or related to the Project or the Contract. PCR shall indemnify, defend and hold harmless County and its employees, elected officials, officers, agents, insurers or all those parties for whom they may be responsible or liable from any claims, demands, suits or actions by any third-party, including any claims for additional compensation for materials or labor provided to the Project by or through materials suppliers or subcontractors. This release includes any and all claims of any nature that PCR may have that arose prior to the date of its signature on this Agreement. This is a full and final waiver and release of any such claims that PCR has or might have asserted against the County and it intends that the release have the broadest effect possible under law. PCR represents that it has no claim against the County which is not released under this Agreement.

6. Subject to the terms herein, the County hereby generally releases and discharges PCR and their officers, employees, agents and all those parties for whom they may be responsible or liable from any and all claims, demands, suits or actions of any kind, whether known or unknown arising out of or related to the Project or the Contract. This release includes any and all claims of any nature that County may have that arose prior to the date of its signature on this Agreement. This is a full and final waiver and release of any such claims that the County has or might have asserted against PCR and it intends that the release have the broadest effect possible under law. The County represents that it has no claim against PCR which is not released under this Agreement.

7. Notwithstanding any other provision of this Agreement, PCR's warranty obligations and responsibility for claims arising from or related to latent defects, if any, under the Contract and related to the Project work itself remain and are unaffected by this Agreement.

8. A "covenant not to sue" is a legal term that means a person promises not to file a lawsuit or other legal proceeding. It is different from the release of claims contained above. Besides waiving and releasing the claims above, the Parties promise never to file or prosecute any legal claim of any kind against each other in any forum for any reason based on any act, omission, event, occurrence, or non-occurrence, through the Effective Date of this Agreement, including but not limited to claims, laws, or theories covered by the Parties' releases contained in Sections 5 and 6 above.

9. This Agreement is not to be considered a mediation document.

10. Each Party hereto states that the Party has carefully read this Agreement, that the Party has had the opportunity to have it reviewed and explained to the Party by an attorney of its choosing, that the Party fully understands its final and binding effect, and that the Party is signing this Agreement voluntarily and with the full intent of releasing all claims.

11. This Agreement sets forth the entire agreement between the Parties. PCR is not relying on any other agreements or oral representations not fully addressed in this Agreement. Any prior agreements between or directly involving PCR and the County are superseded by this Agreement. The provisions of this Agreement are severable, and if any part of this Agreement is

found by a court of law to be unenforceable, the remainder of this Agreement will continue to be valid and effective.

12. This Agreement may be signed in counterparts with electronic or facsimile copies used in lieu of originals.

13. To be valid and enforceable this Agreement must be approved by a majority of the five member Clackamas County Board of Commissioners at a duly noticed public meeting.

CLACKAMAS COUNTY

By: _____

Its: _____

Date: _____

Approved as to form:

Stephen L. Madkour
Attorney for Clackamas County

P.C.R., Inc.

By: _____

Its: _____

Date: _____

Attachment: Letter from Steve Kelly to Jeff Cox dated October 25, 2018.

October 25, 2018

Jeff R. Cox, President
PCR, Inc.
PO Box 630
Beavercreek, OR 97004

**RE: JENNINGS LODGE PEDESTRIAN IMPROVEMENTS PROJECT – NEEDED
ITEMS FOR PROJECT CLOSE-OUT**

Mr. Cox:

Thank you for attending the Project Resolution Meeting with Clackamas County Department of Transportation and Development (DTD) and Housing and Community Development Division, Tuesday, 9:30am, October 23, 2018, in the Development Services Building, in Conference Room 332. Also present for this meeting were The Traveler Companies, Inc., and LaPorte Insurance as requested by PCR, Inc. As I stated at the end of the meeting, I would provide you a letter listing all required items for Project Close-out, in order for our office to release your company's project retainage. Below is the list of documents I must receive, review and approve for Project Close-out:

A. Payroll Documents:

1. Provide original No-Work-Performed Certificates for PCR, Inc., for Payrolls Number 13 (September 15) through Number 19 (October 27), being the final week.
2. Provide original Payroll(s) for any of the following subcontractors that worked on the project: A & D Flagging, Fox Erosion Control & Landscaping, Pacific Excavation, Apply-A-Line, Laser Site Surveying, and Willamette Fencing
3. Provide Weekly Payroll for Truck Driver – Mr. Craig Reed, as employee of PCR, Inc., or as an Owner Operator, with a State of Oregon CCB License Number.

Note 1: If any of your assigned Subcontractors never worked on the site, because the project canceled, please provide a statement on PCR, Inc. letterhead to this fact. It can be one letter, all inclusive.

Note 2: All Prevailing Wage Rates per classification, whichever is higher between Federal Davis-Bacon and State of Oregon Bureau of Labor and Industries (BOLI) will be reviewed to ensure all employees that worked on this project have received correct wages and fringe benefits per their listed classification.

B. Other Documents:

1. Need original Subcontractor/ Contractor Certifications-CD Forms for the following Companies: A & D Flagging, Fox Erosion Control & Landscaping, Pacific Excavation, Apply-A-Line, Laser Site Surveying, and Willamette Fencing
2. Provide original Subcontractor/ Contractor Certifications-CD Form for Truck Driver – Mr. Craig Reed, and his price for working on this project. If you need a new electronic form, I would provide that to you, email me a request.

Note 1: Only copies were provided by PCR, Inc. to our office, please send originals.

C. Final Documents:

1. Consent to Surety to Final Payment for your company.
2. Affidavit of Debts and Claims for your company, and applicable suppliers and/ or subcontractors.
3. Release of Liens for your company, and applicable suppliers and/ or subcontractors.

Each items needed items were discussed in the PreConstruction Conference, held on Thursday, afternoon, June 14, 2018, in the Development Services Building, Conference Room 320. If you have any questions, or need clarification(s) of this list, please call me at my direct phone number 503-650-5665, Mondays through Thursdays from 7:30am until 6:00pm for assistance.

Sincerely,



Steve Kelly, Project Coordinator

Cc: Joel Howie, Clackamas County-DTD, Engineering Supervisor
Bob Knorr, Clackamas County-DTD, Project Manager
Kelly, Niemela, LaPorte Insurance, Surety Bond Manager
Patrick Toulouse, Travelers, Bond & Special Insurance, Technical Director & Counsel



GEORGE MARLTON, JD
PROCUREMENT DIVISION DIRECTOR

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

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Contracts with National Interpreting Services Inc. for
On-call Interpreter Services for Clackamas County Departments

Purpose/Outcomes	To provide On-call Interpreter Services for Clackamas County
Fiscal Impact	The total contract value is \$1,500,000.00
Funding Source	Various depending on Department Request for Services
Duration	Through June 30, 2023
Strategic Plan Alignment	Ensure safe, healthy and secure communities
Contact Person	Abigail Churchill, Procurement; 503-742-5449

BACKGROUND:

On April 24, 2018 a Strategic Procurement was published RFP #2017-87 for On-call Interpreter Services. The RFP received nine responsive and responsible bidders and all nine Contractors were awarded contracts to provide On-call Interpreter Services for Clackamas County as needed. Scope of Work to be determined at time of Service and mutually agreed upon by County and Contractor.

This request has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff recommends the Board of County Commissioners of Clackamas County approve the Contract with National Interpreting Services Inc. for On-call Interpreter Services for Clackamas County. The remaining three vendors will be submitted at a later date.

Respectfully submitted,

Abigail Churchill
Procurement and Contract Analyst

Placed on the _____ Agenda by the Procurement Division



CLACKAMAS COUNTY
PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between National Interpreting Service, Inc. ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County").

ARTICLE I.

1. Effective Date and Duration. This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on June 30, 2023. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

2. Scope of Work. Contractor will provide the following personal/professional services: To provide Interpreting Services on an on-call basis ("Work"), further described in Article III.

3. Consideration. The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed one million five hundred thousand dollars (\$1,500,000.00), for accomplishing the Work required by this Contract. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Article III.

4. Travel and Other Expense. Authorized: [] Yes [X] No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: http://www.clackamas.us/bids/terms.html. Travel expense reimbursement is not in excess of the not to exceed consideration.

5. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibits A and B.

6. Contractor Data.

Name: National Interpreting Service, Inc.
Address: 528 Cottage Street, Suite 1C, Salem, OR 97301
Contractor Contract Administrator: Cynthia Anderson
Phone No.: 503-932-8460
Email: office@nationalinterpretingservice.org
MWESB Certification: [] DBE # [] MBE # [] WBE # [] ESB #

Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.

ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

7. **HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
8. **INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
9. **INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Oregon Public Employees Retirement System); and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656. (Also see Article V C)

At present, the Contractor certifies that he or she, if an individual is not a program, County or Federal employee. The Contractor, if an individual, certifies that he or she is not a member of the Oregon Public Employees Retirement System.

10. **INSURANCE.** Contractor shall provide insurance as indicated on **Article IV**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.
11. **LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
12. **NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal

delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us, or to Contractor at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of

this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any Work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

20. TERMINATIONS. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the County is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections

20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the Work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of this Contract.
- (C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

28. CONFIDENTIALITY. Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the

nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

29. CRIMINAL BACKGROUND CHECK REQUIREMENTS. Contractor shall be required to have criminal background checks (and in certain instances fingerprint background checks) performed on all employees, agents, or subcontractors that perform services under this Contract. Only those employees, agents, or subcontractors that have met the acceptability standards of the County may perform services under this Contract or be given access to Personal Information, Confidential Information or access to County facilities.

30. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

[Signature Page Follows]

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

National Interpreting Service, Inc.
528 Cottage Street, Suite 1C
Salem, OR 97301

Clackamas County:

Authorized Signature

Chair

Name / Title (Printed)

Recording Secretary

Date

Date

Telephone/Fax Number

Approved as to Form:

Oregon Business Registry #

County Counsel

Entity Type / State of Formation

Date

**ARTICLE III
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

SCOPE OF WORK

Contractor shall provide On-call Interpretation services as further described in Exhibits A and B, hereby attached and incorporated by reference.

If the services under this Contract are on an “on-call” or “as-needed basis,” no Work may be performed until a detailed task scope of work is developed and agreed to by the parties for a specific project. Each task scope of work must minimally include: a detailed description of services to be provided, a schedule of key milestones for completion of the task, the maximum fee for completion of the task, and any obligations of the County to complete the task. No task scope of work may commence until an amendment is made to this Contract or an official County Purchase Order is issued and that specifically incorporates by reference this Contract and the agreed upon task scope of work. No task scope of work may modify this Contract and its terms and conditions unless an amendment is made to this Contract.

CONSIDERATION

- a. Consideration Rates – Time and Material Rate as further described in Exhibit B, hereby attached and incorporated by reference.
- a. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total maximum sum of **one million five hundred thousand dollars (\$1,500,000.00)**. Invoices shall be submitted to requesting Department Project Managers per request.
- b. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- c. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.

**ARTICLE IV
INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Required by County of Contractor with one or more workers, as defined by ORS 656.027.

Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.

2. Required by County Not required by County

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

3. Required by County Not required by County

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract.

4. Required by County Not required by County

Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

5. Certificates of Insurance. Contractor shall furnish evidence of the insurance required in this Contract. The insurance for general liability and automobile liability must include an endorsement naming the County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to County acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

6. Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

ARTICLE V
CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result; **AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an “independently established business.”

To qualify under the law, an “independently established business” must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- _____ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- _____ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- _____ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- _____ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- _____ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature _____ Date _____

EXHIBIT A
RFP #2017-87 Interpreter Services



REQUEST FOR PROPOSALS #2017-87

FOR

Interpreter Services

BOARD OF COUNTY COMMISSIONERS

JIM BERNARD, Chair

SONYA FISCHER, Commissioner

KEN HUMBERSTON, Commissioner

PAUL SAVAS, Commissioner

MARTHA SCHRADER, Commissioner

**Donald Krupp
County Administrator**

**George Marlton
Procurement Division Director**

**Abigail Churchill
Analyst**

PROPOSAL CLOSING DATE, TIME AND LOCATION

DATE: May 16, 2018

TIME: 2:00 PM, Pacific Time

**PLACE: Clackamas County Procurement Division
Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045**

SCHEDULE

Request for Proposals Issued.....April 24, 2018
Protest of Specifications Deadline.....May 1, 2018, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....May 8, 2018, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....May 16, 2018, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....Five (5) days from the Intent to Award

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SECTION 1 NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that Clackamas County through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, May 16, 2018** (“Closing”), to provide Interpreter Services. No Proposals will be received or considered after that time.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Director at the above Kaen Road address. Sealed Proposals may be emailed to procurement@clackamas.us or sent to Clackamas County at the above Kaen Road address.

It is the intent of Clackamas County to award to multiple vendors that meet the specifications of this Request for Proposals.

Contact Information

Procurement Process and Technical Questions: Abigail Churchill, 503-742-5449, Churchill@clackamas.us.

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor whose Proposal shall be best for the public good.

Clackamas County encourages bids from Minority, Women, and Emerging Small Businesses.

SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFP. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

2.1 Modification or Withdrawal of Proposal: Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

2.2 Requests for Clarification and Requests for Change: Proposers may submit questions regarding the specifications of the RFP. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFP. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

2.3 Protests of the RFP/Specifications: Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFP. Protests may not be faxed. Protests of the RFP specifications must include the reason for the protest and any proposed changes to the requirements.

2.4 Addenda: If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

2.5 Submission of Proposals: All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the Proposer, the project title, and Closing date/time. Proposals must be submitted in accordance with Section 5.

All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. Proposals that include orders or qualifications may be rejected as irregular. All Proposals must include a signature that affirms the Proposer’s intent to be bound by the Proposal (may be on cover letter, on the Proposal, or the Proposal Response form) shall be signed. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone or fax.

2.6 Post-Selection Review and Protest of Award: County will name the apparent successful Proposer in a “Notice of Intent to Award” letter. Identification of the apparent successful Proposer is procedural only and creates no right of the named Proposer to award of the contract. Competing Proposers will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given five (5) calendar days from the date on the “Notice of Intent to Award” letter to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFP.

Only actual Proposers may protest if they believe they have been adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. In order to be an adversely affected Proposer with a right to submit a written protest, a Proposer must be next in line for award, i.e. the protester must claim that all higher rated Proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer; OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer as nonresponsive, if such Proposer is unable to demonstrate that its Proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name a new apparent successful Proposer; OR
- c. reject all Proposals and cancel the procurement.

2.7 Acceptance of Contractual Requirements: Failure of the selected Proposer to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

2.8 Public Records: Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.501(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

“This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” ORS 192.500(1). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

2.9 Investigation of References: County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any

other factor relevant to this RFP. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer in order to complete its investigation.

2.10 RFP Proposal Preparation Costs and Other Costs: Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

2.11 Clarification and Clarity: County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

2.12 Right to Reject Proposals: County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.

2.13 Cancellation: County reserves the right to cancel or postpone this RFP at any time or to award no contract.

2.14 Proposal Terms: All Proposals, including any price quotations, will be valid and firm through a period of one hundred and eighty (180) calendar days following the Closing date. County may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

2.15 Oral Presentations: At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

2.16 Usage: It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

2.17 Review for Responsiveness: Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

2.18 RFP Incorporated into Contract: This RFP will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of the Sample Contract.

2.19 Communication Blackout Period: Except as called for in this RFP, Proposers may not communicate with members of the Evaluation Committee or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer is selected, and all

protests, if any, have been resolved. Communication in violation of this restriction may result in rejection of a Proposer.

2.20 Prohibition on Commissions and Subcontractors: County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

2.21 Ownership of Proposals: All Proposals in response to this RFP are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

2.22 Clerical Errors in Awards: County reserves the right to correct inaccurate awards resulting from its clerical errors.

2.23 Rejection of Qualified Proposals: Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP or the Sample Contract.

2.24 Collusion: By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

2.25 Evaluation Committee: Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

2.26 Commencement of Work: The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

2.27 Best and Final Offer: County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

2.28 Nondiscrimination: The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

2.29 Intergovernmental Cooperative Procurement Statement: Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between

the contractor and the participating public agency and shall not impact the contractor's obligation to County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

SECTION 3 SCOPE OF WORK

3.1. INTRODUCTION

The County, on behalf of its Departments and special Districts (collectively referred to as “Department”), is seeking proposals for on-call contractors to provide interpreter services including but not limited to in person, telephonic, transcription and video platforms. The County wishes to contract with qualified firms for interpreter services to and from one or more languages to and from the English language on an on-call basis. The County intends to award multiple contracts as a result of this solicitation.

Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.

3.2 BACKGROUND

Clackamas County seeks to contract with qualified vendors to provide interpreter services to be utilized throughout the County by in-person, telephonic, video conferencing, and written translation platforms. These services are for all Clackamas County entities including but not limited to Sheriff’s Department, District Attorney’s Office, Clackamas County Service District 1, North Clackamas Parks and Recreation District, Transportation and Development, Resolution Services, Library District, Water Environment Services, Health, Housing and Human Services and other County component units.

3.3. SCOPE OF WORK

3.3.1. Scope:

The purpose of this Request for Proposals (“RFP”) is to contract with qualified individuals or firms (hereafter “Contractor”) to provide on-call services including but not limited to in-person, telephonic, video conferencing, and written translation services for various languages to and from the English language. The resulting contract will be an on-call contract for services needed over the contract term. The compensation for each task will be a time and material basis at the rates provided in proposal submitted with no guarantee of compensation during the contract term. The annual not to exceed for each contract will be \$250,000, with a total contract value of not-to-exceed \$1,250,000.000, for a five year contract term expiring **June 30, 2023**. It is the intent of the County to issue multiple contracts under this RFP.

Contractors may need to agree to additional terms and conditions as mandated by State, Federal or County requirements per each engagement such as HIPPA or other State mandated regulations. This includes but is not limited to additional agreements such as Business Associate Agreement and Qualified Service Organization Business Associate Agreement. Samples of these agreements can be found at: <http://www.clackamas.us/bids/terms.html>.

Services will be coordinated with a Departmental representative (“County Requestor”) for each engagement Service scheduling will be by telephone or email correspondence and all confirmations must be received to the County Requestor within 24 hours of request. The request confirmation should include the name of the County Requestor, service(s) time(s) and location requested, confirmation of services and any other pertinent information necessary. Minimum hours for billing and service requested for in-person interpreter services is one (1) hour per request, regardless of actual service time, which includes client no show. The County has the right to utilize services within the time frame specified regardless of original

scope of work as long as there is no change of location unless mutually agreed upon in writing. County Requestor and Contractor must cancel a minimum of 48 hours in advance of requested services time. County reserves the right to charge an hour for hour billing fee at their specified rates for failure to appear after a written confirmation is received.

Additional hours for in-person interpreter services or longer term engagements may be required as needed and mutually agreed upon in writing by both the County and Contractor.

Contractor to provide all labor, material, equipment and supplies necessary to provide interpreter services in-person, telephonically, video conferencing, and written translation services. The County will not accept additional ad hoc fees such as location fees, travel fees, etc. in addition to the hourly rate.

Contractor will invoice Departments directly on a monthly basis with detailed information per transaction that will include date, time, location address, language services used, platform utilized (in-person, telephonic, video, transcriber) and any other pertinent notes. If providing written translation, Contractor shall submit in writing, the original request by the Department including documents requesting translation. County Requestor may require Contractor to bill third party entities directly.

Telephonic interpretation must utilize a land line phone to maintain integrity of the connection. If mutually agreed upon, cellular devices may be utilized to perform the interpreter services either via video or telephonic interpreter services.

Contractors must have the ability to provide high-quality Video Remote Interpreting and Video Relay Service (“VRI/VRS”) available from multiple platforms – utilizing current (PC/MAC/Android/iOS) technology for the provision of on-site interpreting services and video remote “mobile” interpreting, delivering a wide array of options to meet the varied communication needs of the Sheriff’s Office, clients and Departments.

Contractor duties may include but are not limited to interpreter services, which may consist of either VRI/VRS interpretive services or on-site interpretation as the need dictates, for Departments including but not limited to the County Jail, County Courthouse (Civil Services), Community Corrections (Parole and Probation Services), and Law Enforcement Operations (Patrol Services and Criminal Investigations).

Certifications:

Contractors must be certified in American Sign Language (ASL) through the National Association of the Deaf (<https://www.nad.org/>).

Contractors who are Medically Certified must be registered and certified as a medical Interpreter as deemed by the Oregon Health Authority (<http://www.oregon.gov/oha/oei/pages/hci-certification.aspx>).

Contractors who are Legally Certified must be registered and certified as a Court Interpreter as deemed by the Oregon Judicial Department (<http://www.courts.oregon.gov/programs/interpreters/Pages/roster.aspx>).

Contractors who perform General interpreter services must be fluent in language(s) in which they provide services by oral communication and or in writing.

Firms or individuals may be required to supply certifications at the time of services being rendered at the request of the County Requestor.

Typical service requests may include but not limited to:

- Interpreter services in clinics, education classes working directly with adults, children, for jurors, classes for parents youth, general County business including but not limited to meetings, events, translation of documents as well as public communication material.

Contractor may or may not be required to meet additional guidelines as specified by both finding source and departmental needs. These may include but are not limited to:

- BAA
- QSOBAA
- Ability to record interactions (interpretations) of all parties
- Consent form all parties to recordings- Conversations may be recorded for law enforcement purposes (Oregon Law) and possibility of being subject to answering subpoenas (County Counsel/District Attorney).

3.3.2. Work Schedule:

Services will be performed on an as needed schedule with little to no notice. The schedule of services will be mutually agreed upon scope of work on a twenty four hour basis, seven days a week, and three hundred and sixty five days a year (24/7/365). Work performed will either be in-person, utilization of video or telephonic interpreter services.

Most services to be performed between the hours of 7:00 AM and 6:00 PM, Monday through Friday.

Location of Work:

All Clackamas County and component unit locations are intended to be covered under the resulting contract. The majority of service locations are in the Clackamas County Metro areas of Oregon City, Milwaukie, Gladstone, Clackamas, West Linn, Canby area. There are some service locations in outlying areas such as Sandy and Welches, however the volume is minor compared to the Metro area.

3.3.3. Term of Contract:

The term of the contract shall be from the effective date through **June 30, 2023**. Prices during the term of the contract will be fixed.

3.3.4 Sample Contract: Submission of a Proposal in response to this RFP indicates Proposer’s willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of this RFP, pertaining to requests for clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample Professional Services Contract for this RFP can be found at

<http://www.clackamas.us/bids/terms.html>.

Professional Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

- Article I, Paragraph 4 – Travel and Other Expense is Authorized
- Article II, Paragraph 29 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements

- Article II, Paragraph 30 – Key Persons
- Exhibit A – On-Call Provision

The following insurance requirements will be applicable:

- Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
- Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
- Automobile Liability: combined single limit, or the equivalent, of not less than \$500,000 per occurrence for Bodily Injury and Property Damage.

**SECTION 4
EVALUATION PROCEDURE**

4.1 An evaluation committee will review all Proposals that are initial deemed responsive and they shall rank the Proposals in accordance with the below criteria. The evaluation committee may recommend an award based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of a contract to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to a different Proposer, or reject all Proposals and cancel the RFP.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

4.2 Evaluation Criteria

<u>Category</u>	<u>Points available:</u>
Proposer's General Background and Qualifications	0-30
Scope of Work	0-45
Fees	0-25
Available points	0-100

4.3 Once a selection has been made, the County will enter into contract negotiations. During negotiation, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If the County is unable to come to terms with the highest scoring Proposer, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple phases and the County deems it is in its interest to not authorize any particular phase, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer to complete the remaining phases.

SECTION 5 PROPOSAL CONTENTS

5.1. Vendors must observe submission instructions and be advised as follows:

5.1.1. Complete Proposals may be mailed to the below address or emailed to Procurement@clackamas.us. The subject line of the email must identify the RFP title. Proposers are encouraged to contact Procurement to confirm receipt of the Proposal. If the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

5.1.2. Mailing address including Hand Delivery, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Director
Clackamas County Public Services Building
2051 Kaen Road
Oregon City, OR 97045

5.1.3. County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

Provide the following information in the order in which it appears below:

5.2. Proposer's General Background and Qualifications:

- Description of the firm.
- Provide Credentials (Medical and/or Legal Certifications by the State of Oregon) and experience of key individuals that would be assigned to this project.
- Description of providing similar services to public entities of similar size within the past five (5) years.
- Description of the firm's ability to meet the requirements in Section 3.
- Description of what distinguishes the firm from other firms performing a similar service.

5.3. Scope of Work

- Proposers are required to attach **Exhibit D**, spreadsheet of languages spoken and written and in which mode of delivery they are able to provide whether that is in person, telephonically or written translation services.
- Provide detailed project approach to execute these services.
- Provide a timeline for your services

5.4. Fees – Complete the attached Fee Schedule, Exhibit D

The quoted fees must be a time and material hourly rate for each type of service provided. The County will not accept additional ad hoc fees such as location fees, travel fees, etc. in addition to the hourly rate.

5.5. References

Provide three (3) references from clients your firm has served similar to the County in the past three (3) years, including one client that has newly engaged the firm in the past thirty-six (36) months and one (1) long-term client. Provide the name, address, email, and phone number of the references.

5.6. Completed Proposal Certification (see the below form)

PROPOSAL CERTIFICATION
RFP #2017-87 Interpreter Services

Submitted by: _____
(Must be entity's full legal name, and State of Formation)

The undersigned, through the formal submittal of this Proposal response, declares that he/she has examined all related documents and read the instruction and conditions, and hereby proposes to provide the services as specified in accordance with the RFP, for the price set forth in the Proposal documents.

Contractor, by signature below, hereby represents as follows:

(a) That no County elected official, officer, agent or employee of the County is personally interested directly or indirectly in this contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the County, its elected officials, officers, agents, or employees had induced it to enter into this contract and the papers made a part hereof by its terms;

(b) The Proposer, and each person signing on behalf of any Proposer certifies, in the case of a joint Proposal, each party thereto, certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

1. The prices in the Proposal have been arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restraining competition as to any matter relating to such prices with any other Proposer or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in the Proposal have not been knowingly disclosed by the Proposer prior to the Proposal deadline, either directly or indirectly, to any other Proposer or competitor;
3. No attempt has been made nor will be made by the Proposer to induce any other person, partnership or corporation to submit or not to submit a Proposal for the purpose of restraining trade;

(c) The Proposer fully understands and submits its Proposal with the specific knowledge that:

1. The selected Proposal must be approved by the Board of Commissioners.
2. This offer to provide services will remain in effect at the prices proposed for a period of not less than ninety (90) calendar days from the date that Proposals are due, and that this offer may not be withdrawn or modified during that time.

(d) That this Proposal is made without connection with any person, firm or corporation making a bid for the same material, and is in all respects, fair and without collusion or fraud.

(e) That the Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.

(f) That the Proposer accepts all terms and conditions contained in this RFP and that the RFP and the Proposal, and any modifications, will be made part of the contract documents. It is understood that all Proposals will become part of the public file on this matter. The County reserves the right to reject any or all Proposals.

(g) That the Proposer holds current licenses that businesses or services professionals operating in this state must hold in order to undertake or perform the work specified in these contract documents.

(h) That the Proposer is covered by liability insurance and other insurance in the amount(s) required by the solicitation and in addition that the Proposer qualifies as a carrier insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128.

(i) That the Proposer is legally qualified to contract with the County.

(j) That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

(k) The Proposer agrees to accept as full payment for the services specified herein, the amount as shown in the Proposal.

Resident Bidder, as defined in ORS 279A.120

Non-Resident Proposer, Resident State _____
Oregon Business Registry Number _____

Contractor's Authorized Representative

Signature: _____ Date: _____

Name: _____ Title: _____

Firm: _____

Address: _____

City/State/Zip: _____ Phone: () _____

e-mail: _____ Fax: _____

Contract Manager:

Name _____ Title: _____

Phone number: _____

Email Address: _____

Section 6 Rate Schedule

Name of Firm/Individual: _____

Certification(s): Medical Legal General American Sign Language

Days/Hours of availability: _____

Are you willing to accept long term assignments? _____

Are you willing to perform third party billing? Yes No

Please attach all current certifications to your proposal if an individual. Firms may be required to provide certifications for their staff at the time services are rendered.

Language	Rates			
	In person	Telephonic	Video	Transcription
American Sign Language				
Acholi – <i>Uganda, Sudan</i>				
Afrikaans – <i>South Africa, Namibia</i>				
Akan – <i>Ghana, Ivory Coast</i>				
Akateko – <i>Guatemala</i>				
Albanian – <i>Albania</i>				
Algerian Arabic – <i>Algeria</i>				
Amharic – <i>Ethiopia</i>				
Arabic – <i>Widely Distributed</i>				
Armenian – <i>Armenia</i>				
Ashanti (Asante Twi) – <i>Ghana</i>				
Assyrian – <i>Iraq</i>				
Azerbaijani – <i>Azerbaijan</i>				
Azorean Portuguese – <i>Azores Islands</i>				
Bahnar – <i>Vietnam</i>				
Bahasa Indonesia (Indonesian) – <i>Indonesia</i>				
Bambara – <i>Mali</i>				
Belarusan – <i>Belarus</i>				
Bengali – <i>Bangladesh, India</i>				
Bosnian – <i>Bosnia & Herzegovina</i>				
Brazilian Portuguese – <i>Brazil</i>				
Bulgarian – <i>Bulgaria</i>				
Burmese – <i>Myanmar (former Burma)</i>				
Cambodian (Khmer) – <i>Cambodia</i>				
Cantonese – <i>China</i>				

Language	In person	Telephonic	Video	Transcription
Cape Verdean (Portuguese Creole) –Cape Verde				
Catalan – Andorra, Spain				
Cebuano – Philippines				
Chaldean – Iraq				
Chamorro – Guam				
Chaozhou (Teochew) – China				
Chin – Myanmar (former Burma)				
Chinese (var. languages/dialects) – China				
Chuukese (Trukese) – Micronesia				
Croatian – Croatia				
Czech – Czech Republic				
Danish – Denmark				
Dari (Afgan Farsi) – Afghanistan				
Dene – Canada				
Dewoin – Liberia				
Dinka – Sudan				
Duala – Cameroon				
Dutch – Netherlands				
Egyptian Arabic – Egypt				
Estonian – Estonia				
Filipino (Tagalog) – Philippines				
Finnish – Finland				
Flemish – Belgium				
French – Africa, Canada, France, Tunisia, et al.				
French Creole – Caribbean				
Fukienese – China				
Fulani (Fulfulde, Fula) – Cameroon, Niger, Nigeria, Senegal				
Fuzhou – China				
Ga – Ghana				
Gen (Mina) – Togo, Benin				
German – Germany				
Gokana (Khana) – Nigeria				
Greek – Greece				
Gujarati – India				
Haitian Creole – Haiti				
Haka Burmese – Myanmar (former Burma)				
Hmong – China, Vietnam, Laos				
Hungarian – Hungary				
Hakka – China				

Language	In person	Telephonic	Video	Transcription
Hausa – <i>Niger, Nigeria</i>				
Ibo (Igbo) – <i>Nigeria</i>				
Ilocano – <i>Philippines</i>				
Hebrew – <i>Israel</i>				
Hindi – <i>India</i>				
Indonesian (Bahasa Indonesia) – <i>Indonesia</i>				
Iraqi Arabic – <i>Iraq</i>				
Italian – <i>Italy</i>				
Japanese – <i>Japan</i>				
Jarai – <i>Vietnam</i>				
Javanese – <i>Indonesia</i>				
Jordanian Arabic – <i>Jordan</i>				
Juba Arabic – <i>Sudan</i>				
Kanjool (Q'anjob'al) – <i>Guatemala</i>				
Kannada – <i>India</i>				
Kapampangan – <i>Philippines</i>				
Karen (Pa'o, S'gaw) – <i>Myanmar (former Burma)</i>				
Kayah – <i>Myanmar (former Burma)</i>				
Khmer (Cambodian) – <i>Cambodia</i>				
Kinyarwanda – <i>Rwanda</i>				
Kirundi – <i>Burundi</i>				
Koho – <i>Vietnam</i>				
Korean – <i>Korea</i>				
Kpele – <i>Guinea, Liberia</i>				
Kurmanji (Northern Kurdish) – <i>Turkey</i>				
Kuwaiti Arabic – <i>Kuwait</i>				
Lao – <i>Laos</i>				
Latvian – <i>Latvia</i>				
Lebanese Arabic – <i>Lebanon</i>				
Lingala – <i>Congo, Republic of the</i>				
Lithuanian – <i>Lithuania</i>				
Luganda – <i>Uganda</i>				
Luo – <i>Kenya</i>				
Maay (Af Maay, Rahanween, Bantu) – <i>Somalia</i>				
Macedonian – <i>Macedonia</i>				
Malay – <i>Malaysia</i>				
Malayalam – <i>India</i>				
Malinke – <i>Senegal</i>				
Mam – <i>Guatemala</i>				
Mandarin – <i>China</i>				

Language	In person	Telephonic	Video	Transcription
Mandinka (Mandingo) – <i>Senegal</i>				
Marathi – <i>India</i>				
Marshallese – <i>Marshall Islands</i>				
Mayan [Akateko, Kanjobal] – <i>Guatemala, Mexico</i>				
Mien – <i>China, Laos, Thailand</i>				
Mina (Gen) – <i>Togo, Benin</i>				
Minangkabau – <i>Indonesia</i>				
Mixteco Alto – <i>Mexico</i>				
Mixteco Bajo – <i>Mexico</i>				
Mnong – <i>Vietnam</i>				
Mongolian – <i>Mongolia</i>				
Moroccan Arabic – <i>Morocco</i>				
Nahuatl – <i>Mexico</i>				
Navajo – <i>U.S.A.(Southwest)</i>				
Nepalese – <i>Nepal, India</i>				
Nuer – <i>Sudan</i>				
Oromo – <i>Ethiopia</i>				
Palestinian Arabic – <i>Israel, Jordan</i>				
Pangasinan – <i>Philippines</i>				
Papiamentu – <i>Netherlands Antilles</i>				
Pashto (Pusho) – <i>Pakistan, Afghanistan</i>				
Portuguese Creole (Cape Verdean) – <i>Cape Verde</i>				
Persian (Farsi) – <i>Afghanistan, Iran, Iraq, Pakistan</i>				
Russian – <i>Russia</i>				
Samoan – <i>Samoa</i>				
Polish – <i>Poland</i>				
Portuguese – <i>Portugal, Brazil, et al.</i>				
San Miguel – <i>Mexico</i>				
Santa Eulalia – <i>Guatemala</i>				
Saraiki – <i>Pakistan, India</i>				
Serbian – <i>Serbia, Montenegro</i>				
Serbo-Croatian – <i>Balkans</i>				
Shanghainese – <i>China</i>				
Sichuan (Szechuan) – <i>China</i>				
Sinhalese – <i>Sri Lanka</i>				
Slovak – <i>Slovakia</i>				
Somali – <i>Somalia</i>				
Soninke (Serahule) – <i>Mali</i>				
Sorani (Central Kurdish) – <i>Iraq</i>				
Spanish – <i>Spain, Latin America, et al.</i>				

Language	In person	Telephonic	Video	Transcription
Sudanese Arabic – <i>Sudan</i>				
Susu – <i>Guinea</i>				
Swahili – <i>Kenya, Somalia, Tanzania,</i>				
Swedish – <i>Sweden</i>				
Syrian Arabic – <i>Syria</i>				
Tagalog (Filippino) – <i>Philippines</i>				
Tai Dam – <i>Vietnam</i>				
Taiwanese – <i>Taiwan</i>				
Tamil – <i>India</i>				
Telugu – <i>India</i>				
Teochew (Chaozhou) – <i>China</i>				
Thai – <i>Thailand</i>				
Tibetan – <i>China</i>				
Tigrigna (Tigrinya) – <i>Ethiopia,</i> <i>Eritrea</i>				
Toishanese – <i>China</i>				
Tongan – <i>Tonga</i>				
Trukese (Chuukese) – <i>Micronesia</i>				
Tunisian Arabic – <i>Tunisia</i>				
Turkish – <i>Turkey</i>				
Twi – <i>Ghana</i>				
Tzotzil – <i>Mexico</i>				
Ukrainian – <i>Ukraine</i>				
Urdu – <i>Pakistan, India</i>				
Vietnamese – <i>Vietnam</i>				
Wolof – <i>Senegal</i>				
Xhosa – <i>South Africa</i>				
Yemeni Arabic – <i>Yemen</i>				



GEORGE MARLTON, JD
PROCUREMENT DIVISION DIRECTOR

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

REQUEST FOR PROPOSALS #2017-87
Interpreter Services
ADDENDUM NUMBER #1
May 3, 2018

On April 24, 2018, Clackamas County (“County”) published Request for Proposals #2017-87 Interpreter Services (“RFP”). The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #1. Except as expressly amended below, all other terms and conditions of the original RFP.

1. Section 3.3.1. Scope is hereby amended to include new paragraph 10 and 11 which state:

Contractors will be required to adhere to Article II, Paragraph 29 in our Professional Services Standardized Contract Terms and Conditions available on our website (<http://www.clackamas.us/bids/>) under Standardized Contract Terms and Conditions.

Contractors are responsible for performing and paying for Criminal Background Checks as required and outlined in RFP #2017-87, Article II, Paragraph 29 on the Professional Services Standardized Contract Terms and Conditions. Contractors shall perform criminal background checks on all employees, agents or subcontractors that perform services before any services are rendered under established Contracts with Clackamas County from this RFP. All criminal background check requirement documentation shall be made available at the request of the County. Failure to provide or adhere to this standard will result in termination of your contract. This is applicable to all Contractors who Clackamas County establishes a contract with.

End of Addendum #1



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REQUEST FOR PROPOSALS #2017-87
Interpreter Services
ADDENDUM NUMBER #2
May 7, 2018

On April 24, 2018, Clackamas County (“County”) published Request for Proposals #2017-87 Interpreter Services (“RFP”) and on May 3, 2018 published Addendum #1. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #2. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. Section 5.3. Scope of Work is here by replaced in its entirety with the following:

Scope of Work

- Proposers are required to attach **Section 6**, spreadsheet of languages spoken and written and in which mode of delivery they are able to provide whether that is in person, telephonically or written translation services.
- Provide detailed project approach to execute these services.
- Provide a timeline for your services

2. Section 5.4. Fees is here by replaced in its entirety with the following:

Fees – Complete the attached Fee Schedule, Section 6

The quoted fees must be a time and material hourly rate for each type of service provided. The County will not accept additional ad hoc fees such as location fees, travel fees, etc. in addition to the hourly rate.

End of Addendum #2



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REQUEST FOR PROPOSALS #2017-87
Interpreter Services
ADDENDUM NUMBER #3
May 10, 2018

On April 24, 2018, Clackamas County (“County”) published Request for Proposals #2017-87 Interpreter Services (“RFP”), on May 3, 2018 published Addendum #1, and on May 7, 2018 published Addendum #2. The County has found that it is in its interest to amend the RFP through the issuance of this Addendum #3. Except as expressly amended below, all other terms and conditions of the original RFP and subsequent Addenda shall remain unchanged.

1. Section 5.4. Fees is deleted and replaced in its entirety with the following:

Fees – Complete the attached Fee Schedule, Section 6

The County prefers rates to be on an hourly rate, however vendors may propose on a per hour (in-person), per minute (telephonic or video), or per word basis (transcription). Please note however that the County will not accept proposals that are not rolled up fees, meaning that it will not accept additional ad hoc fees such as location fees, travel fees, etc.

End of Addendum #3

**EXHIBIT B
CONTRACTORS RESPONSE**



Request for Proposal

Clackamas County

Interpreter Services
Submitted 05/15/2018

National Interpreting Service, Inc.

P.O. Box 12473

Salem, OR 97309

(503) 932-8460 office

(503) 589-4261 fax

www.NationalInterpretingService.org



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General Background and Qualification (RFP# 5.2)

Description of the firm

National Interpreting Service, Inc. provides American Sign Language (ASL) service and strives to provide the most consistent and professional service in the state of Oregon and Southwest Washington. Although the headquarters business office is located in Salem, Oregon, 80% of the interpreters reside and provide services in the Portland, Oregon metro area. With this service County representatives can communicate with individuals who are Deaf, Deaf-Blind, and hard of hearing.

The director of National Interpreting Service, Inc. started as a freelance ASL interpreter more than two decades ago specializing in healthcare interpreting. Filling the need for interpreters to cover short appointments, remote location appointments, as well as after-hours became her mission. The value of always doing business honestly and making an effort to remain professional at all times has been the core value throughout the firm's history. The firm is managed with integrity.

The Director and CEO of NIS, Ms. Cynthia A. Anderson, has taken over 300 hours of healthcare interpreter training and is a licensed Healthcare Interpreter Trainer with program approval from the Oregon Health Authority. She has taken the current spoken language certification model, adapted it for Sign Language Interpreters and had it approved by the Oregon Health authority. She is the only in-state resource for ASL interpreter healthcare certification.

To meet the need of the community, the firm expanded its services. Known as Anderson Interpreting Service for over 15 years, the company incorporated to National Interpreting Service, Inc. in January 2012 as part of the strategic plan to expand as capabilities increased. The company is still owned and directed by Cynthia Anderson.

National Interpreting Service, Inc. has grown to its current level of services which includes an extensive team of certified interpreters statewide, advanced technology resources, and the offering of additional service such as tactile interpreting for Deaf-Blind persons.

In addition, National Interpreting Service, Inc. is proud to be Oregon State Certified in the following categories:

1. Oregon State Certified Woman Owned Business
2. Oregon State Certified Disadvantaged Business Enterprise
3. Oregon State Certified Small Emerging Business

Credentials

Certification: All of the firm's interpreters are nationally certified and credentialed by RID as required by the RFP. These credentials are kept current through the firm's compliance center. Interpreters are required to complete Continuing Education Units (CEU) to maintain certification, required to complete annual HIPAA training, as well as follow all policies and procedures of Clackamas County. Many of the interpreters have also received specialized medical interpreter training as required for Oregon certification and are also certified by the Certification Commission for Healthcare Interpreters (<http://www.cchicertification.org>). National Interpreting Service, Inc. has copies of all staff interpreter and sub-contracting interpreter's credentials and certification on file and can present to Clackamas County upon request.

Quality: Because of the importance of assigning qualified interpreters, this firm screens interpreters, mentors newer interpreters, and frequently hosts interpreter workshops and trainings for contract as well as staff interpreters.

Specialization: National Interpreting Service, Inc., has over 25 years of experience providing high-quality, in-person ASL interpreting for a wide variety of governmental and healthcare entities. NIS' interpreters have extensive experience in working with all facets of county healthcare systems including Developmental Disabilities, Adult and Family Services, Behavioral Health, Psychiatric Crisis Center, Women, Infant & Children (WIC), court mandated rehabilitation programs, and county government meetings. NIS also regularly provides services for county government, such as board and council meetings, jail meetings, and law enforcement encounters.

Leadership: Specializing in the healthcare industry for more than 25 years, the Director and CEO, Cynthia A. Anderson, completed an Interpreter Training Program as well as completing a degree in Psychology from Western Oregon University, has 300+ hours of healthcare interpreter training, and is a licensed Healthcare Interpreter Trainer with program approval by the Oregon Health Authority. Cynthia Anderson is currently nearing completion of a Master of Arts degree from Rochester Institute of the Deaf in ASL Healthcare Interpreting. The extensive experience and credentials of the director allow this firm is able to distinguish interpreter skills and hire only those interpreters who meet the stringent criteria not only of the certification bodies, but also the higher

criteria requiring several years' experience as an interpreter. The following certifications are held by Cynthia Anderson:

<p>i. Registry of Interpreters for the Deaf</p> <p>- Certified</p> <p>Certificate of Interpreting (CI), and Certificate of Transliteration (CT)</p>
<p>ii. National Association of the Deaf</p> <p>- Certified</p> <p>NAD Level III</p>
<p>iii. Certification Commission for Healthcare Interpreters</p> <p>- Certified</p> <p>Core Certified Healthcare Interpreter</p>
<p>iv. State of Oregon</p> <p>- Certified</p> <p>Certified Healthcare Interpreter</p>
<p>v. The Community Interpreter - Licensed Trainer</p> <p>Licensed Trainer for Medical Interpreter Training</p> <p>National Interpreting Services' Custom Program Approved by the Oregon Health Authority</p>

Providing Similar Services within the past 5 years

National Interpreting Service, Inc. is the current ASL in-person interpreting provider for several other counties in Oregon with similar needs as Clackamas County. The firm provides service 24/7/365. The firm is well established as the paramount provider and stands well above competing firms in service provision. **In the 2017 calendar year alone, the firm provided over 21,800 hours of ASL interpreting in the state of Oregon. This includes governmental entities, municipalities, and healthcare organizations such as hospitals and clinics. Even with this extraordinary volume, 99.3% of all requests were filled.** This high fill rate is due in part to diligent scheduling, as well as the firm's staffing system.

National Interpreting Service, Inc. is able to supply interpreters for any type of service Clackamas County offers. The interpreters all meet the requirements specified in the RFP and are culturally competent, pleasant, and experienced in the type of assignment each is sent to interpret. The sign language interpreters are skilled at meeting the needs of the Deaf individuals as well as the entity representatives served.

Firm's Ability to Meet Requirements in Section 3

1. National Interpreting Service, Inc. is fully committed to serving the needs of all of the clients. NIS schedulers are in the office from 8:00am to 5:00pm daily. For after-hours emergencies, Clackamas County staff are assured the utmost attention to their needs as phones are answered in person *at all times*. If emergency after-hours assistance is needed, an interpreter will be dispatched immediately. Staffing levels are sufficient to meet the needs for weekend and evening classes as well as night emergencies.
2. National Interpreting Service, Inc. will provide services in all service locations of Clackamas County Metro areas of Oregon City, Milwaukie, Gladstone, Clackamas, West Linn, and Canby as well as the outlying areas such as Sandy and Welches.
3. National Interpreting Service, Inc. is willing to commit to a contract with the term from the effective date through June 30, 2023.
4. National Interpreting Service, Inc. will follow all requirements of the Clackamas County Contract.
5. National Interpreting Service, Inc. is registered with the Secretary of State in Oregon.
6. NIS recognizes and supports federal, state and local legislation such as the Americans with Disability Act (ADA), Title VI of the Civil Rights Act, Section 1557 of the Affordable Care Act (ACA), as well as Oregon's ORS 413 which requires access to effective communication for Deaf, Deaf-Blind and hard of hearing individuals in the healthcare setting. NIS is non-discriminatory and will follow all applicable state and federal regulations.
7. National Interpreting Service, Inc. has extensive hiring requirements. In addition to the strict vetting process, each RID/NAD interpreter must meet the stringent requirements for the firm. These requirements include criminal background check, 12-panel drug screen, annual HIPAA training, BBP training, all CDC recommended immunizations, provide

liability insurance, and CEU completion. Each interpreter has signed a Business Associate Agreement for HIPAA protection.

Distinguishing features of the firm

Customer Service

National Interpreting Service, Inc. believes that great customer service isn't something that happens *sometimes*. The firm believes that *every* encounter should be positive, successful, and respectful. There is a marked difference in the interpreters sent from NIS. The interpreters arrive on time, are professionally dressed, and skilled. Consistent interpreters provide services, which allows for continuity of care.

Familiar with Local Deaf Population

National Interpreting Service, Inc. stands out from other firms in that this firm has provided services in the state of Oregon for 30 years. The CEO, as well as the team members, are familiar with the needs of clientele who will be served and are familiar with particular language requirements for many of the deaf individuals in Clackamas County. The benefit to Clackamas County while providing the services requested in this RFP, is that the NIS' contracted and staff interpreters are located throughout Oregon and Southwest Washington to meet the needs of patients anywhere Clackamas County serves.

Staff Interpreters

Another noteworthy difference that National Interpreting Service, Inc. provides is that most of the interpreter requests are covered by *staff* interpreters instead of freelance contractors. The rationale behind this is that most interpreter firms' contract with the same small pool of local interpreters thereby competing for interpreters' time by trying to be the firm that contacts them first or pays better. The result is that there are not enough interpreters to cover all assignments. Standard billing practices vary widely between freelancers, and firms must charge ad hoc fees that Clackamas County does not allow such as mileage, travel, parking, etc. The best interpreters are in high demand and also expensive, meaning that many assignments are filled by the lesser quality,

more available, and cheaper interpreters. Even if a professional, skilled interpreter is available, some firms may choose a lesser interpreter for an assignment in order to cover expenses and make a profit. Due to the above issues with standard firms' practice, NIS has alleviated that by utilizing the staff model for most coverage.

National Interpreting Service, Inc., utilizes *staff* interpreters covering *all hours* of every day, eliminating the need to rely solely on freelance contractors. NIS can control costs, absorb ad hoc fees and fill nearly 100% of all requests because of this business practice. And, since full-time interpreter positions are rare and coveted, NIS has been able to recruit the best of the best from across the country, with several staff relocating here from as far as Florida for these positions. This creates an environment of happy and loyal employees who in turn go the extra mile to make sure the clients of NIS are well taken care of and more than satisfied with the service received.

Certified Deaf Interpreters (CDI)

NIS also has a team of Certified Deaf Interpreters (CDI) who are specialized in many types of language disfluency and are used whenever requested. CDI are utilized for a variety of situations including clinic appointments, hospitalizations and assisted living facilities. These language specialists are a great resource and are another reason the interpreting force at NIS is so effective and different from any other.

Matching interpreters to Deaf consumers

National Interpreting Service, Inc. carefully matches interpreters' skills to the assignments requested assuring the highest level of communication between provider and Deaf client.

Professionalism

Knowing that the interpreters in the field are an extension of the entire company and NIS core values, interpreters are held to a high standard of professional dress and conduct. It is often said that NIS interpreters are easy to identify, even without their badges due to the utmost adherence to the Registry of Interpreters for the Deaf (RID) Code of Professional Conduct Code

[\(https://www.rid.org/ethics/code-of-professional-conduct/\)](https://www.rid.org/ethics/code-of-professional-conduct/), proper business manner and proper business attire.

National Interpreting Service, Inc. requires all interpreters to be nationally certified and have at least 3 years professional interpreting experience. (Most have between 10-20 years' experience. NIS also requires and provides a criminal background check, drug screening, HIPAA and Bloodborne Pathogen training, all CDC required vaccinations and Professional Liability Insurance. All NIS interpreters have a minimum standard of being nationally certified with Registry of Interpreters for the Deaf (www.rid.org).

Although licensure is not currently required in Oregon, NIS is supporting the move toward licensure in Oregon to ensure high standards. Although not *required* by current legislation, many of the interpreters are also certified by the State of Oregon. All NIS interpreters are required to follow the national standards published from the National Council on Interpreting in Healthcare (NCIHC)

<http://www.ncihc.org/assets/documents/publications/NCIHC%20National%20Standards%20of%20Practice.pdf>

Scope of Work (RFP# 5.3)

Exhibit D attached at end of this document

On-site ASL interpreting services

National Interpreting Service, Inc. specializes in ASL services for deaf individuals. This firm provides everything that is needed in the way of communication assistance related to sign language. The scope includes every facet of the deaf community and is a premier source for provision of on-site ASL interpreting services.

Below is a list of the typical service requests we see from counties throughout Oregon:

- Deaf-Blind/Tactile/Low Vision Interpreting
- Sign Language for individuals with language disfluency
- Sign Language for individuals with low language production, home signs, or gestural
- Sign Language who have mental health issues which impacts language production and reception
- Sign Language for Children
- Sign Language for individuals who have medical conditions which impact language production

Project approach to provide services

Strategic Plan: National Interpreting Service, Inc. will work with Clackamas County to determine a feasible, strategic plan of action to meet the needs of Clackamas County.

Implementation: Setting up departments and cost centers prior to actual implementation is the approach preferred. Preparation ensures that when Clackamas County representatives call for interpreter service the request for an interpreter is efficient and accurate. This process is quick, and if provided a list of various county departments and/or cost codes, the firm will be able to set up the account prior to the actual contract initiation.

Scheduling: National Interpreting Service, Inc. uses custom scheduling software system allows for reporting data specially customized for Clackamas County. This information can be customized to be the most the meaningful to Clackamas County.

Billing: National Interpreting Service is able to bill separately for each cost center or department, or combine any number of departments for bulk billing. The billing and account specialist assigned to Clackamas County has experience in setting up customized accounts for other counties in Oregon and can accommodate special billing requirements. NIS will bill as per the schedule preferred by Clackamas County.

Invoices: Invoices are emailed and can password protected to ensure complete HIPAA compliance for all cost centers, or for the cost centers that have any relation to medical or healthcare. NIS will follow the direction of Clackamas County for each cost center.

Timeline to provide services

Last Minute Requests: Upon inception of the contract period, the firm will immediately be able to provide services for Clackamas County. The firm is able to accommodate last minute requests including same day requests and “immediate dispatch” in most cases.

No waiting period: There is no waiting period for services to begin.

Fees (RFP# 5.4)

Completed Fee Schedule, Section 6 is attached at the end of this document.

Hourly Fee: There is an HOURLY fee for services. All fees are complete and there will not be additional fees such as after-hour, weekend, emergency, specialty certification, holiday, location, travel, or mileage fees.

The hourly fee listed is per interpreter. If an assignment requires a team of interpreters due to the complexity, nature of assignment, or duration, the hourly fee will be assessed for each interpreter for the entire duration of the assignment.

- a. All assignments are booked with a two hour minimum, and thereafter in 15 minute increments.
- b. Assignments cancelled with more than 48 hours' business day notice will not incur fee.

Cancellations: The following fee policy will be in effect regarding cancellations:

Cancellations with less than 48 hours' business day notice will be billed as scheduled.

Client or Provider No Show will be billed as scheduled.

Appointments finishing early will be billed as scheduled.

References (RFP# 5.5)

National Interpreting Service, Inc. is pleased to introduce Clackamas County to three clients served in high volume on a regular basis. As per the RFP requirements, also included is one client that has newly engaged the firm within the past thirty-six (36) months. Each of the clients will attest to the excellent service provided.

Marion County Health & Human Services

Dwight Bowles, Senior Contract Specialist

D.Bowles@co.marion.or.us

(503) 361-2795

Providence Health & Services

Oregon Region Quality Management & Medical Staff Services

Jennifer Alvarez, Program Manager; ADA/Linguistic Services

jennifer.alvarez@providence.org

503-215-2147

State of Oregon - Department of Human Services

Advocacy and Development - Aging and People with Disabilities

Kelsey Gleeson, Operations and Policy Analyst

kelsey.gleeson@state.or.us

503-947-5104

Proposal Certification

Completed Proposal Certification is attached at the end of this document.

Attached Documents

Exhibit D

Proposal Certification

**Section 6 Rate Schedule
Exhibit D**

Name of Firm/Individual: National Interpreting Service, Inc.

Certification(s): Medical Legal General American Sign Language

Days/Hours of availability: 24/7/365

Are you willing to accept long term assignments? YES

Are you willing to perform third party billing? Yes No

Please attach all current certifications to your proposal if an individual. Firms may be required to provide certifications for their staff at the time services are rendered.

Language	Rates			
	In person	Telephonic	Video	Transcription
American Sign Language	\$105.00			
Acholi – <i>Uganda, Sudan</i>				
Afrikaans – <i>South Africa, Namibia</i>				
Akan – <i>Ghana, Ivory Coast</i>				
Akateko – <i>Guatemala</i>				
Albanian – <i>Albania</i>				
Algerian Arabic – <i>Algeria</i>				
Amharic – <i>Ethiopia</i>				
Arabic – <i>Widely Distributed</i>				
Armenian – <i>Armenia</i>				
Ashanti (Asante Twi) – <i>Ghana</i>				
Assyrian – <i>Iraq</i>				
Azerbaijani – <i>Azerbaijan</i>				
Azorean Portuguese – <i>Azores Islands</i>				
Bahnar – <i>Vietnam</i>				
Bahasa Indonesia (Indonesian) – <i>Indonesia</i>				
Bambara – <i>Mali</i>				
Belarusan – <i>Belarus</i>				
Bengali – <i>Bangladesh, India</i>				
Bosnian – <i>Bosnia & Herzegovina</i>				
Brazilian Portuguese – <i>Brazil</i>				
Bulgarian – <i>Bulgaria</i>				
Burmese – <i>Myanmar (former Burma)</i>				
Cambodian (Khmer) – <i>Cambodia</i>				
Cantonese – <i>China</i>				

Language	In person	Telephonic	Video	Transcription
Cape Verdean (Portuguese Creole) – <i>Cape Verde</i>				
Catalan – <i>Andorra, Spain</i>				
Cebuano – <i>Philippines</i>				
Chaldean – <i>Iraq</i>				
Chamorro – <i>Guam</i>				
Chaozhou (Teochew) – <i>China</i>				
Chin – <i>Myanmar (former Burma)</i>				
Chinese (var. languages/dialects) – <i>China</i>				
Chuukese (Trukese) – <i>Micronesia</i>				
Croatian – <i>Croatia</i>				
Czech – <i>Czech Republic</i>				
Danish – <i>Denmark</i>				
Dari (Afgan Farsi) – <i>Afghanistan</i>				
Dene – <i>Canada</i>				
Dewoin – <i>Liberia</i>				
Dinka – <i>Sudan</i>				
Duala – <i>Cameroon</i>				
Dutch – <i>Netherlands</i>				
Egyptian Arabic – <i>Egypt</i>				
Estonian – <i>Estonia</i>				
Filipino (Tagalog) – <i>Philippines</i>				
Finnish – <i>Finland</i>				
Flemish – <i>Belgium</i>				
French – <i>Africa, Canada, France, Tunisia, et al.</i>				
French Creole – <i>Caribbean</i>				
Fukienese – <i>China</i>				
Fulani (Fulfulde, Fula) – <i>Cameroon, Niger, Nigeria, Senegal</i>				
Fuzhou – <i>China</i>				
Ga – <i>Ghana</i>				
Gen (Mina) – <i>Togo, Benin</i>				
German – <i>Germany</i>				
Gokana (Khana) – <i>Nigeria</i>				
Greek – <i>Greece</i>				
Gujarati – <i>India</i>				
Haitian Creole – <i>Haiti</i>				
Haka Burmese – <i>Myanmar (former Burma)</i>				
Hmong – <i>China, Vietnam, Laos</i>				
Hungarian – <i>Hungary</i>				
Hakka – <i>China</i>				

Language	In person	Telephonic	Video	Transcription
Hausa – <i>Niger, Nigeria</i>				
Ibo (Igbo) – <i>Nigeria</i>				
Ilocano – <i>Philippines</i>				
Hebrew – <i>Israel</i>				
Hindi – <i>India</i>				
Indonesian (Bahasa Indonesia) – <i>Indonesia</i>				
Iraqi Arabic – <i>Iraq</i>				
Italian – <i>Italy</i>				
Japanese – <i>Japan</i>				
Jarai – <i>Vietnam</i>				
Javanese – <i>Indonesia</i>				
Jordanian Arabic – <i>Jordan</i>				
Juba Arabic – <i>Sudan</i>				
Kanjool (Q'anjob'al) – <i>Guatemala</i>				
Kannada – <i>India</i>				
Kapampangan – <i>Philippines</i>				
Karen (Pa'o, S'gaw) – <i>Myanmar (former Burma)</i>				
Kayah – <i>Myanmar (former Burma)</i>				
Khmer (Cambodian) – <i>Cambodia</i>				
Kinyarwanda – <i>Rwanda</i>				
Kirundi – <i>Burundi</i>				
Koho – <i>Vietnam</i>				
Korean – <i>Korea</i>				
Kpele – <i>Guinea, Liberia</i>				
Kurmanji (Northern Kurdish) – <i>Turkey</i>				
Kuwaiti Arabic – <i>Kuwait</i>				
Lao – <i>Laos</i>				
Latvian – <i>Latvia</i>				
Lebanese Arabic – <i>Lebanon</i>				
Lingala – <i>Congo, Republic of the</i>				
Lithuanian – <i>Lithuania</i>				
Luganda – <i>Uganda</i>				
Luo – <i>Kenya</i>				
Maay (Af Maay, Rahanween, Bantu) – <i>Somalia</i>				
Macedonian – <i>Macedonia</i>				
Malay – <i>Malaysia</i>				
Malayalam – <i>India</i>				
Malinke – <i>Senegal</i>				
Mam – <i>Guatemala</i>				
Mandarin – <i>China</i>				

Language	In person	Telephonic	Video	Transcription
Mandinka (Mandingo) – <i>Senegal</i>				
Marathi – <i>India</i>				
Marshallese – <i>Marshall Islands</i>				
Mayan [Akateko, Kanjobal] – <i>Guatemala, Mexico</i>				
Mien – <i>China, Laos, Thailand</i>				
Mina (Gen) – <i>Togo, Benin</i>				
Minangkabau – <i>Indonesia</i>				
Mixteco Alto – <i>Mexico</i>				
Mixteco Bajo – <i>Mexico</i>				
Mnong – <i>Vietnam</i>				
Mongolian – <i>Mongolia</i>				
Moroccan Arabic – <i>Morocco</i>				
Nahuatl – <i>Mexico</i>				
Navajo – <i>U.S.A.(Southwest)</i>				
Nepalese – <i>Nepal, India</i>				
Nuer – <i>Sudan</i>				
Oromo – <i>Ethiopia</i>				
Palestinian Arabic – <i>Israel, Jordan</i>				
Pangasinan – <i>Philippines</i>				
Papiamentu – <i>Netherlands Antilles</i>				
Pashto (Pusho) – <i>Pakistan, Afghanistan</i>				
Portuguese Creole (Cape Verdean) – <i>Cape Verde</i>				
Persian (Farsi) – <i>Afghanistan, Iran, Iraq, Pakistan</i>				
Russian – <i>Russia</i>				
Samoan – <i>Samoa</i>				
Polish – <i>Poland</i>				
Portuguese – <i>Portugal, Brazil, et al.</i>				
San Miguel – <i>Mexico</i>				
Santa Eulalia – <i>Guatemala</i>				
Saraiki – <i>Pakistan, India</i>				
Serbian – <i>Serbia, Montenegro</i>				
Serbo-Croatian – <i>Balkans</i>				
Shanghainese – <i>China</i>				
Sichuan (Szechuan) – <i>China</i>				
Sinhalese – <i>Sri Lanka</i>				
Slovak – <i>Slovakia</i>				
Somali – <i>Somalia</i>				
Soninke (Serahule) – <i>Mali</i>				
Sorani (Central Kurdish) – <i>Iraq</i>				
Spanish – <i>Spain, Latin America, et al.</i>				

Language	In person	Telephonic	Video	Transcription
Sudanese Arabic – <i>Sudan</i>				
Susu – <i>Guinea</i>				
Swahili – <i>Kenya, Somalia, Tanzania,</i>				
Swedish – <i>Sweden</i>				
Syrian Arabic – <i>Syria</i>				
Tagalog (Filipino) – <i>Philippines</i>				
Tai Dam – <i>Vietnam</i>				
Taiwanese – <i>Taiwan</i>				
Tamil – <i>India</i>				
Telugu – <i>India</i>				
Teochew (Chaozhou) – <i>China</i>				
Thai – <i>Thailand</i>				
Tibetan – <i>China</i>				
Tigrigna (Tigrinya) – <i>Ethiopia,</i>				
<i>Eritrea</i>				
Toishanese – <i>China</i>				
Tongan – <i>Tonga</i>				
Trukese (Chuukese) – <i>Micronesia</i>				
Tunisian Arabic – <i>Tunisia</i>				
Turkish – <i>Turkey</i>				
Twi – <i>Ghana</i>				
Tzotzil – <i>Mexico</i>				
Ukrainian – <i>Ukraine</i>				
Urdu – <i>Pakistan, India</i>				
Vietnamese – <i>Vietnam</i>				
Wolof – <i>Senegal</i>				
Xhosa – <i>South Africa</i>				
Yemeni Arabic – <i>Yemen</i>				

PROPOSAL CERTIFICATION
RFP #2017-87 Interpreter Services

Submitted by: National Interpreting Service, Inc. an Oregon Corporation
(Must be entity's full legal name, and State of Formation)

The undersigned, through the formal submittal of this Proposal response, declares that he/she has examined all related documents and read the instruction and conditions, and hereby proposes to provide the services as specified in accordance with the RFP, for the price set forth in the Proposal documents.

Contractor, by signature below, hereby represents as follows:

- (a) That no County elected official, officer, agent or employee of the County is personally interested directly or indirectly in this contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the County, its elected officials, officers, agents, or employees had induced it to enter into this contract and the papers made a part hereof by its terms;
- (b) The Proposer, and each person signing on behalf of any Proposer certifies, in the case of a joint Proposal, each party thereto, certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - 1. The prices in the Proposal have been arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restraining competition as to any matter relating to such prices with any other Proposer or with any competitor;
 - 2. Unless otherwise required by law, the prices which have been quoted in the Proposal have not been knowingly disclosed by the Proposer prior to the Proposal deadline, either directly or indirectly, to any other Proposer or competitor;
 - 3. No attempt has been made nor will be made by the Proposer to induce any other person, partnership or corporation to submit or not to submit a Proposal for the purpose of restraining trade;
- (c) The Proposer fully understands and submits its Proposal with the specific knowledge that:
 - 1. The selected Proposal must be approved by the Board of Commissioners.
 - 2. This offer to provide services will remain in effect at the prices proposed for a period of not less than ninety (90) calendar days from the date that Proposals are due, and that this offer may not be withdrawn or modified during that time.
- (d) That this Proposal is made without connection with any person, firm or corporation making a bid for the same material, and is in all respects, fair and without collusion or fraud.
- (e) That the Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.
- (f) That the Proposer accepts all terms and conditions contained in this RFP and that the RFP and the Proposal, and any modifications, will be made part of the contract documents. It is understood that all Proposals will become part of the public file on this matter. The County reserves the right to reject any or all Proposals.
- (g) That the Proposer holds current licenses that businesses or services professionals operating in this state must hold in order to undertake or perform the work specified in these contract documents.
- (h) That the Proposer is covered by liability insurance and other insurance in the amount(s) required by the solicitation and in addition that the Proposer qualifies as a carrier insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128.
- (i) That the Proposer is legally qualified to contract with the County.
- (j) That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

RFP #2017-87
Interpreter Services

(k) The Proposer agrees to accept as full payment for the services specified herein, the amount as shown in the Proposal.

Resident Bidder, as defined in ORS 279A.120

Non-Resident Proposer, Resident State _____

Oregon Business Registry Number 82079592

Contractor's Authorized Representative

Signature: _____



Date: 05/15/2018

Name: _____

Cynthia A. Anderson

Title: _____

Chief Executive Officer

Firm: _____

National Interpreting Service, Inc.

Address: _____

528 Cottage St. Suite 1C

City/State/Zip: _____

Salem

Phone: _____

(503) 932-8460

e-mail: _____

Cynthia.Anderson@NationalInterpretingService.org

Fax: _____

(503) 589-4291

Contract Manager:

Name _____

Cynthia A. Anderson

Title: _____

Chief Executive Officer

Phone number: _____

(503) 932-8460

Email Address: _____

Cynthia.Anderson@NationalInterpretingService.org

DRAFT

Approval of Previous Business Meeting Minutes:
October 4, 2018

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

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

<https://www.clackamas.us/meetings/bcc/business>

Thursday, October 4, 2018 – 10:00 AM

Public Services Building

2051 Kaen Rd., Oregon City, OR 97045

PRESENT: Commissioner Jim Bernard, Chair
Commissioner Ken Humberston
Commissioner Martha Schrader
Commissioner Sonya Fischer
Commissioner Paul Savas

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

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

1. Presentation Regarding Hunger in our Community and Announcing the Results of the 2018 Health, Housing & Human Services Food Drive

Jill Smith, Deputy Director, Health, Housing & Human Services presented the staff report.

She stated the H3S food drive raised \$10,380 dollars for the Oregon Food Bank, resulting in 31,140 meals for people in need in Clackamas County. She introduced Kyle Hummel from the Oregon Food Bank who thanked Clackamas County for the donation. He spoke about the Oregon Food Bank and the services they perform.

~Board Discussion~

II. CITIZEN COMMUNICATION

<https://www.clackamas.us/meetings/bcc/business>

1. Les Poole, Gladstone – spoke regarding the food bank, schools, polling, and Metro.

~Board Discussion~

■ Chair Bernard stated we have a short presentation regarding status of the Clackamas County Veteran's Village.

Commissioner Savas introduced a video that highlighted the new Veteran's Village. He spoke about the purpose and need for this village.

~Board Discussion~

III. CONSENT AGENDA

Item E.1 was added to the Consent Agenda: Approval of a Contract with Pictomertry International Corp. for the Professional Services of Oblique and Orthogonal Aerial Imagery for the County Assessor's Office

Chair Bernard asked the Clerk to read the consent agenda by title, then asked for a motion.

MOTION:

Commissioner Humberston: I move we approve the consent agenda as Amended.

Commissioner Fischer: Second.

Commissioner Humberston had a question on B.1.

all those in favor/opposed:

Commissioner Fischer: Aye.

Commissioner Humberston: Aye.

Commissioner Savas: Aye.

Commissioner Schrader: Aye.

Chair Bernard: Aye – the Ayes have it, the motion carries 5-0.

A. Health, Housing & Human Services

1. Approval of a Professional, Technical, Personal Services Agreement with the Conduent Healthy Communities Corporation for the Public Health Community Data Dashboard – *Public Health*
2. Approval of an Intergovernmental Agreement with North Clackamas Parks & Recreation District for the Cooperative use of the Concord Building in Milwaukie for the Law Enforcement Assisted Diversion (LEAD) Program – *H3S Administration*
3. Approval of Intergovernmental Agreement No. 146873-2 with the State of Oregon, Department of Human Services, Seniors and People with Disabilities Division for the Provision of Non-Medical Transportation for Medicaid Eligible, Case Managed Clients – *Social Services*

B. Department of Transportation & Development

1. Approval of an Intergovernmental Agreement for Right- of-Way Services with Oregon Department of Transportation for the Canby (M.J. Lee) Ferry Bank Stabilization and Intelligent Transportation System (ITS) Project

C. County Counsel

1. Approval of a Settlement Agreement in the Case of *Davis v. Roberts, et al*

D. Business & Community Services

1. **Resolution No. 2018-100** Approval of Property Disposition Amended Policies and Procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property

E. Elected Officials

- *1. Approval of a Contract with Pictomertry International Corp. for the Professional Services of Oblique and Orthogonal Aerial Imagery for the County Assessor's Office – *County Assessor via Procurement*

IV. NORTH CLACKAMAS PARKS & RECREATION DISTRICT

1. Approval of an Intergovernmental Agreement with Clackamas County's Health, Housing and Human Services Department to Provide Law Enforcement Assisted Diversion (LEAD) Program Space at the Concord School Property

V. COUNTY ADMINISTRATOR UPDATE

<https://www.clackamas.us/meetings/bcc/business>

VI. COMMISSIONERS COMMUNICATION

<https://www.clackamas.us/meetings/bcc/business>

MEETING ADJOURNED – 11:19 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. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.

<https://www.clackamas.us/meetings/bcc/business>



November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between Clackamas County and the City of West Linn regarding payment for services related to Willamette Falls Locks State Commission

Purpose/Outcomes	Approval of an Intergovernmental Agreement between Clackamas County and the City of West Linn regarding payment for services related to Willamette Falls Locks State Commission
Dollar Amount and Fiscal Impact	\$30,000 to Clackamas County, Public & Government Affairs.
Funding Source	West Linn to contribute \$30,000 to Clackamas County (PGA)
Duration	N/A
Previous Board Action	Board approved contract Willamette Falls Locks Project Management Contract on March 29, 2018
Contact Person	Gary Schmidt, Public and Government Affairs, 503-742-5908
Contract No.	#2017-89 Willamette Falls Locks Project Management

BACKGROUND:

Senate Bill 256 (Oregon State Legislature 2017) established a Willamette Falls Locks State Commission. The mission of the State Commission as assigned by SB 256 calls for work that would lead towards the transfer of the Willamette Falls Locks to a non-federal owner. Anticipated work to reach that conclusion includes engineering studies, finance and governance modeling, and state and federal advocacy. Contracted work totals \$865,000.

Participating members of the Willamette Falls Locks stakeholders agreed to share the cost of funding the project contractor. Clackamas County, along with Metro and the participating river cities (jointly) agreed to each pay \$120,000 over the first two years of the State Commission. Clackamas County is using state lottery funds from Business and Community Services to fund its commitment. Tourism and Cultural Affairs has also collected funds from local tourism stakeholders, and various river users also contribute towards the total amount.

As the contract manager, Clackamas County will receive funds from participating cities fulfilling the \$120,000 commitment. The city of West Linn is coordinating city payments, but funds come directly to the county from the various cities accompanied by an Intergovernmental Agreement (IGA) that acts a receipt. In exchange, Clackamas County will act as the project manager to supervise of the work of the due diligence and project management firm as required by the State Commission.

Page 2
Staff Report – IGA City of West Linn
November 8, 2018

This Intergovernmental Agreement is between West Linn and Clackamas County. West Linn will fund \$15,000 a year for two years for the Willamette Falls Locks project coordinator. West Linn is making a lump sum payment of \$30,000 for both years.

Clackamas County released a RFP in November 2017 seeking a project management firm to perform the due diligence work required by the State Commission. The selected bidder is Summit Strategies, LLC.

Clackamas County has an existing contract with Summit Strategies, LLC for federal representation services. This contract is separate from that contract.

RECOMMENDATION:

Staff recommends Board approval of the Intergovernmental Agreement between Clackamas County and the City of West Linn.

Respectfully submitted,

Gary Schmidt
Director, Public and Government Affairs

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND THE CITY OF WEST LINN**

This Intergovernmental Agreement (“Agreement”) is entered into by and between **Clackamas County** (“County”), a political subdivision of the State of Oregon, and the **City of West Linn** (“City”), an Oregon municipal corporation, for the provision of project management and due diligence services provided to the **Oregon State Commission for Willamette Falls Locks**, (“Commission”), formed under 2017 SB 256, 2017 Oregon Session Laws Ch. 734, ORS 358.640 (Temporary provisions relating to Willamette Falls Locks Commission). This Agreement is authorized pursuant to ORS 190.010, and ORS 190.110.

1. **Effective Date and Duration.** This Agreement shall become effective upon signature by City representative. Unless earlier terminated or extended, this Agreement shall expire on June 30, 2019 (“Expiration Date”). This Agreement may be otherwise extended by mutual written agreement of the parties at any time prior to its Expiration Date.
2. **Statement of Work.** County agrees to perform the project management and due diligence work in accordance with the terms and conditions of this Agreement as reflected in Attachment 1. County agrees that it shall use the contributions from the funding partners in support of consulting services pertaining to and in support of the Commission and the goals of the Project as defined in 2017 Oregon Session Laws Ch. 743, Section 2. The County agrees to solicit through a competitive process the required project management and due diligence consulting services. The County further agrees to convene the staff from the contributing partners to provide guidance and support to the Commission and consultants.
3. **Consideration.** City agrees that it shall contribute Thirty Thousand and no/100 Dollars (\$30,000.00) and to provide staff support to the County to support the project management and due diligence facilitation upon execution of this agreement. West Linn will work with other cities to obtain donations towards the project with a goal of an additional \$90,000. This does not create an obligation of the part of West Linn to obtain a defined amount of donations. Cities choosing to donate will contribute funds for the project directly to County to be memorialized with individual Intergovernmental Agreements with each contributing city.
4. **Schedule of Performance.** The delivery schedule for the provision of these services is intended to be completed by June 30, 2019.
5. **Project Managers; Notice.** Each party has designated a project manager to be the formal representative for this Agreement. All reports, notices, and other communications required under or relating to this Agreement shall be directed to the appropriate individual. To be effective, any notice required to be given under this Agreement may be given by personal delivery to the address below or may be

sent by certified mail, return receipt requested and if sent via certified mail return receipt requested such notice will be deemed delivered three (3) business days after postmark. Notice may also be given by overnight delivery service, effective upon receipt of such delivery.

City of West Linn
John Williams
Deputy City Manager
City of West Linn
22500 Salamo Rd.
West Linn, OR 97068
(503) 742-6063

Clackamas County
Gary Schmidt
Director, Clackamas County
Public and Government Affairs
2051 Kaen Rd., Suite 450
Oregon City, OR 97045
(503) 742-5908

6. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by both parties.
7. **Termination.**
 - A. The parties may agree to an immediate termination of this Agreement or at a time certain upon mutual written consent.
 - B. Either party may terminate this Agreement effective not less than 30 days from delivery of written notice for any reason. City shall be responsible for any costs of Work done on its behalf prior to the effective date of the termination.
 - C. Either party may terminate this Agreement in the event of a breach by the other party. However, prior to such termination, the party seeking termination shall give the other party written notice of the party's intent to terminate. If the breaching party has not cured the breach within 10 days or a longer period as granted in the cure notice, the party seeking compliance may terminate this Agreement.
8. **Funds Available and Authorized.** Both parties certify that at the time the Agreement is written that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within each party's current appropriation and limitation through fiscal year 2018-2019. Both parties understand and agree that payment of amounts under this Agreement attributable to Work performed after the end of the current fiscal year is contingent on either party receiving appropriations, limitations, or other expenditure authority. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
9. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

10. **Access to Records.** Both parties and their duly authorized representatives shall have access to the documents, papers, and records which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcript.
11. **Compliance with Applicable Law.** Both parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Work under this Agreement. Both party's performance under this Agreement is conditioned upon either parties compliance with the provisions of the Oregon Revised Statutes, including but not limited to ORS 279A, B, and C, which are incorporated by relevant reference herein. Notwithstanding the foregoing, the County is solely responsible for any and all contracts and subcontracts associated with the project management and due diligence work to be funded by this Agreement, including but not limited to procurement under applicable public contracting laws, contract management, and payments to contractors and subcontractors. County acknowledges that other than City's payment of funds to the County, City has no other obligation or responsibility for this the project management and due diligence work.
12. **No Third Party Beneficiary.** The County and City are the only parties to this Agreement and as such, are the only parties entitled to enforce its terms. Nothing contained in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of its terms.
13. **Indemnification.** Within the limits of the Oregon Tort Claims Act, each party agrees to indemnify and defend the other and its elected officials, officers, employees, agents and representatives from and against all claims, demands, penalties and causes of action of any kind or character relating to or arising from this Agreement, excluding the cost of defense and attorney fees, arising in favor of any person on account of personal injury, death or damage to property and arising out of or resulting from the negligent or other legally culpable acts or omissions of the indemnitor, its elected officials, employees, agents, subcontractors or representatives.
14. **Merger Clause.** 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.
15. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

16. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized officers or representatives as of the day and year first above written.

City of West Linn by:

Clackamas County Board of County Commissioners by:



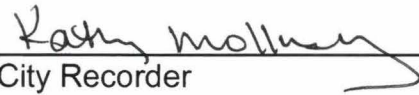
Eileen Stein, City Manager

Chair

10-8-18

Date

Date



Kathy Mollner
City Recorder

Recording Secretary

Approved as to Form:

Approved as to Form:



Justin R. Rennie
City Attorney

County Counsel

Attachment 1

Project Management and Due Diligence Work Program

- Overall Project Management – A single overall project manager should be identified with responsibility to manage the full work program, including work elements being carried out by other consultants and agency staffs.
- Governance – A key conclusion of this effort will be to identify a transferee and the governance structure through which to implement the transfer of the Locks from the Corps to a new owner.
- Funding – The companion conclusion to the governance question will be to determine the appropriate funding strategy to implement needed capital repairs and support ongoing operations, maintenance, and periodic capital improvements.
- Engineering – The Consultant team should include a civil engineer with experience with locks. This person will be responsible for consulting with the Corps to fully understand their engineering assessment, verify the scope of work for each repair item, confirm costs and assist the Locks Commission in finalizing an agreed upon short- and long-term capital repair plan.
- Public Outreach – The Consultant, working with the assistance of the full partners group will design and implement an appropriate public outreach work program with an eye toward building a base of support for ultimate implementation.
- Advocacy – The Consultant will develop and manage the best approach for any state or federal legislative and administrative advocacy stemming from recommendations by the Commission or full partners group.
- Agency Organization Structure and Capabilities – With the assistance of the full partners group and accessing the experience of the Corps, the Consultant will be responsible for defining the staffing and resources required for the transferee to be successful.
- Other studies and issues as required – As the project manager, the Consultant will be required to identify issues to be addressed and ensure that resources from the Consultant and/or the full partners group are assigned to analyze or otherwise address the issue.

Commission Proposal – The Consultant will be responsible for drafting the final Commission proposal



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

November 25, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Service Level Agreement between Clackamas
Broadband eXchange and Portland General Electric on Highway 26.

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for a Service Level Agreement (SLA) with Portland General Electric (PGE) for dark fiber connections along Highway 26 to eight locations.
Dollar Amount and Fiscal Impact	PGE will pay a non-recurring fee of \$139,180.00 for the new fiber construction and a recurring annual fee of \$24,480.00.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by PGE.
Duration	Effective upon signature by the board the SLA is effective for two (2) years with automatic annual extensions unless terminated by either party.
Previous Board Action	Board previously approved CBX to build and maintain dark fiber connections for the LS Networks.
Strategic Plan Alignment	<ol style="list-style-type: none">1. Build a strong infrastructure.2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996

BACKGROUND:

CBX is proposing to complete the new fiber connections for PGE along Highway 26. PGE is requesting eight fiber connections to activate a newly installed electrical monitoring/disconnect system.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this new fiber agreement with PGE. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

This Service Level Agreement has been reviewed and approved by County Counsel.

Sincerely,

Dave Cummings
CIO Technology Services

Clackamas County

FIBER OPTIC SERVICE LEVEL AGREEMENT

Portland General Electric Company
(Customer Name)

1. Recitals

WHEREAS, Clackamas County (County) desires to provide to Portland General Electric Company (Customer) the Services set forth in this Agreement, between the specified Customer sites listed in Appendix A, and at the price contained in Appendix A; and

WHEREAS, Customer desires to use the services; and

WHEREAS, the Parties desire to set forth herein their respective rights and obligations with respect to the provision of Services,

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and promises set forth herein, intending to be legally bound, the Parties agree as follows.

2. Fiber Optic Network Description

County will provide Customer with point-to-point single mode fiber optic network connectivity, including a termination panel for the fiber optic cables at each Customer premises at the Connecting Points specified in Appendix A. At Customer's option, County will provide Customer with access at a Connecting Point (either an aerial or underground splice enclosure or slack location) in the County's network.

3. Service Description

Service provided to Customer by County is physical connectivity of one (or more) strands of optical fiber ("Fiber"), between sites specifically identified in Appendix A on a path designated by the County. Each site listed in Appendix A will have a single mode fiber termination.

4. Construction and Installation Requirements

- a. County will make existing cable slack locations and splice locations (Connecting Points) available for Customer access. If Customer chooses to access the County network at such locations, the Customer will be responsible for all construction up to such Connecting Points, and will hand-off to County a fiber optic cable for splicing into the County network. County will have responsibility to

splice the Customer cable into the County network, and cost recovery for such activity by the County will be handled via the Appendix A.

- b. County, when installing fiber optic cables on the property of Customer, shall do so in a neat and professional manner. Routing and location of these cables shall be mutually agreed upon between the parties.
- c. Customer shall secure any easements, leases, permits or other agreements necessary to allow County to use existing pathways to, into and within each site to the demarcation point for service. Customer shall provide a path for the fiber optic cable from the point of entry into the site to the termination panel that complies with all applicable building, electrical, fire and related codes.
- d. Subject to the terms of this Agreement, and at no cost to County, Customer shall provide adequate environmentally controlled space and electricity required for installation, operation, and maintenance of the County's fiber optic cables used to provision the service within Connecting Point.
- e. Customer shall provide a clean, secure, relatively dry and cool location (consistent with environmental requirements for fiber optic network connectivity equipment) at each of its premises for necessary equipment.
- f. Customer will provide or arrange for County and its employees, agents, lessees, officers and its authorized vendors, upon reasonable notice, to have reasonable ingress and egress into and out of the Connecting Points in connection with the provision of service.
- g. If the presence of asbestos or other hazardous materials exists or is detected at the Connecting Points, Customer must have such hazardous materials removed immediately at Customer's expense or notify County to install the applicable portion of the fiber optic network in areas of any such site not containing such hazardous material. Any additional expense incurred as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by Customer.
- h. County shall have no obligation to install, operate, or maintain Customer-provided facilities or equipment.
- i. At Customers expense, County shall construct Fiber into each Connecting Point specified in Appendix A; splice fiber into existing County fiber optic resources; terminate County's optical fiber in each Connecting Point; and provide the appropriate "hand-offs" at each location for Customer utilization. County shall test all Fiber to verify that the Fiber has been installed and operates in accordance with the applicable specifications in Appendix C. County shall provide a copy of the test results to Customer verifying compliance with the applicable specifications. If Customer does not dispute such verification of compliance within five (5) days after receiving the verification, Customer will be deemed to have accepted the Fiber. This date of acceptance of the Fiber will be the "Service Start Date." If Customer does not accept the Fiber, County shall

repair or replace any portion of the Fiber found to be defective and retest the Fiber in accordance with the specifications in Appendix C, and again provide Customer with a copy of the test results verifying compliance. Customer may again choose to accept or reject the Fiber. This cycle of testing, accepting or rejecting the Fiber, taking corrective action, and retesting may occur as many times as necessary to ensure the Fiber is operating in compliance with the applicable specifications.

- j. County warrants that, except with respect to those items supplied or specified by Customer or interruptions due to intervening causes including, but not limited to, fiber cuts, unscheduled maintenance events and force majeure events, the Fiber will comply with the specifications set forth in Appendix C.
- k. Subject to the limitations in section 12, if at any time during the term of this Agreement the Fiber does not meet the warranty under this section, Customer may provide County with written notice of its determination in accordance with the procedures in Appendix B ("Warranty Notice"). After receiving a Warranty Notice from Customer, County shall respond in accordance with the maintenance and repair procedures set forth in Appendix B. In addressing a defect, County, at its expense and in its sole discretion, shall repair or replace any portion of the Fiber found to be defective. When a defect is found and the Fiber is repaired or replaced, County shall retest the Fibers in accordance with the specifications in Appendix C, and provide Customer with a copy of the test results verifying compliance. Customer may again give Warranty Notice of any defect in such Fiber. This cycle of testing, providing Warranty Notice, taking corrective action, and retesting may occur as many times as necessary to ensure the Fiber is operating in compliance with the applicable specifications.

5. Term of Agreement

At such time as County completes installation and connection of the necessary facilities and equipment to provide service herein, County shall then certify and notify Customer in writing that the service is available for use and Customer shall accept or reject the Fiber in accordance with the procedures in subsection 4(i) above. The date of Customer's acceptance of the Fiber under subsection 4(i) shall be called the "Service Start Date." Unless terminated with 30 days' notice for an event of default as herein provided, this agreement shall continue for a period of two years following the Service Start Date, and shall be automatically renewed for successive one-year renewal terms, at the County's then-current rate schedule, unless either party terminates the Agreement by giving written notice to the other party not less than 90 days prior to the end of the initial term or then current renewal term.

6. Rates

In return for County providing the services described in Appendix A for the term indicated herein, Customer shall pay County both nonrecurring construction/installation charges and recurring charges for services as specified in Appendix A

7. **Payment Options**

a. **Semi-Annual Payments**

County shall provide an invoice for six months of service (July 1 through December 31 and January 1 through June 30), or prorated weekly for any portion thereof, to Customer at the beginning of the service period. The semi-annual charge shall be payable within thirty (30) days of receipt of invoice. Interest charges shall be assessed for late payments in accordance with Appendix A. If the Customer fails to pay within sixty (60) days of receipt of an invoice it shall constitute grounds for County to disconnect fiber service.

b. **Alternative Payment Frequency**

If Customer demonstrates that prepaid billings present a hardship, Customer may prepay quarterly, and in extreme circumstances may pay monthly. County shall provide an invoice for one quarter or month of service, or prorated weekly for any portion thereof, to Customer at the beginning of the service period. The quarterly or monthly charge shall be payable within thirty (30) days of receipt of invoice. Interest charges shall be assessed for late payments in accordance with Appendix A. If the Customer fails to pay within sixty (60) days of receipt of an invoice it shall constitute grounds for County to disconnect fiber service.

8. **Fiber Maintenance**

County shall maintain the structural aspects of the Fiber in good operating condition, utilizing sound engineering practices and in accordance with Appendix B, throughout the agreement term. In the event the Fiber fails at any time to meet the specifications outlined in Appendix C, County shall restore the Fiber to meet the specification standards in as timely and expedited a manner as reasonably possible.

County may subcontract for testing, maintenance, repair, restoration, relocation, or other operational and technical services it is obligated to provide hereunder.

Customer shall promptly notify County of any matters pertaining to any damage or impending damage to or loss of the use of the Fiber that are known to it and that could reasonably be expected to adversely affect the Fiber. County shall promptly notify Customer of any matters pertaining to any damage or impending damage to or loss of the Fiber that are known to it and that could reasonably be expected to adversely affect the Fiber and/or Customer's use thereof.

9. **Confidentiality**

All Customer data, voice, or video transmission using County fiber optic facilities shall be treated by County as confidential information, to the extent allowable by law. County agrees that this information shall not be made available, in any form, to any party other than County or its agents or contractors as may be necessary to conduct maintenance or repair activity, without written permission of Customer, except as required by law.

10. Content Control and Privacy

Customer shall have full and complete control of, and responsibility and liability for, the content of any and all communications transmissions sent or received using the Fiber.

11. Assignment and Successors

Either party may assign this Agreement upon prior written consent of the other party. Such consent shall not be unreasonably withheld. Upon such assignment, all rights and obligations of County and Customer under this Agreement shall pass in total without modification to any successor(s) regardless of the manner in which the succession may occur. Notwithstanding the foregoing, Customer may assign this Agreement, without County's consent, to any parent, affiliate (an entity in which Customer's parent entity has a direct or indirect ownership interest of 25% or more) or party acquiring all or substantially all of Customer's assets in the communities in which the Fiber is located, provided that in such event Customer shall notify County of the assignment at least 90 days in advance of such assignment.

12. Damage

County shall be responsible for restoring, or otherwise repairing to its prior condition, any portion of the Customer's premises or facilities, which are damaged by County or its agents. Customer shall be responsible for restoring, or otherwise repairing to its prior condition, any portion of County's connectivity equipment or other facilities, located at Customer premises, which are damaged by Customer or its agents.

Customer will reimburse all related Costs associated with damage to the Fiber caused by the negligence or willful misconduct of Customer, its affiliates, employees, agents, contractors or customers, except to the extent caused by the gross negligence or willful misconduct of County, its affiliates, employees, contractors or agents. "Cost(s)", as used herein include the following: (a) labor costs, including wages, salaries, and benefits together with County's reasonable standard percentage allocation of overhead allocable to such labor costs; and (b) other direct costs and out-of-pocket expenses on a pass-through basis (such as equipment, materials, supplies, contract services, sales, use or similar taxes, etc.). The invoices for such costs shall contain a detailed cost breakdown by cost category. In the event of the disagreement regarding the cost reimbursement, the parties shall use good faith efforts to resolve such matter, and if the parties cannot resolve such dispute, they may pursue their legal remedies other than termination of this Agreement for the services provided hereunder.

13. Force Majeure

Neither party hereto shall be deemed to be in default of any provision of this Agreement, for any failure in performance resulting from acts or events beyond the reasonable control of such party. For purposes of this Agreement, such acts shall include, but shall not be limited to, acts of nature, civil or military authority, civil disturbance, war, strikes, fires, power failure, other catastrophes or other force

majeure events beyond the parties' reasonable control, provided however that the provisions of this paragraph and article shall not preclude Customer from cancelling or terminating this Agreement as otherwise permitted hereunder, regardless of any force majeure event occurring to County.

14. Consequential Damages

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER FORSEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, TRANSMISSION INTERRUPTIONS OR DEGRADATION, INCLUDING BUT NOT LIMITED TO DAMAGE OR LOSS OF PROFITS OR EQUIPMENT, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, COST OF REPLACEMENT SERVICES OR CLAIMS OF CUSTOMERS, WHETHER OCCASIONED BY ANY REPAIR OR MAINTENANCE PERFORMED BY OR FAILED TO BE PERFORMED BY A PARTY, OR ANY OTHER CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR STRICT LIABILITY.

15. Public Contracting Provisions

The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.

16. Non-Appropriation

Notwithstanding any other provisions of this Agreement, the parties hereby agree and understand that any obligation of Customer to obtain services as provided herein is subject to fund availability and appropriation by Customer for such services through its adoption of an annual budget. Should funds not be appropriated or be available from Customer during the term of this Agreement, the Agreement shall terminate and Customer shall pay County any remaining pro rata rates for services due to the date of such termination payable pursuant to Section 7 of this Agreement.

17. Compliance with Laws

Customer shall comply with all applicable federal, state, county and city laws, ordinances and regulations, including regulations of any administrative agency thereof, heretofore or hereafter adopted or established, during the entire term of this Agreement.

18. Taxes and Assessments

- a. Customer agrees to pay any and all applicable national, federal, state, county and local taxes, fees, assessments or surcharges, and all other similar or related charges, which are imposed or levied on the Fiber, or because of Customers use of the Services under this Agreement (collectively, "Taxes), whether or not the Taxes are imposed or levied directly on the Customer, or imposed or levied on

the County because of or arising out of the use of the Services either by the Customer, or its affiliates, or anyone to whom Customer has sold or otherwise granted access to the Services. Customer agrees to pay these Taxes in addition to all other fees and charges as set forth elsewhere in this Agreement.

- b. "Taxes" include, but are not limited to, business and occupation, commercial, district, excise, franchise fee, gross receipts, license, occupational, privilege, Public Utility Commission, right-of-ways, utility user, or other similar taxes, fees surcharges and assessments as may be levied against Customer, or against County and passed through to Customer; but shall not include income or property taxes.

19. Termination

- a. Either party may terminate this Agreement ninety (90) days following written notice to the other party of the other party's uncured default, as set forth in section 20 below. In addition, this Agreement may be terminated by either party for convenience upon providing ninety (90) days' written notice to the non-terminating party.
- b. In the event Customer terminates this Agreement based upon County's default or failure to perform as described in this Agreement, County shall reimburse to Customer the pro rata amounts paid on the unexpired term of this Agreement.
- c. If Customer terminates this Agreement for any reason other than County's default or failure to perform, County shall be entitled to 5% of the remaining contract amount for the unexpired term of this Agreement.

20. Default

- 1. Either of the following events shall constitute a default:
 - a. Failure to perform or comply with any material obligation or condition of this Agreement by any party which is not cured within thirty (30) days after notice by the non-defaulting party; or
 - b. Failure to pay any undisputed sums due under this Agreement.
- 2. Any defaulting party shall have thirty (30) days in which to cure following receipt of written notice of default by the non-defaulting party identifying with reasonable particularity the nature of the default or, if such default cannot reasonably be cured within such 30 day period, the defaulting party shall proceed promptly to diligently and continuously prosecute such cure within thirty (30) days following receipt of written notice of default by the non-defaulting party identifying with reasonable particularity the nature of the default. If the defaulting party fails to cure the default or prosecute such cure in accordance with this subsection 20(2), then the non-defaulting party may terminate this Agreement in accordance with subsection 19(a) above.

21. Amendment

Any amendments to this Agreement shall be in writing and shall be signed by all parties.

22. Debt Limitations.

This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

23. No Attorney Fees

No attorney fees shall be paid for or awarded to either party in the course of any dispute or other recovery under this Agreement. It is the intent of the parties that each shall bear the costs of its own legal counsel.

24. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Customer that arises out of or relates to the performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit must be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

25. No recourse Against the Grantor

Other than as provided in this Agreement, Customer shall have no recourse whatsoever against County or its officials, boards, commissions, or employees for any loss, costs, expense, or damage arising out of any provision or requirement contained herein, or in the event this Agreement or any part thereof is determined to be invalid.

26. Notice

Any notice hereunder shall be in writing and shall be delivered by personal service or by United States certified or registered mail, with postage prepaid, or by facsimile addressed as follows:

Notice to the County

Manager, Clackamas Broadband Express
Clackamas County Technology Services

121 Library Court
Oregon City, Oregon 97045
Fax Number (503) 655-8255

with a copy to

Chief Information Officer
Clackamas County Technology Services
121 Library Court
Oregon City, Oregon 97045
Fax Number: (503) 655-8255

Notice to the Customer

Name or Title of Individual]Customer]
[Address]
[City and Zip Code]
[Fax Number]

Either Party, by similar written notice, may change the address to which notices shall be sent.

27. Whole Agreement

WITH RESPECT TO THE SERVICES SPECIFIED IN THIS AGREEMENT AND THE APPENDICES ATTACHED HERETO, THIS AGREEMENT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL OTHER PRIOR AGREEMENTS OR PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SPECIFIC SUBJECT MATTER OF THIS AGREEMENT AFFECTING THE CONNECTIONS IDENTIFIED IN APPENDIX A. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS AGREEMENT WILL BE BINDING ON EITHER PARTY EXCEPT AS A WRITTEN ADDENDUM SIGNED BY AUTHORIZED AGENTS OF BOTH PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

Clackamas County

By (signature): _____

Name: _____


Title: _____

Date: _____

Customer

Portland General Electric Company

(Customer Name)

By (signature): 

Name (print): Dale Ceron

Title: Telecom mgr

Date: 10/25/18

APPENDIX A

SERVICE AND RATE SCHEDULE

1. Specified Services and Rates

The following are the sites, services, and rates agreed to by County and Customer at which Customer shall be provided services on the fiber optic network during the term of the Agreement. It is understood by both parties that service to these sites shall be provided for the rates below, subject to any rate increases otherwise applicable in accordance with terms herein. It is further understood that, during the term of the Agreement, Customer may add services to existing or new locations, or change services and/or locations, but that such changes are subject to the rates for such additional services.

2. Construction, Installation and Activation

For construction, installation and activation work and provision of fiber optic network components, the County shall charge Customer nonrecurring charge(s) as specified in Section 5 of Appendix A. All facilities constructed under this Agreement and Appendix A shall be owned, operated, and maintained by the County.

3. Service Changes and Conversions

Both parties agree that Customer may add or change services during the term of the Agreement, but that such changes are subject to applicable rates, and upgrade and downgrade charges.

4. Semi-Annual Recurring Charges

	From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Monthly Rate (\$)
1	49521 SE Cherryville, PGE Pole #426 Sandy, OR 97055	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	One Pair (two) dark fibers	\$255.00
2	19950 E HWY 26, PGE Pole #36 Sandy, OR 97055	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	One Pair (two) dark fibers	\$255.00
3	60151 E Sleepy Hollow Dr, PGE Pole #723 Sandy, OR 97055	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	One Pair (two) dark fibers	\$255.00
4	6025 E HWY 26, PGE Pole #744 Brightwood, OR 97011	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	One Pair (two) dark fibers	\$255.00
5	62464 E Brightwood Loop Rd, PGE Pole #723 Brightwood, OR 97011	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	One Pair (two) dark fibers	\$255.00
6	67460 E HWY 26, PGE Pole #914 Brightwood, OR 97011	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	One Pair (two) dark fibers	\$255.00

7	67460 E HWY 26, PGE Pole #914 Brightwood, OR 97011	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	One Pair (two) dark fibers	\$255.00
8	69050 E HWY 26, PGE Pole # 1307 Welches, OR 97067	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	One Pair (two) dark fibers	\$255.00

5. Nonrecurring Charges

	From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Amount (\$)
1	SE HWY 26 & SE Cherryville, PGE Pole #426 Sandy, OR 97055	69500 E HWY 26, PGE Pole #1171 Welches, OR 97067	Construction	\$139,180.00

6. Late Payment Interest

Customer will be charged interest for any payment made after its due date (thirty (30) days after receipt of invoice). Interest is charged at a rate of one and a half percent (1.5%) per month, or eighteen percent (18%) annually, or the highest rate allowable in accordance with applicable law, whichever is less, on any installment not paid when due.

7. Annual Consumer Price Index (CPI) Adjustments

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the West Region (West City Size B/C 2.5 Million or less) Consumer Price Index of the US Dept. of Labor, Bureau of Labor Statistics (<https://www.bls.gov/regions/west/data/xg-tables/ro9xg01.htm>), based upon the rate of change as stated from the last month reported to the same month of the preceding year. In the event such Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information theretofore used in determining the Consumer Price Index shall be used in lieu of such Consumer Price Index.

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APPENDIX B

MAINTENANCE AND OPERATIONS SPECIFICATIONS AND PROCEDURES

1. Defined Terms

- a. "Routine Maintenance" is all preventive maintenance activities and repairs.
- b. "Non-Routine Maintenance" is all efforts and activities in response to an emergency circumstance which requires restoration of service.

2. General

- a. County shall operate and maintain a Network Control and Management Center (NCAM) staffed twenty-four (24) hours a day, seven (7) days a week, by trained and qualified personnel. County shall maintain telephone number (503) 742-4219 to contact personnel and NCAM. County's NCAM personnel shall dispatch maintenance and repair personnel along the fiber optic network to repair problems detected through the NCAM's remote surveillance equipment, by the Customer, or otherwise.
- b. In the event Customer identifies a circumstance which requires restoration of service, Customer shall provide NCAM personnel the name and address of the facility with the problem, the identification number of the Fiber circuits in question, and the name and telephone numbers of Customer's personnel to contact for site access and status updates. NCAM personnel shall immediately contact a County technician and provide the Customer contact information. County technician shall contact Customer within one (1) hour of initial call.
- c. If the County's technician cannot repair the service interruption by telephone, County shall use commercially reasonable efforts to have its first maintenance employee or contractor at the site requiring repair within four (4) hours of the initial call to the NCAM. County will then work continuously until service has been restored.
- d. County shall use commercially reasonable efforts to notify Customer twenty one (21) days prior to the date of any planned non-emergency maintenance activity. In the event that a County planned activity is canceled or delayed for any reason as previously notified, County shall notify Customer as soon as reasonably possible and will comply with the provisions of the previous sentence to reschedule any delayed activity.

3. Fiber Optic Network

- a. County shall maintain the fiber optic network in good and operable condition and shall repair the fiber in a manner consistent with industry standards and using commercially reasonable efforts.
- b. County shall perform appropriate routine maintenance on the fiber optic network in accordance with County's then current preventive maintenance procedures. County's maintenance procedures shall not substantially deviate from industry practice.

4. Restoration

- a. When restoring damaged fiber, the Parties agree to work together to restore all traffic as quickly as possible. County, immediately upon arriving on the site of the damage, shall determine the best course of action to be taken to restore the fiber and shall begin restoration efforts.
- b. It will be the responsibility of County and Customer to report to one another respectively any known environmental or safety hazards which would restrict or jeopardize any maintenance work.
- c. Upon notification of interruption of fiber optic network service, disrepair, impairment or other need for repair or restoration of the fiber and the location of the damaged fiber, County shall pursue commercially reasonable efforts to mobilize technicians to achieve necessary repair or restoration, including, but without limitation, having maintenance personnel at the affected site within four (4) hours after receipt of such notice with the required restoration material and equipment.
- d. In the event that Customer's use of the fiber optic network is interrupted due to an occurrence of a force majeure event, repairs and restoration shall be made as expeditiously as reasonably possible. Customer recognizes that four (4) hour response time represents optimal conditions, and may be impossible to achieve when emergency restoration of fiber optic network integrity is required or when responding to certain remote locations. Actual response times will be influenced by such factors as terrain, weather conditions present at the time the request is made and actual mileage to the fault site.
- e. For purposes of this section, "commercially reasonable efforts" means activities and performances consistent with prudent utility practice, existing contract provisions for County technicians and/or employees, practices required for preserving the integrity of the fiber optic network, and response times that do not jeopardize the health and safety of the employees, contractors and agents of County and Customer.

5. Customer shall be responsible for paying County standard maintenance rates and charges for any calls to County for maintenance issues related to the Fiber that County later confirms as resulting from another source other than functionality of the Fibers.

Remainder of this page intentionally left blank.

APPENDIX C

FIBER SPLICING AND TESTING STANDARDS AND PROCEDURES

1. Fiber and Connector Standards

a. **Connector Standards**

The loss value of any pigtail connector and any associated fiber jumper or pigtail with matching mode field diameters will not exceed .5dB at 1550 nm. The loss value of a connector and its associated jumper with mismatched mode field diameters should not exceed .8 dB.

b. **Field Splice Standards**

The objective for each splice is an averaged loss value of 0.1 dB or less when measured bi-directionally with an OTDR at 1550 nm. In the event of damage and subsequent restoration of the Fibers, commercially reasonable efforts will be made to restore the Fibers to this standard. If after 3 restoration splicing attempts, County is not able to produce a loss value of 0.1 dB or less bi-directionally at 1550 nm, then 0.5 dB or less bi-directionally at 1550 nm will be acceptable. Fibers not meeting the 0.1 dB or less specification will be identified as Out Of Specification (OOS). Documentation of the three attempts (re-burns) to bring the OOS fiber within specification will be provided.

c. **Span Loss**

It is County's responsibility to insure proper continuity of all fibers at the fiber level, not just the pigtail level. Any "frogs" or fibers that cross in the route will be remedied by County. The following span loss calculation will be used:

$$(A * L) + (0.1 * N) + C = \text{Acceptable Span Loss}$$

A = Attenuation per KM at 1550 nm

L = Optical length of cable measured in kilometers (from OTDR Trace)

N = Number of splices in a span

C = Connector loss. The connector loss will not exceed .5dB. The section test will have (2) pigtail connectors/splices under test, so 1.0dB will be allowed for this loss.

Remainder of this page intentionally left blank.



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

October 29, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for a Service Level Agreement Amendment #2 between
Clackamas Broadband eXchange and the City of Milwaukie

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for amendment #2 of a Service Level Agreement (SLA) with the City of Milwaukie for an additional dark fiber connection to Clackamas Educational Service District (CESD).
Dollar Amount and Fiscal Impact	The City of Milwaukie will pay a non-recurring fee of \$1,000.00 for the new fiber construction and a recurring annual fee of \$3,060.00.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by the City of Milwaukie.
Duration	Effective upon signature by the board and the SLA is automatically renewed on a year to year basis.
Previous Board Action	Board previously approved CBX to build and maintain a dark fiber network for the City of Milwaukie to the Ledding Library.
Strategic Plan Alignment	<ol style="list-style-type: none">1. Build a strong infrastructure.2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996

BACKGROUND:

CBX is proposing to complete a new fiber connection for the City of Milwaukie. The City of Milwaukie requested an additional dark fiber connection for connectivity to CESD.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this new fiber connection with the City of Milwaukie. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

This Service Level Agreement has been reviewed and approved by County Counsel.

Sincerely,

Dave Cummings
CIO Technology Services

AMENDMENT #2

TO THE CLACKAMAS COUNTY/CITY OF MILWAUKIE FIBER OPTIC SERVICE LEVEL AGREEMENT

This Amendment #2 is entered into by and between the City of Milwaukie (“Customer”) and the Clackamas County (“County”) and it shall become part of the Fiber Optic Service Level Agreement entered into by and between the parties on April 5, 2018 (“Contract”).

The Purpose of the Amendment #2 is to make several changes to Appendix A, Service and Rate Schedule, of the Contract.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed upon that Appendix A is hereby amended as follows:

1. **Appendix A, Section 4, Annual Recurring Charges**, is amended to add the following additional service location:

From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Monthly Rate (\$)
2 Milwaukie Police Department 3200 SE Harrison St Milwaukie, OR 97222	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	One Pair (two) dark fibers	\$255.00

2. **Appendix A, Section 5, Nonrecurring Charges**, is amended to add the following nonrecurring charge:

From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Amount (\$)
2 Milwaukie Police Department 3200 SE Harrison St Milwaukie, OR 97222	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction	\$1,000.00

3. **Appendix A, Section 7, Annual Consumer Price Index (CPI) Adjustments**, is deleted and replaced with the following:

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the West Region (West City Size B/C 2.5 Million or less) Consumer Price Index of the US Dept. of Labor, Bureau of Labor Statistics (<https://www.bls.gov/regions/west/data/xg-tables/ro9xg01.htm>), based upon the rate of change as stated from the last month reported to the same month of the preceding year. In the event such Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the

information theretofore used in determining the Consumer Price Index shall be used in lieu of such Consumer Price Index.

Except as expressly amended above, all other terms and conditions of the Contract, and Appendix A, shall remain in full force and effect. By signature below, the parties agree to this Amendment #2, effective upon the date of the last signature below.

City of Milwaukie

Clackamas County

Authorized Signature

Authorized Signature

Name / Title (Printed)

Name/Title (Printed)

Date

Date



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for Service Level Agreement between Clackamas Broadband eXchange and
West Linn-Wilsonville School District for redundant school connections.

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for a Service Level Agreement (SLA) with West Linn-Wilsonville School District (WLWV) for 17 new dark fiber connections to provide redundancy to their schools.
Dollar Amount and Fiscal Impact	WLWV will pay a non-recurring fee of \$224,270.00 for the new fiber construction and a recurring annual fee of \$52,020.00.
Funding Source	The funding source for the expansion of the CBX fiber network will be contributed from the CBX budget and then reimbursed by WLWV.
Duration	Effective upon signature by the board the SLA is effective for two (2) years with automatic annual extensions unless terminated by either party.
Previous Board Action	Board previously approved CBX to build and maintain dark fiber connections for the North Clackamas School District.
Strategic Plan Alignment	<ol style="list-style-type: none">1. Build a strong infrastructure.2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996

BACKGROUND:

CBX is proposing to complete new fiber connections to 17 West Linn-Wilsonville school sites. This new construction and fiber connections will provide redundancy to all of their school sites to ensure no school will experiences an outage during the school year.

RECOMMENDATION:

Staff respectfully recommends approval to enter into this new fiber agreement with the West Linn-Wilsonville School District. Staff further recommends the Board delegate authority to the Technology Services Director to sign agreements necessary in the performance of this agreement.

This Service Level Agreement has been reviewed and approved by County Counsel.

Sincerely,

Dave Cummings
CIO Technology Services

Clackamas County

FIBER OPTIC SERVICE LEVEL AGREEMENT

West Linn-Wilsonville School District

(Customer Name)

1. Recitals

WHEREAS, Clackamas County (County) desires to provide to West Linn-Wilsonville School District (Customer) the Services set forth in this Agreement, between the specified Customer sites listed in Appendix A, and at the price contained in Appendix A; and

WHEREAS, Customer desires to use the services; and

WHEREAS, the Parties desire to set forth herein their respective rights and obligations with respect to the provision of services,

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and promises set forth herein, intending to be legally bound, the Parties agree as follows.

2. Fiber Optic Network Description

County will provide Customer with point-to-point single mode fiber optic network connectivity, including a termination panel for the fiber optic cables at each Customer premises on a path designated by the County.

3. Service Description

Service provided to Customer by County is physical connectivity of one (or more) strands of optical fiber ("Fiber"), between sites specifically identified in Appendix A for the exclusive use of the Customer's internal communication needs. Each site listed in Appendix A will have a single mode fiber termination.

4. Construction and Installation Requirements

a. County, when installing fiber optic cables on the property of Customer, shall do so in a neat and professional manner. Routing and location of these cables shall be mutually agreed upon between the parties.

b. Customer shall secure any easements, leases, permits or other agreements necessary to allow County to use existing pathways to, into and within each site to the demarcation point for service. Customer shall provide a path for the fiber optic cable from the point of entry into the site to the termination panel that complies with all applicable building, electrical, fire and related codes.

c. Subject to the terms of this Agreement, and at no cost to County, Customer shall provide adequate environmentally controlled space and electricity required for

installation, operation, and maintenance of the County's fiber optic cables used to provision the service within each site.

- d. Customer shall provide a clean, secure, relatively dry and cool location (consistent with environmental requirements for fiber optic network connectivity equipment) at each of its premises for necessary equipment.
- e. Customer will provide or arrange for County and its employees, agents, lessees, officers and its authorized vendors, upon reasonable notice, to have reasonable ingress and egress into and out of Customer properties and buildings in connection with the provision of service.
- f. If the presence of asbestos or other hazardous materials exists or is detected, Customer must have such hazardous materials removed immediately at Customer's expense or notify County to install the applicable portion of the fiber optic network in areas of any such site not containing such hazardous material. Any additional expense incurred as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by Customer.
- g. County shall have no obligation to install, operate, or maintain Customer-provided facilities or equipment.
- h. County shall construct Fiber into each Customer building enumerated herein; splice fiber into existing County fiber optic resources; terminate County's optical fiber in each Customer building; test and certify appropriate Fiber performance at each Customer location; and provide the appropriate "hand-off's" at each location for Customer utilization. Test results for physical connection will be made available upon request.

5. Term of Agreement

At such time as County completes installation and connection of the necessary facilities and equipment to provide service herein, County shall then certify and notify Customer in writing that the service is available for use, and the date of such notice shall be called the "Service Start Date" which shall not be sooner than July 1, 2015. Unless terminated with 30 days' notice as herein provided, this agreement shall continue through June 30, 2020 and shall be automatically renewed on July 1 of each subsequent year, for a term of one year, at the County's then-current rate schedule.

Contemporaneously with certifying and notifying Customer that the service is available for use, County shall invoice Customer all amounts due and owing for the nonrecurring charges identified in Appendix A. Customer shall pay the invoice for the nonrecurring charges within thirty (30) days of receipt of the invoice. If Customer fails to pay the invoice for the nonrecurring charges, County may terminate this Contract and pursue any remedy available to it under this Contract, at law, or in equity.

6. Rates

In return for County providing the services described in Appendix A for the term

indicated herein, Customer shall pay County both nonrecurring construction/installation charges and recurring charges for services as specified in Appendix A as it shall be amended from time to time.

7. **Payment Options**

a. **Annual Payments**

County shall provide an invoice for twelve months of service (July 1 through June 30), or prorated weekly for any portion thereof, to Customer at the beginning of the service period. The annual charge shall be payable within thirty (30) days of receipt of invoice. Interest charges shall be assessed for late payments in accordance with Appendix A. If the Customer fails to pay within sixty (60) days of receipt of an invoice it shall constitute grounds for County to terminate the Agreement upon appropriate advance written notice to Customer.

b. **Alternative Payment Frequency**

If Customer demonstrates that prepaid billings present a hardship, Customer may prepay semi-annually, quarterly, and in extreme circumstances may pay monthly. County shall provide an invoice for one quarter or month of service, or prorated weekly for any portion thereof, to Customer at the beginning of the service period. The quarterly or monthly charge shall be payable within thirty (30) days of receipt of invoice. Interest charges shall be assessed for late payments in accordance with Appendix A. If the Customer fails to pay within sixty (60) days of receipt of an invoice it shall constitute grounds for County to terminate the Agreement upon appropriate advance written notice to Customer.

8. **Fiber Maintenance**

County shall maintain the structural aspects of the Fiber in good operating condition, utilizing sound engineering practices and in accordance with Appendix B, throughout the Agreement Term. In the event the Fiber fails at any time to meet the specifications outlined in Appendix C, County shall endeavor to restore the Fiber to meet the specification standards in as timely and expedited a manner as reasonably possible.

County may subcontract for testing, maintenance, repair, restoration, relocation, or other operational and technical services it is obligated to provide hereunder.

Customer shall promptly notify County of any matters pertaining to any damage or impending damage to or loss of the use of the Fiber that are known to it and that could reasonably be expected to adversely affect the Fiber. County shall promptly notify Customer of any matters pertaining to any damage or impending damage to or loss of the Fiber that are known to it and that could reasonably be expected to adversely affect the Fiber and/or Customer's use thereof.

9. **Confidentiality**

All Customer data, voice, or video transmission using County fiber optic facilities shall be treated by County as confidential information, to the extent allowable by law. County agrees that this information shall not be made available, in any form, to any

party other than County or its agents or contractors as may be necessary to conduct maintenance or repair activity, without written permission of Customer, except as required by law.

10. Content Control and Privacy

Customer shall have full and complete control of, and responsibility and liability for, the content of any and all communications transmissions sent or received using the Fiber.

11. Assignment and Successors

Either party may assign this Agreement upon prior written consent of the other party. Such consent shall not be unreasonably withheld. Upon such assignment, all rights and obligations of County and Customer under this Agreement shall pass in total without modification to any successor(s) regardless of the manner in which the succession may occur.

12. Damage

County shall be responsible for restoring, or otherwise repairing to its prior condition, any portion of the Customer's premises or facilities, which are damaged by County or its agents. Customer shall be responsible for restoring, or otherwise repairing to its prior condition, any portion of County's connectivity equipment or other facilities, located at Customer premises, which are damaged by Customer or its agents.

Customer will reimburse all related Costs associated with damage to the Fiber caused by the negligence or willful misconduct of Customer, its affiliates, employees, agents, contractors or customers, except to the extent caused by the gross negligence or willful misconduct of County, its affiliates, employees, contractors or agents. "Cost(s)", as used herein include the following: (a) labor costs, including wages, salaries, and benefits together with overhead allocable to such labor costs; and (b) other direct costs and out-of-pocket expenses on a pass-through basis (such as equipment, materials, supplies, contract services, sales, use or similar taxes, etc.).

13. Force Majeure

Neither party hereto shall be deemed to be in default of any provision of this Agreement, for any failure in performance resulting from acts or events beyond the reasonable control of such party. For purposes of this Agreement, such acts shall include, but shall not be limited to, acts of nature, civil or military authority, civil disturbance, war, strikes, fires, power failure, other catastrophes or other force majeure events beyond the parties' reasonable control, provided however that the provisions of this paragraph and article shall not preclude Customer from cancelling or terminating this Agreement as otherwise permitted hereunder, regardless of any force majeure event occurring to County.

14. Consequential Damages

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER FORSEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, TRANSMISSION INTERRUPTIONS OR DEGRADATION, INCLUDING BUT NOT LIMITED TO DAMAGE OR LOSS OF PROFITS OR EQUIPMENT, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, COST OF REPLACEMENT SERVICES OR CLAIMS OF CUSTOMERS, WHETHER OCCASIONED BY ANY REPAIR OR MAINTENANCE PERFORMED BY OR FAILED TO BE PERFORMED BY A PARTY, OR ANY OTHER CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR STRICT LIABILITY.

15. Public Contracting Provisions

The provisions of Oregon public contracting law, ORS 279B.020 through 279B.235, to the extent applicable, are incorporated herein by this reference.

16. Non-Appropriation

Notwithstanding any other provisions of this Agreement, the parties hereby agree and understand that any obligation of Customer to obtain services as provided herein is subject to fund availability and appropriation by Customer for such services through its adoption of an annual budget. Should funds not be appropriated or be available from Customer during the term of this Agreement, the Agreement shall terminate and Customer shall pay County any remaining pro rata fees for services due to the date of such termination payable pursuant to Section 7 of this Agreement.

17. Compliance with Laws

Customer shall comply with all applicable federal, state, county and city laws, ordinances and regulations, including regulations of any administrative agency thereof, heretofore or hereafter adopted or established, during the entire term of this Agreement.

18. Taxes and Assessments

- a. Customer agrees to pay any and all applicable national, federal, state, county and local taxes, fees, assessments or surcharges, and all other similar or related charges, which are imposed or levied on the Fiber, or because of Customers use of the Services under this Agreement (collectively, "Taxes), whether or not the Taxes are imposed or levied directly on the Customer, or imposed or levied on the County because of or arising out of the use of the Services either by the Customer, or its affiliates, or anyone to whom Customer has sold or otherwise granted access to the Services. Customer agrees to pay these Taxes in addition to all other fees and charges as set forth elsewhere in this Agreement.
- b. "Taxes" include, but are not limited to, business and occupation, commercial, district, excise, franchise fee, gross receipts, license, occupational, privilege, property, Public Utility Commission, right-of-ways, utility user, or other similar

taxes, fees surcharges and assessments as may be levied against Customer, or against County and passed through to Customer.

19. Termination

- a. This Agreement shall terminate ninety (90) days following written notice by either party.
- b. In the event Customer terminates this Agreement based upon County 's default or failure to perform as described in this Agreement, County shall reimburse to Customer the pro rata amounts paid on the unexpired term of this Agreement.
- c. If Customer terminates this Agreement for any reason other than that based on non-appropriation or on County's default or failure to perform, County shall be entitled to 5% of the remaining contract amount for the unexpired term of this Agreement.

20. Default

1. Either of the following events shall constitute a default:
 - a. Failure to perform or comply with any material obligation or condition of this Agreement by any party; or
 - b. Failure to pay any sums due under this Agreement.
2. Any defaulting party shall have thirty (30) days in which to cure following written notice of default by the non-defaulting party.

21. Amendment

Any amendments to this Agreement shall be in writing and shall be signed by all parties.

22. No recourse Against the Grantor

Customer shall have no recourse whatsoever against County or its officials, boards, commissions, or employees for any loss, costs, expense, or damage arising out of any provision or requirement contained herein, or in the event this Agreement or any part thereof is determined to be invalid.

23. Debt Limitations

This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

24. No Attorney Fees

No attorney fees shall be paid for or awarded to either party in the course of any dispute or other recovery under this Agreement. It is the intent of the parties that each shall bear the costs of its own legal counsel.

25. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Customer that arises out of or relates to the performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit must be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

26. Notice

Any notice hereunder shall be in writing and shall be delivered by personal service or by United States certified or registered mail, with postage prepaid, or by facsimile addressed as follows:

Notice to the County

Manager, Clackamas Broadband Express
Clackamas County Technology Services
121 Library Court
Oregon City, Oregon 97045
Fax Number (503) 655-8255

with a copy to

Chief Information Officer
Clackamas County Technology Services
121 Library Court
Oregon City, Oregon 97045
Fax Number: (503) 655-8255

Notice to the Customer

IT Director
West Linn-Wilsonville School District
22210 SW Stafford Rd
Tualatin, OR 97062
503-673-7044

with a copy to

Superintendent

West Linn-Wilsonville School District
22210 SW Stafford Rd
Tualatin, OR 97062
503-673-7001

Either Party, by similar written notice, may change the address to which notices shall be sent.

27. Whole Contract

THE COUNTY AND THE CUSTOMER, BY AND THROUGH A SEPARATE SUBORDINANT DEPARTMENT, DIVISION OR BUREAU, ARE PARTIES TO SEPARATE SERVICE LEVEL AGREEMENTS DATED September 8, 2015 and April 8, 2015. WITH THE EXCEPTION OF THE AGREEMENT OR AGREEMENTS SPECIFIED HEREIN, THIS CONTRACT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL OTHER PRIOR AGREEMENTS OR PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SPECIFIC SUBJECT MATTER OF THIS CONTRACT AFFECTING THE CONNECTIONS IDENTIFIED IN APPENDIX A. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT WILL BE BINDING ON EITHER PARTY EXCEPT AS A WRITTEN ADDENDUM SIGNED BY AUTHORIZED AGENTS OF BOTH PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

Clackamas County

By (signature): _____

Name: _____

Title: _____

Date: _____

Customer

Wilsonville-West Linn School District
(Customer Name)

By (signature): Kathleen J. Ludwig

Name (print): DR. KATHLEEN LUDWIG

Title: SUPBRINTENDENT

Date: 10-31-18

APPENDIX A

SERVICE AND RATE SCHEDULE

1. Specified Services and Rates

The following are the sites, services, and rates agreed to by County and Customer at which Customer shall be provided services on the fiber optic network during the term of the Agreement. It is understood by both parties that service to these sites shall be provided for the rates below, subject to any rate increases otherwise applicable in accordance with terms herein. It is further understood that, during the term of the Agreement, Customer may add services to existing or new locations, or change services and/or locations, but that such changes are subject to the rates for such additional services.

2. Construction, Installation and Activation

For construction, installation and activation work and provision of fiber optic network components, the County shall charge Customer nonrecurring charge(s) as specified in Section 5 of Appendix A. All facilities constructed under this Agreement and Appendix A shall be owned, operated, and maintained by the County.

3. Service Changes and Conversions

Both parties agree that Customer may add or change services during the term of the Agreement, but that such changes are subject to applicable rates, and upgrade and downgrade charges.

4. Annual Recurring Charges

	From (Connecting Point A: Site Name & Address)	To (Connecting Point B: Site Name & Address)	Service	Monthly Rate (\$)
1	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Willamette Primary School 1403 12 th St West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
2	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Boones Ferry Primary 11495 SW Wilsonville Rd Wilsonville, OR 97070	One Pair (two) dark fibers (Redundant)	\$255.00
3	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Arts & Technology High 29796 SW Town Center Loop E Wilsonville, OR 97070	One Pair (two) dark fibers (Redundant)	\$255.00
4	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	West Linn High 5464 West "A" St West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00

5	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Bolton Primary 5933 SW Holmes St West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
6	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Lowrie Primary 28995 SW Brown Rd Wilsonville, OR 97070	One Pair (two) dark fibers (Redundant)	\$255.00
7	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Rosemont Ridge Middle 20001 Salamo Rd West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
8	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Sunset Primary 2351 Oxford St West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
9	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Trillium Creek Primary 1025 Rosemont Rd West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
10	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Cedaroak Park Primary 4515 S Cedaroak Dr West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
11	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Wilsonville High 6800 SW Wilsonville Rd Wilsonville, OR 97070	One Pair (two) dark fibers (Redundant)	\$255.00
12	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Boeckman Primary 6700 SW Wilsonville Rd Wilsonville, OR 97070	One Pair (two) dark fibers (Redundant)	\$255.00
13	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Stafford Primary 19875 SW Stafford Rd West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
14	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Clackamas Educational Service District 13455 SE 97 th Ave Clackamas, OR 97015	One Pair (two) dark fibers (Redundant)	\$255.00
15	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Athey Creek Church 2700 SE Ek Rd West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
16	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Three River Charter School 4975 Willamette Falls Dr West Linn, OR 97068	One Pair (two) dark fibers (Redundant)	\$255.00
17	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Rolling Hills Community Church 3550 SE Boreland Rd Tualatin, OR 97062	One Pair (two) dark fibers (Redundant)	\$255.00

5. Nonrecurring Charges

From (Connecting Point A: Site Name & Address)	To (Connecting Point B: Site Name & Address)	Service	Amount (\$)
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1	Intersection of Rosemont and Stafford Rd West Linn, OR 97068	Trillium Creek Primary 1025 Rosemont Rd West Linn, OR 97068	Construction	\$127,285.00
2	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Construction	\$15,522.00
3	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Athey Creek Church 2700 SE Ek Rd West Linn, OR 97068	Construction	\$6,200.00
4	Intersection of Stafford Rd & Childs Lake Oswego, OR 97034	Stafford Primary 19875 SW Stafford Rd West Linn, OR 97068	Construction	\$61,078.00
5	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	West Linn High 5464 West "A" St West Linn, OR 97068	Construction	\$5,735.00
6	West Linn-Wilsonville School District 22210 SW Stafford Rd Tualatin, OR 97062	Rolling Hills Community Church 3550 SE Boreland Rd Tualatin, OR 97062	Construction	\$8,450.00

6. Late Payment Interest

Customer will be charged interest for any payment made after its due date (thirty (30) days after receipt of invoice). Interest is charged at a rate of one and a half percent (1.5%) per month, or eighteen percent (18%) annually, on any installment not paid when due.

7. Annual Consumer Price Index (CPI) Adjustments

All fees and minimum charges are subject to Consumer Price Index (CPI) adjustments, to be applied annually. The amount of the fees and charges specified herein may increase annually by a percentage up to the change in the West Region (West City Size B/C 2.5 Million or less) Consumer Price Index of the US Dept. of Labor, Bureau of Labor Statistics (<https://www.bls.gov/regions/west/data/xg-tables/ro9xg01.htm>), based upon the rate of change as stated from the last month reported to the same month of the preceding year. In the event such Consumer Price Index (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information theretofore used in determining the Consumer Price Index shall be used in lieu of such Consumer Price Index.

Remainder of this page intentionally left blank.

APPENDIX B

MAINTENANCE AND OPERATIONS SPECIFICATIONS AND PROCEDURES

1. Defined Terms

- a. "Routine Maintenance" is all preventive maintenance activities and repairs.
- b. "Non-Routine Maintenance" is all efforts and activities in response to an emergency circumstance which requires restoration of service.

2. General

- a. County shall operate and maintain a Network Control and Management Center (NCAM) staffed twenty-four (24) hours a day, seven (7) days a week, by trained and qualified personnel. County shall maintain (503) 742-4219 telephone number to contact personnel and NCAM. County's NCAM personnel shall dispatch maintenance and repair personnel along the fiber optic network to repair problems detected through the NCAM's remote surveillance equipment, by the Customer, or otherwise.
- b. In the event Customer identifies a circumstance which requires restoration of service, Customer shall provide NCAM personnel the name and address of the facility with the problem, the identification number of the Fiber circuits in question, and the name and telephone numbers of Customer's personnel to contact for site access and status updates. NCAM personnel shall immediately contact a County technician and provide the Customer contact information. County technician shall contact Customer within one (1) hour of initial call.
- c. If the County's technician cannot repair the service interruption by telephone, County shall use commercially reasonable efforts to have its first maintenance employee or contractor at the site requiring repair within five (5) hours of the initial call to the NCAM. County will then work continuously until service has been restored.
- d. County shall use commercially reasonable efforts to notify Customer seven (7) days prior to the date of any planned non-emergency maintenance activity. In the event that a County planned activity is canceled or delayed for any reason as previously notified, County shall notify Customer as soon as reasonably possible and will comply with the provisions of the previous sentence to reschedule any delayed activity.

3. Fiber Optic Network

- a. County shall maintain the fiber optic network in good and operable condition and shall repair the fiber in a manner consistent with industry standards and using commercially reasonable efforts.
- b. County shall perform appropriate routine maintenance on the fiber optic network in accordance with County's then current preventive maintenance procedures. County's maintenance procedures shall not substantially deviate from industry practice.

4. Restoration

- a. When restoring damaged fiber, the Parties agree to work together to restore all traffic as quickly as possible. County, immediately upon arriving on the site of the damage, shall determine the best course of action to be taken to restore the fiber and shall begin restoration efforts.
- b. It will be the responsibility of County and Customer to report to one another respectively any known environmental hazards which would restrict or jeopardize any maintenance work activities in shelters or right of way areas of operation.
- c. Upon notification of interruption of fiber optic network service, disrepair, impairment or other need for repair or restoration of the fiber and the location of the damaged fiber, County shall pursue commercially reasonable efforts to mobilize technicians to achieve necessary repair or restoration, including, but without limitation, having maintenance personnel at the affected site within five (5) hours after receipt of such notice with the required restoration material and equipment.
- d. In the event that Customer's use of the fiber optic network is interrupted due to an occurrence of a force majeure event, repairs and restoration shall be made as expeditiously as reasonably possible. Customer recognizes that five (5) hour response time represents optimal conditions, and may be impossible to achieve when emergency restoration of fiber optic network integrity is required or when responding to certain remote locations. Actual response times will be influenced by such factors as terrain, weather conditions present at the time the request is made and actual mileage to the fault site.
- e. For purposes of this section, "commercially reasonable efforts" means activities and performances consistent with prudent utility practice, existing contract provisions for County technicians and/or employees, practices required for preserving the integrity of the fiber optic network, and response times that do not jeopardize the health and safety of the employees, contractors and agents of County and Customer.

5. Customer shall be responsible for paying County standard maintenance fees for

any calls to County for maintenance issues related to the Fiber that County later confirms as resulting from another source other than functionality of the Fibers.

Remainder of this page intentionally left blank.

APPENDIX C

FIBER SPLICING AND TESTING STANDARDS AND PROCEDURES

1. Fiber and Connector Standards

a. **Connector Standards**

The loss value of any pigtail connector and any associated fiber jumper or pigtail with matching mode field diameters will not exceed .5dB at 1550 nm. The loss value of a connector and its associated jumper with mismatched mode field diameters should not exceed .8 dB.

b. **Field Splice Standards**

The objective for each splice is an averaged loss value of 0.1 dB or less when measured bi-directionally with an OTDR at 1550 nm. In the event of damage and subsequent restoration of the Fibers, commercially reasonable efforts will be made to restore the Fibers to this standard. If after 3 restoration splicing attempts, County is not able to produce a loss value of 0.1 dB or less bi-directionally at 1550 nm, then 0.5 dB or less bi-directionally at 1550 nm will be acceptable. Fibers not meeting the 0.1 dB or less specification will be identified as Out Of Specification (OOS). Documentation of the three attempts (re-burns) to bring the OOS fiber within specification will be provided.

c. **Span Loss**

It is County's responsibility to insure proper continuity of all fibers at the fiber level, not just the pigtail level. Any "frogs" or fibers that cross in the route will be remedied by County. The following span loss calculation will be used:

$$(A * L) + (0.1 * N) + C = \text{Acceptable Span Loss}$$

A = Attenuation per KM at 1550 nm

L = Optical length of cable measured in kilometers (from OTDR Trace)

N = Number of splices in a span

C = Connector loss. The connector loss will not exceed .5dB. The section test will have (2) pigtail connectors/splices under test, so 1.0dB will be allowed for this loss.

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DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 8, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Ground Lease Between Clackamas County and the Clackamas County Development Agency Pertaining to Property Located at 16575 SE 115th Avenue

Purpose/Outcome	To finalize a ground lease pertaining to property on which the Veterans Village project is located.
Dollar Amount and Fiscal Impact	No change
Funding Source	N/A
Duration	Lease term to expire on September 30, 2020, with a one year automatic renewal term.
Previous Board Action/Review	June 26, 2018: Policy Session
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build public trust through good government • Ensure safe, healthy and secure communities
Contact Person	David Queener, Agency Program Supervisor, (503) 742-4322 Rich Swift, H3S Director, (503) 650-5694

The Veterans Village project is a transitional shelter pilot project for up to 30 homeless veterans which is located on land currently owned by the Clackamas County Development Agency. Clackamas County's Department of Health, Housing and Human Services (H3S) is the department primarily responsible for the County's oversight and implementation of the project. A lease is necessary to establish the rights and responsibilities of the separate entities with regards to the activities on the property.

As currently conceived, this project is a temporary pilot project with an initial term of approximately 2 years. The lease provides for an automatic renewal period of 1 additional year unless either the County or Agency chooses not to continue with the project. The Agency shall allow the County to operate the project on the property rent-free during the term of the lease, and the County agrees to indemnify the Agency from any claims which may arise from the activities conducted on the property. At the conclusion of the lease term, the County must

remove the improvements which have been constructed on the property, unless the parties agree otherwise.

RECOMMENDATION

Staff recommends the Board of County Commissioners execute the attached ground lease agreement.

Sincerely,

David Queener,
Development Agency Program Supervisor

Attachments: Ground Lease

GROUND LEASE BETWEEN
CLACKAMAS COUNTY DEVELOPMENT AGENCY
AND
CLACKAMAS COUNTY

This GROUND LEASE (this “Lease”) is made and entered into on October 1, 2018 (the “Commencement Date”), by and between the Clackamas County Development Agency, the urban renewal agency of Clackamas County, a corporate body politic (“Lessor”), and Clackamas County, a political subdivision of the State of Oregon, acting through the Clackamas County Department of Health, Housing and Human Services (“Lessee”).

RECITALS

A. Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, the land depicted on Exhibit A attached hereto, together with any and all rights, privileges, easements, and appurtenances (collectively, the “Premises”), together with any and all fixtures, rights, privileges, easements, and appurtenances that may now or exist in the future (collectively, the “Improvements”).

B. Lessor owns the Premises. Lessee owns certain Improvements, shelter buildings, intended to be placed upon the Premises, more specifically described on Exhibit B, attached hereto. Lessee owns the right to use the Premises and the Improvements for the term of the Lease.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Lease agree as follows:

Article 1

Premises

Lessor does hereby demise, lease, and let unto Lessee, and Lessee does hereby take and lease from Lessor, the Premises, including permission for continued use of the Improvements, for the Term (as defined below) and on the rents, conditions, and provisions herein.

Article 2

Lease Term

2.1 Lease Term. Starting on the Commencement Date, the Premises will be leased for a term of approximately two (2) years ending on September 30, 2020 (the "Term"), unless earlier terminated pursuant to the terms of this Lease. This lease is renewable for one additional one (1) year term automatically unless one party provides notice of termination pursuant to paragraph 2.2.

2.2 Early Termination. Notwithstanding anything in this Lease to the contrary, Lessor or Lessee may terminate the Lease upon providing the other party with written notice of intent to terminate at least 180 days prior to the desired termination date.

Article 3

Rent

3.1 Payment of Rent. Lessee shall pay Lessor no rent.

3.2 Net Lease. This Lease is a net lease. Lessee will be responsible for paying all costs and expenses relating to the Premises and the Improvements, including any real and personal property taxes, fees, utilities, maintenance, repairs, interior and exterior structural repairs, interior and exterior nonstructural repairs, insurance, and all other costs and expenses relating to the Premises and the Improvements. Without notice or demand and without abatement, deduction, or setoff except as may be otherwise provided in this Lease, Lessee is required to pay, all sums, impositions, costs, and other payments that Lessee assumes or agrees to pay in any provision of this Lease. If Lessee fails to make a payment, Lessor will have (in addition to all other rights and remedies) all the rights and remedies provided for in this Lease or by law for nonpayment of rent.

Article 4

USE AND COMPLIANCE WITH LEGAL REQUIREMENTS

4.1 Permitted Use. Lessee may use and occupy the Premises and the Improvements during the Term and shall use the Premises and the Improvements in compliance with all applicable Legal Requirements (as defined in section 4.2 below).

4.2 Compliance with Legal Requirements. Lessee shall observe and comply with all Legal Requirements that may apply to the Premises, or to the use or manner of uses of the Premises, or the Improvements or the owners or users of the Improvements, whether or not the Legal Requirements affect the interior or exterior of the Improvements, necessitate structural changes or improvements, or interfere with the use and enjoyment of the Premises or the Improvements, and whether or not compliance with the Legal Requirements is required by reason of any

condition, event, or circumstance existing before or after the Term. Lessee will pay all costs of compliance with the Legal Requirements.

“Legal Requirements” means all applicable present and future laws, ordinances, orders, rules, regulations, codes, and requirements of all federal, state, and municipal governments, departments, commissions, boards, and officers, that now or hereafter apply to the Premises, the Improvements, or any component hereof or any activity conducted thereon, including but not limited to those pertaining to Environmental Laws and the use and storage of Hazardous Substances (as these terms are defined below).

“Environmental Laws” means all present or future federal, state, and local laws or regulations related to the protection of health or the environment, including the Resource Conservation and Recovery Act of 1976 (RCRA) (42 USC § 6901 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC § 9601 *et seq.*), the Toxic Substances Control Act (15 USC § 2601 *et seq.*), the Federal Water Pollution Control Act (the Clean Water Act) (33 USC § 1251 *et seq.*), the Clean Air Act (42 USC § 7401 *et seq.*), amendments to the foregoing, and any rules and regulations promulgated thereunder.

“Hazardous Substances” means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local, state, or federal governmental authority, including without limitation, any hazardous material, hazardous substance, ultra-hazardous material, toxic waste, toxic substance, pollutant, radioactive material, petroleum product, and PCB, as those and similar terms are commonly used or defined by Environmental Laws.

4.3 Prohibited Uses. Lessee shall not use or occupy the Premises or the Improvements, or permit or suffer all or any part of the Premises or the Improvements to be used or occupied: (a) for any unlawful or illegal business, use, or purpose; (b) in any manner so as to constitute a nuisance of any kind; (c) for any purpose or in any way in violation of the certificate of occupancy, or of any Legal Requirements, including Legal Requirements respecting Hazardous Substances; or (d) for any business, use, or purpose deemed disreputable.

4.4 No Waste. Lessee shall not cause or permit any waste, damage, disfigurement, or injury to the Premises, but Lessee may demolish and remove any and all the Improvements on the Premises at Lessee’s own expense and pursuant to and in accordance with the terms of Article 5 below.

Article 5

Improvements

5.1 Construction, Modification, and Demolition of Improvements. Upon obtaining Lessor’s prior written approval, Lessee may, at any time and from time to time during the Term at its cost and expense, construct, reconstruct, demolish, remove, replace, remodel, or rebuild on any part or all of the Premises such buildings, structures, parking areas, driveways, walks, and other Improvements of any nature (including excavation, earthmoving, paving, installation or relocation of utilities, and all other development activities) pertaining thereto as Lessee.

Construction of any buildings or improvements will be undertaken in compliance with all Legal Requirements and will be performed in a good and workmanlike manner, and which shall be removed from the Premises prior to the end of this Lease unless renewed. Utilities installed at the Premises shall not be demolished or removed without prior written approval of the Lessor.

5.2 Lessor Cooperation. Lessor shall reasonably cooperate with Lessee in connection with Lessee's construction of any Improvements, including but not limited to executing any applications and other instruments reasonably necessary for construction of the Improvements at Lessee's expense, and further provided that Lessor is not required to pay any application fees or incur any other costs or liabilities in connection with the Improvements.

5.3 Easements and Dedications. Lessee and Lessor each recognize that in order to provide for the development of the Premises, it may be necessary, desirable, or required that street, water, sewer, drainage, gas, power line, and other easements and dedications and similar rights be granted or dedicated over or within portions of the Premises. Lessor shall, upon request of Lessee, join with Lessee in executing and delivering such documents, from time to time, and throughout the Term of this Lease as may be appropriate, necessary, or required by any governmental agency or public utility company for the purpose of granting such easements and dedications.

Article 6

Taxes and Utilities

6.1 Taxes Defined. As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary, of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises or the Improvements, or based on or otherwise in connection with the use, occupancy, or operations of the Premises or the Improvements, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises or the Improvements, or on Lessor with respect to the Premises or the Improvements, or on any act of leasing space in the Improvements, or in connection with the business of leasing space in the Improvements, including any tax on rents, whether direct or as a part of any "gross receipts" tax, and whether or not in lieu of, in whole or in part, ad valorem property taxes. Taxes will include, but not be limited to, state and local real-property taxes, levies, and assessments, and any tax, fee, or other excise, however described, that may be levied or assessed in lieu of, or as a substitute, in whole or in part, for, or as an addition to any other taxes, and all other governmental impositions and governmental charges of every kind and nature relating to the Premises or the Improvements, including, but not limited to, any road-user or transportation-system-maintenance fee and any charges or fees measured by trip generation or length, parking spaces, impervious surfaces, buildings, vehicle usage, or similar bases for measurement.

6.2 Payment of Taxes. Throughout the Term, Lessee shall pay any Taxes that may be applicable as they become due. If by law any Tax is payable, or may at the option of the taxpayer

be paid, in installments, Lessee may pay the same in installments as each installment becomes due and payable, but in any event shall do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.

6.3 Contesting Taxes. If Lessee in good faith desires to contest the validity or the amount of any Tax, Lessee may be permitted to do so by giving to Lessor written notice requesting permission to do so before commencement of such contest. If approved, Lessee may contest with respect to the Property and/or the Improvements. Lessor may, at Lessee's expense (including reimbursement of attorney fees reasonably incurred by Lessor), cooperate with Lessee in any such contest to the extent that Lessee may reasonably request, but Lessor shall not be subject to any liability for the payment of any costs or expenses in connection with any proceeding brought by Lessee, and Lessee shall indemnify and save Lessor harmless from any such costs or expenses. Any rebates on account of the Taxes required to be paid and paid by Lessee under the provisions of this Lease shall belong to Lessee, except that to the extent any rebates or refunds are related to a period of time in which this Lease is not in effect (either before commencement or after expiration or termination), the portion of the rebate attributable to such time shall be returned to Lessor to the extent previously paid by Lessor.

6.4 Evidence of Payment. Promptly after payment, Lessee shall provide Lessor with evidence reasonably satisfactory to Lessor that all Taxes required to be paid by Lessee have been paid.

6.5 Utilities and Services. Lessee shall pay, directly to the appropriate supplier, for all water, sanitary sewer, storm sewer, gas, electric, telephone, cable, garbage pickup, and all other utilities and services used by Lessee on the Premises as they become due, together with any taxes thereon, from and after the Commencement Date. Lessor shall not be in default hereunder nor be liable in damages or otherwise for any failure or interruption of any utility or other service being furnished to the Premises, and no such failure or interruption will entitle Lessee to terminate this Lease.

Article 7

Insurance

7.1 Fire and Casualty Insurance. Lessee shall keep the Premises and improvements insured at Lessee's expense against fire and other risks covered by an All Risk Property Coverage policy, and other policies as appropriate. The insurance shall be maintained (without any co insurance clause) in an amount equal to the greater of the fair market value of the Premises and improvements or the amount required by any mortgagee of the Premises, or absent such requirement, in an amount sufficient to prevent Lessor and Lessee from becoming co insurers under applicable provisions of the insurance policy. Said coverage may be through self-insurance, through an insurance pool established for the benefit of governmental entities or from a general insurance carrier that meets the requirements set out below.

7.2 Liability Insurance. Lessee, at its cost and expense, shall maintain general liability insurance coverage sufficient to cover liability that may be imposed due to the condition of the

premises and the activities conducted thereon. Said coverage may be through self-insurance, through an insurance pool established for the benefit of governmental entities or from a general insurance carrier that meets the requirements set out below.

7.3 Additional Requirements. In the event that a policy is obtained from a commercial carrier the carrier(s) shall be a reputable insurance company acceptable to Lessor, licensed to do business in the State of Oregon, and have a minimum A-VIII rating as determined by the then-current edition of *Best's Insurance Reports* published by A.M. Best Co. Lessee shall provide Lessor with certificates of insurance concurrently with the execution of this Lease and upon each renewal thereafter to establish that Lessee's insurance obligations have been met and that the policies are not subject to cancellation or material change without at least 30 days advance written notice to Lessor; provided, however, that Lessor may inspect and require full copies of all insurance policies to be provided to Lessor.

Article 8

Release and Indemnification

8.1 Release. Lessee shall be in exclusive control of the Premises, and Lessor shall not in any event whatsoever be liable for any injury or damage to any property or to any person happening on, in, or about the Premises or the Lessee owned or leased Improvements, or any injury or damage to the Premises or the Lessee owned Improvements or to any property, whether belonging to Lessee or to any other person, caused by any fire, breakage, leakage, defect, or condition on any part of the Premises or the Lessee owned or leased Improvements, or from steam, gas, electricity, water, rain, or snow that may leak into, issue, or flow from any part of the Premises or the Lessee owned or leased Improvements from the drains, pipes, or plumbing work of the same, or from the street, subsurface, or any place or quarter, or because of the use, misuse, or abuse of all or any of the Premises or the Lessee owned or leased Improvements, or from any kind of injury that may arise from any other cause whatsoever on the Premises or in or on the Lessee owned or leased Improvements, including defects in construction of the Lessee owned or leased Improvements, latent or otherwise; and Lessee hereby releases Lessor from and against any and all liabilities resulting from any such injuries and damages. Lessor acknowledges that it remains responsible for liability to any third party to the extent that the liability arises from Lessor's gross negligence or willful misconduct that causes damage or injury to persons or property on the Premises.

8.2 Indemnification. Except to the extent caused by the gross negligence or willful misconduct of Lessor, Lessee shall indemnify, defend and hold Lessor harmless from and against any and all liabilities, obligations, damages, fines, penalties, claims, costs, except for attorney's fees, charges, and expenses (including, without limitation, environmental response and remedial costs; environmental consultant and laboratory fees; and natural resource damages) that may be imposed on or incurred by or asserted against Lessor arising from or related to the activities of the Lessee conducted on the Premises during the term of this Lease.

Article 9

Liens

9.1 No Liens. Lessee shall not suffer or permit any construction liens to attach to or be filed against any part of the Premises or the Improvements owned by Lessor by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Lessee or any person occupying or holding an interest in any part of the Premises or the Improvements owned by Lessee. If any such lien is filed against any portion of the Premises or the Improvements, Lessee shall cause the same to be discharged of record within 15 days after the date of its filing by payment, deposit, or bond.

9.2 Lessor Right to Post Notices. Lessor may post and keep posted at all reasonable times on the Premises and the Improvements notices of non-responsibility and any other notices that Lessor desires or is required to post for the protection of Lessor's interest in the Premises and the Improvements from any such lien.

9.3 No Right to Lien Lessor's Interest. Nothing in this Lease may be deemed to be, or be construed in any way as constituting, the consent or request of Lessor, express or implied, by inference or otherwise, to any person, firm, or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration, or repair of or to the Premises or to the Improvements, or as giving Lessee any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that might in any way give rise to the right to file any lien against Lessor's interest in the Premises or against Lessor's interest, if any, in the Improvements. Lessee shall not be an agent for Lessor.

Article 10

Repairs and Maintenance

10.1 Lessee Obligation. Lessee must maintain, repair and replace the Premises and the Lessor owned Improvements as and when needed so as to keep them clean and in good condition and repair, throughout the entire Term. Lessee's obligations extend to both structural and nonstructural items and to all maintenance, repair, and replacement work.

10.2 Lessor Obligation. Consistent with Section 6.5 of this Lease, Lessor is not required to furnish to Lessee, the Premises, or the Improvements any facilities, utilities, or services of any kind whatsoever during the Term, such as, but not limited to, water, sanitary sewer, storm sewer, gas, electric, telephone, cable, garbage pickup, or any other utilities or services used by Lessee. Lessor is not required to make any alterations, re-buildings, replacements, changes, additions, improvements, or repairs to any portion of the Premises or the Improvements during the Term.

10.3 Lessee Environmental Obligations. Lessee shall take all the responsibilities to environmental issues and damages on the Premises and the Improvements related to its activities.

10.4 Limited Assignment of Rights. Lessor shall assign to Lessee, without recourse, any rights that Lessor may have against any parties causing damage to the Lessee owned Improvements on the Premises to sue for and recover amounts expended by Lessee as a result of the damage.

Article 11

Inspection and Access

Lessor may enter onto the Premises and the Improvements at reasonable times during reasonable business hours for the purposes of allowing potential buyers or tenants to perform inspections, to inspect and take measurements, samples or other activities to access any potential contamination issues and ensure compliance with the terms of this Lease. Nothing in this Lease implies any duty or obligation, however, on Lessor's part to make such inspections or perform such work (including, but not limited to, repairs and other restoration work made necessary because of any fire or other casualty or partial condemnation, irrespective of the sufficiency or availability of any property or other insurance proceeds, or any award in condemnation, that may be payable). Lessor's performance of any work will not constitute a waiver of Lessee's default in failing to perform the same.

Article 12

Damage and Destruction

If any Lessee owned Improvement(s) on the Premises are damaged or destroyed by flood, fire or other casualty, Lessee's obligations under the lease will not abate and Lessee shall promptly determine whether to repair, replace, reconstruct, demolish or abandon the Improvement(s). Lessee shall promptly inform Lessor of its decision and its proposed plan of action. Should the Lessee decide to abandon or demolish the damaged Lessee owned Improvement(s) Lessee shall at Lessee's expense clear the remains of the Improvement(s) from the premises unless otherwise directed by Lessor.

Article 13

Condemnation

13.1 Total Taking. If all the Premises and the Improvements are taken or condemned by right of eminent domain or by purchase in lieu of condemnation (a "Taking"), or if in Lessee's reasonable judgment the Taking of any portion of the Premises or the Improvements renders the portion remaining insufficient and unsuitable to permit the restoration of the Improvements following the Taking, then Lessee may terminate this Lease by providing written notice thereof to Lessor within 30 days after Lessee is notified of the Taking, in which case the Lease will cease and terminate (except those provisions intended to survive the expiration or termination of the Lease) and Lessee shall vacate the Premises and the Improvements as of the date on which the condemning authority takes possession (any Taking in this section being called a "Total Taking").

13.2 Award for Total Taking. If this Lease terminates as a result of a Total Taking, the rights and interests of the parties will be determined as follows:

(a) The total award or awards for the Total Taking will be apportioned and paid in the following order of priority:

(i) Lessor will have the right to receive directly from the condemning authority, in its entirety and not subject to any trust, a portion of the award that is defined and referred to as the Land Award (as defined below), and Lessee will not be entitled to receive any part of the Land Award. The term "Land Award" means that portion of the award in the condemnation proceeding that represents the fair market value of the Premises and the Lessor owned Improvements, the consequential damage to any part of the Premises that may not be taken; the diminution of the assemblage or plottage value of the Premises not so taken; and all other elements and factors of damage to the Premises; but in all events the damage or valuation will take into consideration that the Premises are encumbered by this Lease.

(ii) Lessee will have the right to receive directly from the condemning authority that portion of the award referred to as the Leasehold Award (as defined below). The term "Leasehold Award" means that portion of the award in the condemnation proceeding that represents the fair market value of Lessee's interest in the Premises and the Lessee owned Improvements and the fair market value of Lessee's leasehold estate as so taken and, if this Lease is not terminated as a result of the Taking.

(iii) It is the intent of the parties that the Land Award and the Leasehold Award will equal the total amount of the awards respecting the Total Taking.

(b) If a court or another lawful authority that is authorized to fix and determine the awards fails to fix and determine, separately and apart, the Land Award and the Leasehold Award, the awards will be determined and fixed by written agreement mutually entered into by and among Lessor and Lessee, and if an agreement is not reached within 30 days after the judgment is entered in the proceeding, the controversy will be resolved in the same court in which the condemnation action is brought, in any proceedings that are appropriate for adjudicating the controversy.

13.3 Partial Taking and Award for Partial Taking. If, during the Term, there is a Taking of the Premises or the Improvements, but the Taking is not a Total Taking and not a temporary taking of the kind described in section 13.4, or if a change occurs in the grade of the streets or avenues on which the Premises abuts, this Lease will not terminate but will remain in full force and effect with respect to the portion of the Premises and the Improvements not taken (any Taking or change of grade of the kind described in this section being referred to as a "Partial Taking"), and in that event the total award or awards for the taking will be apportioned and paid in the following order of priority:

(a) Lessor may receive directly from the condemning authority, in its entirety and not subject to any trust, that portion of the award that equals the Land Award, and Lessee may not receive any part of the award; and

(b) Lessee, may receive directly from the condemning authority the balance of the award, to be applied by the recipient as it deems appropriate.

13.4 Temporary Taking. If there is a Taking of all or a part of the Premises or the Improvements for temporary use, this Lease will continue without change, as between Lessor and Lessee, and Lessee will be entitled to the entire award made for that use. Lessee will also have the right to file and prosecute any claim against the condemnor for damages, and to recover the same, for any negligent use, waste, or injury to the Premises or the Improvements throughout the balance of the then-current Term. The amount of damages so recovered will belong to Lessee.

13.5 Dispute Resolution. In the event of any dispute between Lessee and Lessor regarding any issue of fact arising out of a Taking mentioned in this Article, the dispute shall be resolved by the same court in which the condemnation action is brought, in any proceedings that are appropriate for adjudicating the dispute.

Article 14

Assignment and Subletting

14.1 Limitations on Transfers. Except as permitted under section 14.2 and article 16 below, Lessee shall not, voluntarily or by operation of law, sell, assign, or transfer this Lease or any interest therein, sublet the Premises or any part thereof, or grant any right to use the Premises, the Improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Lessor. Any attempted Transfer without such prior written consent will be void. Lessor's consent to a Transfer will in no event release Lessee, any assignee, or any guarantor from their respective liabilities or obligations under this Lease or any guaranty of this Lease, nor relieve Lessee from the requirement of obtaining Lessor's prior written consent to any further Transfer. Lessor's acceptance of Rent from any other person will not be deemed to be a waiver by Lessor of any provision of this Lease or consent to any Transfer.

14.2. Assignments Prohibited. An assignment prohibited within the meaning of this section 14.1 includes, without limitation, one or more sales or transfers, direct or indirect, by operation of law or otherwise.

Article 15

Lessor Mortgages

15.1 Lessor Mortgages. Lessor shall not, at any time, borrow against or encumber its interest in the Premises, or this Lease. Lessee may borrow against the Lessee owned Improvements so long as the term of such debt will end prior to the Term of this Lease, and further that if any

claim or security interest is asserted against the Lessee owned Improvements, that Lessee shall not suffer the same but pay fully such debt and remove any claim or security interest on the Lessee owned Improvements fully before the Term of the Lease expires. If Lessor exercises its right of early termination, then Lessee shall be obligated to remove the security interest or other encumbrance prior to the termination date of the Lease as so established.

Article 16

Default

16.1 Event of Default. The occurrence of any one or more of the following constitutes an event of default under this Lease:

- (a) Failure by Lessee to pay any amount required to be paid by Lessee to Lessor under this Lease within 10 days after written notice of such nonpayment is given to Lessee;
- (b) Failure by Lessee to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within 10 days after written notice thereof is given to Lessee;
- (c) Failure by Lessee, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than as set forth in subsections (a) and (b) above) and such failure continues and is not remedied within 30 days after written notice thereof is given to Lessee;
- (d) Lessee becomes insolvent; Lessee makes an assignment for the benefit of creditors; Lessee files a voluntary petition in bankruptcy; Lessee is adjudged bankrupt or a receiver is appointed for Lessee's properties; the filing of any involuntary petition of bankruptcy and Lessee's failure to secure a dismissal of the petition within 45 days after filing; or the attachment of or the levying of execution on the leasehold interest and Lessee's failure to secure discharge of the attachment or release of the levy of execution within 30 days; or
- (e) Lessee has a material breach as described in section 3.2, which shall be deemed as a breach without any cure period set forth in provision (c) of this article.

Article 17

Remedies

17.1 Remedies. Upon the occurrence of an event of default, Lessor may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

- (a) Lessor may terminate this Lease by written notice to Lessee, which is effective immediately.
- (b) Lessor or Lessor's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Premises and the Improvements (as provided in Section 19) either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Premises and the Improvements, to the end that Lessor may have, hold, and enjoy the Premises and the Improvements. **RE-ENTRY OR TAKING POSSESSION OF THE PREMISES OR THE IMPROVEMENTS BY LESSOR WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO LESSEE.**
- (c) Lessor may, without terminating the Lease, relet the whole or any part of the Premises and the Lessor owned Improvements from time to time, either in the name of Lessor or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Lessor determines to be appropriate. To the extent allowed under Oregon law, Lessor may not relet all or any part of the Premises or the Lessor owned Improvements and shall not be liable for refusing to relet the Premises or the Lessor owned Improvements, or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Lessor will not operate to relieve Lessee of any liability under this Lease or otherwise affect such liability. Lessor at its option may make any physical change to the Premises or the Lessor owned Improvements that Lessor, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Lessee of any liability under this Lease or otherwise affecting Lessee's liability.
- (d) Whether or not Lessor retakes possession of or relets the Premises and the Lessor owned Improvements, Lessor may recover its damages, including without limitation, all lost rentals and all costs incurred by Lessor in restoring the Premises or otherwise preparing the Premises and for reletting, and all costs incurred by Lessor in reletting the Premises.
- (e) To the extent permitted under Oregon law, Lessor may sue periodically for damages as they accrue without barring a later action for further damages. Lessor may in one action recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent (including Taxes) reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Premises and the Lessor owned Improvements for the same period, discounted at the time of award at a reasonable rate not to exceed 10 percent per annum. If Lessor relets the Premises and the Lessor owned Improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

17.2 Lessor's Self-Help Right. If Lessee at any time (a) fails to pay any Tax in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 days' written notice to Lessee (or without notice in the event of an emergency) and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease or from any default by Lessee and without waiving Lessor's right to take any action that is permissible under this Lease as a result of the default, Lessor may, (i) pay any Tax or make any other payment required of Lessee under this Lease, and (ii) perform any other act on Lessee's part to be made or performed as provided in this Lease, and may enter the Premises and the Improvements for any such purpose, and take any action that may be necessary. All payments so made by Lessor and all costs and expenses incurred by Lessor in connection with the performance of any such act will constitute additional costs payable by Lessee under this Lease and must be paid to Lessor on demand. In no instance shall Lessee be entitled to attorney's fees relating to any default, remedy or self-help, even if it is determined that Lessor did not act appropriately with respect to the same.

17.3 No Waiver. No failure by Lessor to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Lessee, and no breach by Lessee, may be waived, altered, or modified except by a written instrument executed by Lessor. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

17.4 Remedies Cumulative and Nonexclusive. Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Lessor's or Lessee's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Article 18

Sale By Lessor and Limitation of Lessor's Liability

18.1 Sale by Lessor. Upon sale of the Premises during the Term of this Lease or any extensions, this Lease shall be terminated. Lessor shall not agree to any sale terms that shorten the notice of termination period required to be given to Lessee in section 2.2.

18.2 Nonrecourse Obligation. Regarding any claim against Lessor, including any claim of default by Lessor under this Lease or in any claim or cause of action arising under this Lease or arising out of the Lessor-Lessee relationship created by this Lease, the sole and exclusive remedy

of Lessee shall be against the interests of Lessor in the Premises and its reversionary interest in the Lessor owned Improvements and Lessor will have no other liability hereunder. Lessee shall not enforce any judgment against Lessor except against the interest of Lessor in the Premises and its reversionary interest in the Lessor owned Improvements. In no event will any elected official, officer, employee, or agent of Lessor have any personal liability to Lessee. Lessee agrees that this provision will apply to any and all liabilities, claims, and causes of action whatsoever, including those based on any provision of this Lease, any implied covenant, or any statute or common-law principle. Notwithstanding any other provision of this Lease, in no event whatsoever may Lessor be responsible for any consequential or incidental damages or for any action that Lessor believes in good faith is necessary to comply with Legal Requirements with respect to the Premises or the Improvements.

Article 19

Surrender and Holdover

19.1 Condition of Premises and Improvements. Upon expiration of the Term or earlier termination of this Lease, Lessee shall deliver to Lessor the Premises in good condition, free and clear of all occupancies other than subleases to which Lessor has specifically consented and free and clear of all liens and encumbrances other than those, if any, existing on the date of this Lease or created or suffered by Lessor. Lessee shall surrender the Premises and the Lessor owned Improvements in good condition and repair (reasonable wear and tear excepted), free and clear of all occupancies other than subleases to which Lessor has specifically consented and free and clear of all liens and encumbrances other than those, if any, existing on the date of this Lease or created or suffered by Lessor.

19.2 Lessee's Property. Before the expiration or earlier termination of this Lease, Lessee shall remove all Lessee owned Improvements, furnishings, furniture, and trade fixtures that remain Lessee's property (the "Lessee's Property"). If Lessee fails to do so, at Lessor's option, (a) the failure to remove Lessee's Property will be deemed an abandonment of Lessee's Property, and Lessor may retain Lessee's Property and all rights of Lessee with respect to it will cease; or (b) by written notice given to Lessee, Lessor may elect to hold Lessee to Lessee's obligation of removal, in which case Lessor may effect the removal, transportation, and storage of Lessee's Property and Lessee shall reimburse Lessor for the costs incurred in connection therewith on demand.

Article 20

Condition of Premises

Lessee acknowledges that it has examined the physical condition of the Premises (including whether the Premises contains any Hazardous Substances or fails to comply with any Environmental Laws) and as a result agrees to accept the Premises in "as-is" condition, with all faults. Lessee further acknowledges that no representations or warranties regarding the condition of the Premises have been made by Lessor or any agent or person acting for Lessor.

Article 21

Quiet Enjoyment

On paying the Rent and adhering to all covenants, agreements, and conditions of this Lease, Lessee will have quiet enjoyment of the Premises during the Term without hindrance or disturbance by any person claiming by, through, or under Lessor, subject, however, to the Permitted Exceptions.

Article 22

Notices

22.1 Notice Parties and Means of Delivery. Any notice required or permitted by the terms of this Lease will be deemed given if delivered personally, sent by United States registered or certified mail, postage prepaid, return receipt requested, or sent by fax with electronic confirmation of fax receipt, and addressed as follows:

If to Lessor: Clackamas County Development Agency
 150 Beaver Creek Rd., Oregon City, OR 97045
 Attn: Dan Johnson

With a copy to: Clackamas County Counsel's Office
 2051 Kaen Rd., Oregon City, OR 97045

If to Lessee: Clackamas County
 Department of Health, Housing, and Human Services
 2051 Kaen Rd., Oregon City, OR 97045
 Attn.: Richard Swift

With a copy to: Clackamas County Counsel's Office
 2051 Kaen Rd., Oregon City, OR 97045

22.2 Copies of Certain Notices to Lessee. Lessee shall immediately send to Lessor, in the manner prescribed in this Article, copies of all notices that Lessee gives to or receives with respect to the Premises or the Improvements from any entity that impacts the Premises, including but not limited to any government authority, fire regulatory agency, or similarly constituted body, and copies of its responses to those notices.

22.3 Failure to Notify of Change of Address or Refusal to Accept a Notice.

Notwithstanding anything in this Article to the contrary, any notice mailed to the last-designated address of any person or party to which a notice may be or is required to be delivered pursuant to this Lease or this Article shall not be deemed ineffective if actual delivery cannot be made because of a change of address of the person or party to which the notice is directed or the failure or refusal of such a person or party to accept delivery of the notice.

Article 23

Miscellaneous

23.1 Survival. All agreements (including, but not limited to, indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

23.2 Invalidity. If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

23.3 Force Majeure. If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any Legal Requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, terrorism, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

23.4 Nonmerger. There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease, the leasehold estate created by this Lease, or any interest in this Lease, may be held, directly or indirectly, by or for the account of any person who owns the fee estate in the Premises or any interest in such fee estate. No merger will occur unless and until all persons having an interest in the fee estate in the Premises and all persons (including all Permitted Leasehold Mortgagees) having an interest in this Lease, or in the leasehold estate created by this Lease, join in a written instrument effecting the merger and duly record the same.

23.5 Lease Documents and Expenses. This Lease shall be prepared by Lessor. Lessor shall be responsible for its own costs of legal review and documentation, and Lessee shall be responsible for its own costs of legal review and documentation in the drafting and execution of this Lease.

23.6 Entire Agreement; Counterparts. This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Lessee and Lessor mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease. This Lease may be executed in any number of

counterparts, including by fax signatures, each of which will constitute an original, but all of which will constitute one Lease.

23.7 Applicable Law. This Lease will be governed by, and construed in accordance with, the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.

23.8 Brokerage. Lessor and Lessee represent to each other that they have not employed any brokers in negotiating and consummating the transaction set forth in this Lease, but have negotiated directly with each other.

23.9 Binding Effect. The covenants and agreements contained in this Lease are binding on and inure to the benefit of Lessor, Lessee, and their respective successors.

23.10 Recordation of Lease. Lessee may elect that a copy of this Lease or a memorandum of it, executed and acknowledged by both parties, be recorded in the public records of Clackamas County, Oregon. Lessee will pay the recording costs.

23.11 Time Is of the Essence. Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

23.12 Interpretation. In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon shall be given equal weight, and there shall be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Lessor and Lessee acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

23.13 Headings, Captions, and References. The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term “Herein” refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neutral gender in this Lease includes the masculine, feminine, and neutral genders and the singular form includes the plural when the context so requires.

23.14 Relationship of Parties. Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Lessor and Lessee.

23.15 USA PATRIOT Act Compliance. Lessee represents to Lessor that Lessee is not (and is not engaged in this transaction on behalf of) a person or entity with which Lessor is prohibited from doing business pursuant to Antiterrorism Laws. “Antiterrorism Laws” means any law, regulation, or executive order pertaining to national security and specifically includes, but is not limited to, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the PATRIOT Act) (Pub L 107-56, 115 Stat 272); the Bank Secrecy Act (31 USC § 5311 *et seq.*); the Trading with the Enemy Act (50 USC App

§ 1 *et seq.*); the International Emergency Economic Powers Act (50 USC §§ 1701–1706); sanctions and regulations promulgated pursuant thereto by the Office of Foreign Assets Control, as well as laws related to the prevention and detection of money laundering in 18 USC sections 1956 to 1957. Lessee hereby agrees to indemnify, defend, and hold Lessor harmless from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney fees and costs at trial and on appeal) arising from or related to any breach of the foregoing warranty, representation, and certification. Following a Transfer, Lessee will cause the transferee (including, but not limited to, an assignee, sublessee, and licensee), for the benefit of Lessor, to reaffirm, on behalf of such transferee, the representations of, and to otherwise comply with the obligations set forth in this section 29.15, and it is reasonable for Lessor to refuse to consent to a Transfer in the absence of such reaffirmation and compliance.

[Signature Page Follows]

IN WITNESS WHEREOF, Lessee and Lessor have caused this Lease to be executed by their duly authorized representatives as of the day and year first written above.

CLACKAMAS COUNTY
DEVELOPMENT AGENCY

/s/ _____,

By: _____

Name: _____

Title: Chair

CLACKAMAS COUNTY

/s/ _____,

By: _____

Name: _____

Title: Chair

EXHIBIT A

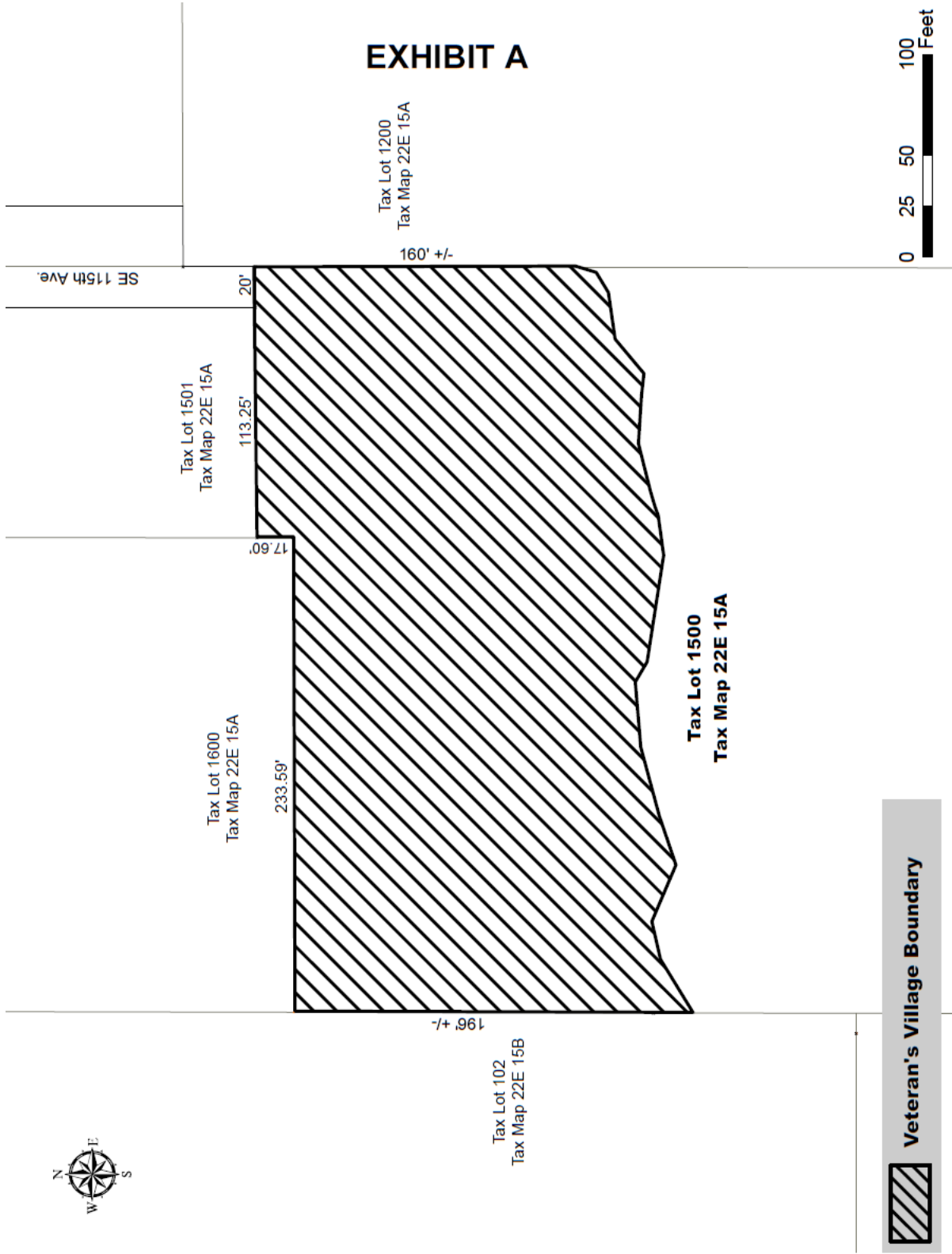


EXHIBIT B

Lessee Owned Improvements

- Up to 30 sleeping pods
- Bathroom and kitchen facilities
- ADA accessibility improvements
- Power poles