

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Policy Session Worksheet

**Presentation Date:** 05/11/2021 **Approx. Start Time:** 3:00 p.m. **Approx. Length:** ½ hour

**Presentation Title:** Urban Growth Management Agreements (UGMAs) and Happy Valley East UGMA

**Department:** Planning and Zoning Division, Department of Transportation and Development (DTD)

**Presenters:** Dan Johnson, DTD Director; Martha Fritzie, Principal Planner

**Other Invitees:** Jennifer Hughes, Planning Director; Cheryl Bell, DTD Assistant Director; Nate Boderman, Assistant County Counsel

### WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff is requesting Board direction on whether and/or how to move forward with the execution of the Happy Valley East Urban Growth Management Agreement (UGMA), a proposed inter-governmental agreement to establish planning responsibilities and identify other coordination expectations for the western portion of the former city of Damascus.

### EXECUTIVE SUMMARY:

Clackamas County has Urban Growth Management Agreements (UGMAs) with nearly all of the 16 cities that are completely or partially contained in the county. These agreements generally spell out how the city and county will coordinate in areas which are of mutual interest to both the jurisdictions, particularly areas which the city would like to see annexed into their jurisdiction at some point in the future.

These UGMAs are required by state law and are necessary for management of areas of mutual interest in order to coordinate planning and service delivery to provide:

- a smooth transition when lands are annexed; and
- predictability via consistent policies and standards for development.

Each agreement is individually negotiated and pertains to specific issues between the county and that city. The underlying theme of these agreements is that urban development should occur within cities and urban services should be provided by the city.

In most cases, UGMAs require long-range planning activities within the UGMA area to be a coordinated effort between the county and the city and, in many cases the county and city coordinate their comprehensive plan and zoning designations so that there is an easy transition once lands are annexed in to the city for urban development. Until an area annexes, it remains under county jurisdiction for zoning and the county processes all land use applications and permitting activities.

These agreements also specify notification procedures required of both the county and the city. In most cases the county is required to notify the city of any long range planning changes being proposed as well as any other land use applications adjacent to the city. In most of the UGMAs the city must notify the county of any annexation applications of unincorporated county lands within the UGMA area into the city.

In most of the UGMAs, local roads abutting or within a newly annexed area are required to be transferred from the county to the city and certain conditions for that transfer are identified. In some of the more recent UGMAs, there have been provisions requiring the joint transportation planning management of areas including sharing of transportation system development charges.

There is no requirement to update UGMAs on a set schedule. UGMAs are generally updated at the request of cities due to changing land use circumstances in the growth of their jurisdictions.

Planning staff is currently in the process of finalizing a new draft UGMA with the City of Happy Valley; this document, called the Happy Valley UGMA East, will identify planning responsibilities and other coordination expectations for the western portion of the former city of Damascus.

### Happy Valley UGMA East

The Happy Valley UGMA East, has been developed cooperatively over the past several years to address land use coordination and annexation issues, and, most importantly, to clarify roles for urban planning and urban service provision for a portion of the former city of Damascus.

Planning, engineering and legal staff from both the city and the county have reviewed and provided extensive comments, suggestions, and edits to the various drafts of the proposed UGMA. The result is the proposed nearly-final draft of the UGMA that is found in *Attachment 2*.

*Attachment 3* identifies the area that this agreement would cover and generally includes unincorporated lands within the urban growth boundary located to the southeast of the city, including the Carver area, and lands to the east of the city to roughly SE 222nd Ave.

The proposed new UGMA will be a separate agreement from the UGMA that currently exists with the City of Happy Valley, which generally covers the urban areas west of the city to I-205 and south of the city to the urban growth boundary (See *Attachment 4*). No changes are being proposed to this existing UGMA, except that it would now be referred to as the “Happy Valley UGMA West”.

As detailed in *Attachment 2*, the proposed new Happy Valley UGMA East:

- Specifies that county Comprehensive Plan and zoning regulations continue to apply within the UGMA area until land is annexed into city and the county will continue to process all land use applications and permitting activities in such areas;
- Identifies the city as the jurisdiction that will ultimately be responsible for urbanizing lands within the UGMA area that are currently still in rural zoning districts, including:
  - Developing and adopting urban plans for such lands within the UGMA area, including urban public facilities plans;
  - Coordinating with county staff and inviting county staff to participate in relevant advisory committees relevant to the development of urban plans for the area; and
  - Working together with county staff to identify opportunities for land to provide employment uses, as well as lands for the development of affordable housing;
- Identifies certain conditions that need to be met for roadway segments to be transferred from the county to the city upon annexation of abutting properties.
- Identifies notification responsibilities for both the county and city as they relate to land use applications and other permitting activities; and

- Includes other general legal, term length and termination language, all of which has been drafted and reviewed by legal staff.

Typically, when executing an UGMA, city staff will present the document to their City Council for approval first, then county staff will present the document, signed by the city, to the Board for their approval at a Business Meeting. If the Board directs staff to move forward with execution of the proposed Happy Valley UGMA East, county planning and legal staff will work with city staff to finalize the document and begin the necessary processes for adoption.

**FINANCIAL IMPLICATIONS (current year and ongoing):**

**Is this item in your current budget?** Yes

**What is the cost?** Existing staff time

**What is the funding source?** Planning & Zoning Division budget, funded primarily by the General Fund

**STRATEGIC PLAN ALIGNMENT:**

- **How does this item align with your Department’s Strategic Business Plan goals?**  
This item aligns with the Long-Range Planning program’s purpose of providing land use and transportation plan development, analysis, coordination and public engagement services to residents; businesses; local, regional and state partners; and County decision-makers so they can plan and invest based on a coordinated set of goals and policies that guide future development.
- **How does this item align with the County’s Performance Clackamas goals?**  
The proposal aligns with the Performance Clackamas goal to “Build Public Trust through Good Government”. Creating coordination documents like the UGMA provide more certainty and continuity for residents and businesses seeking to develop in areas near cities.

**LEGAL/POLICY REQUIREMENTS:**

UGMAs are required by state law and by the county’s Comprehensive Plan. UGMAs may be long term or may need more frequent revisions, depending upon circumstances in the area (growth pressures, political preferences, etc.) and based upon mutual agreement of the participating parties.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

The proposed Happy Valley UGMA East document is the result of extensive work and cooperation by both city and county representatives.

The general public typically does not participate in the development of inter-governmental agreements, but the adoption process occurs at duly-advertised public meeting(s), at which members of the public may be allowed to participate.

**OPTIONS:**

- 1.) Direct staff to proceed with the adoption process for the Happy Valley UGMA East and return to the Board for approval at a future Business Meeting, once the documents are signed by city officials.
- 2.) Direct staff to make certain specified changes to the Happy Valley UGMA East and return to discuss the document in more detail at a future Policy Session.

**RECOMMENDATION:**

Staff recommends Option 1 - direct staff to proceed with the adoption process for the Happy Valley UGMA East and return to the Board for approval at a future Business Meeting, once the documents are signed by city officials.

**ATTACHMENTS**

1. PowerPoint presentation for 04/11/2021
2. *Happy Valley UGMA East*, draft dated 03/09/2021
3. Map: *Happy Valley UGMA East, Exhibit A*
4. *Happy Valley UGMA (West)*, adopted 11/18/2013

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_ *Dan Johnson* \_\_\_\_\_

County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact Martha Fritzie @ 503-742-4529
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## Urban Growth Management Agreements (UGMAs) and Happy Valley UGMA East

BCC Policy Session  
May 11, 2021



### **UGMAs - generally**

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- Required by state law
- Necessary for management of areas of mutual interest
  - Coordinate planning and service delivery
  - Smooth transition when lands are annexed
  - Predictability
- Individually negotiated between city and county, specific issues
- Updated as necessary, as agreed by city and county

[2]



## UGMAs – typical elements

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- Planning responsibilities
  - Cities do urban and public facilities planning
  - County zoning in effect until annexation
  - County reviews land use applications until annexation
- Notification procedures, city and county
- What happens to roads when property annexes
- May have customized components

[3]



## Happy Valley UGMA East - generally

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- Developed cooperatively: planning, engineering, legal staff
- Includes western portion of former city of Damascus
- Separate agreement from existing Happy Valley UGMA (West)

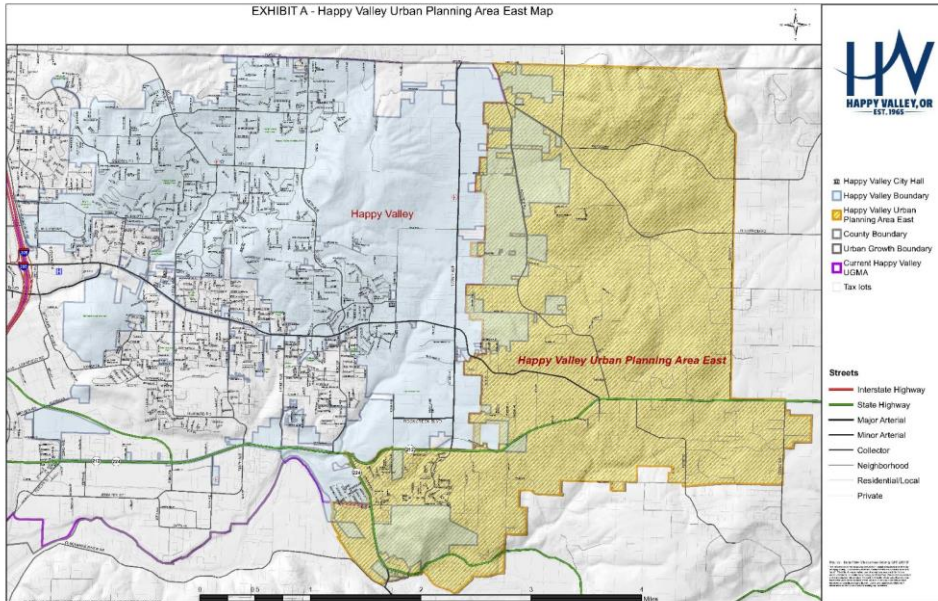
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# Happy Valley UGMA East - elements

- County zoning continues to apply until annexed to city
- City responsible for urbanizing lands
  - Develop urban land use and public facilities plans
  - Coordinate with county
  - Employment lands, affordable housing and Sunrise Corridor
- Roadway conditions for transfer – post annexation
- Notification requirements

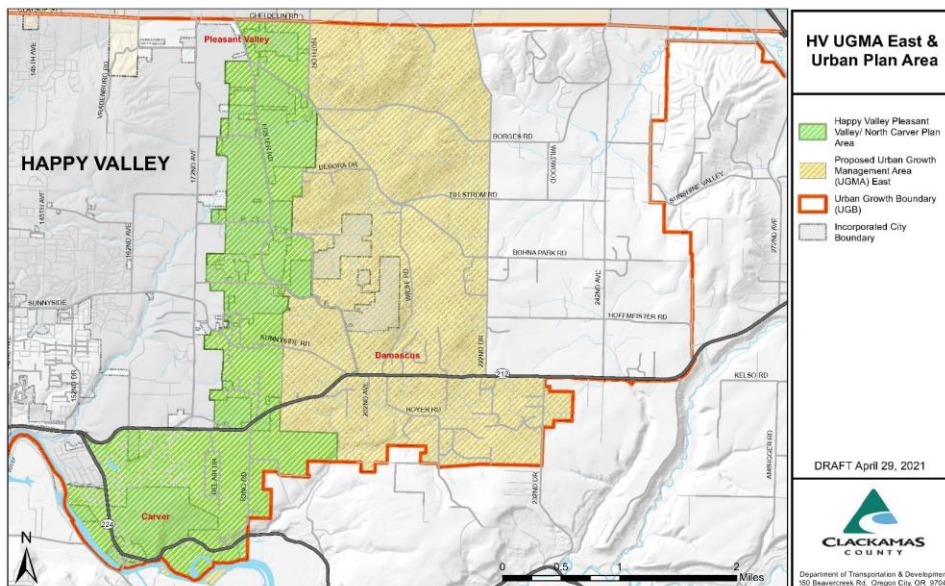
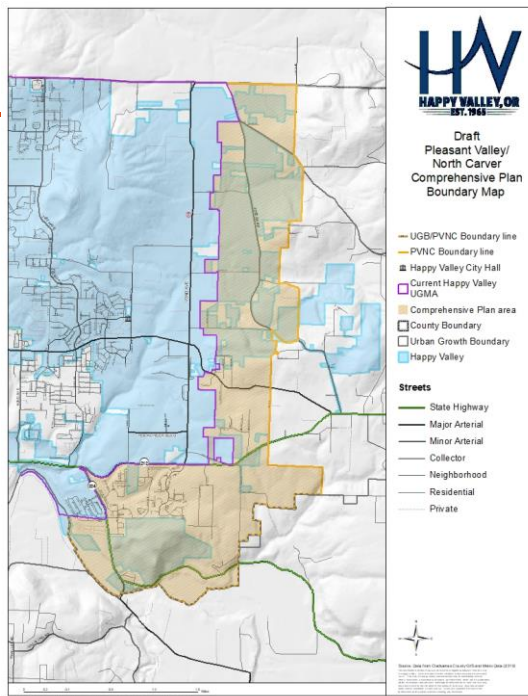
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[6] 

## Urban Planning Underway

- Pleasant Valley/ North Carver Comprehensive Plan (City of Happy Valley)
- Approx. 2,700 acres



[8]



## Happy Valley UGMA East – next steps

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1. Finalize language, annexation conditions
2. Happy Valley City Council approval, signature(s)
3. Board of County Commissioners approval, signature(s)
  - BCC Business meeting

[9]



**Questions?**

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**CLACKAMAS COUNTY – CITY OF HAPPY VALLEY  
URBAN GROWTH MANAGEMENT AGREEMENT**

This Urban Growth Management Agreement (“UGMA” or “Agreement”), by and between the City of Happy Valley, an Oregon municipal corporation (“City”) and Clackamas County, a political subdivision of the State of Oregon (“County”) (collectively, the “Parties,” and each individually a “Party”).

**RECITALS**

WHEREAS, authority is conferred upon local government under ORS 190.010 to enter into an agreement for the performance of functions and activities that the local government, its officers or agencies has authority to perform; and

WHEREAS, the City and the County have a common interest in coordinated comprehensive plans, compatible land uses and coordinated planning of urban facilities within the Happy Valley Urban Planning Area East (“HVUPAE”), as described in Exhibit A to this Agreement; and

WHEREAS, the exchange of information should concentrate on issues that may have a significant impact on either Party and should not entail cumbersome procedural requirements that may increase the time necessary to expedite decision making; and

WHEREAS, OAR 660-003-0010 requires management plans for unincorporated areas within an urban growth boundary to be set forth in a statement submitted to the Land Conservation and Development Commission (“LCDC”) at the time of acknowledgement request; and

WHEREAS, OAR 660-011-0015 requires an urban growth management agreement to specify the entity responsible for the preparation, adoption and amendment of the public facility plan(s); and

WHEREAS, the City and County previously entered into an urban growth management agreement on January 30, 1992, and amended on June 19, 2001, and subsequently amended on November 18, 2013 for areas to the west and southwest of the existing City of Happy Valley (extending to the Veterans Memorial Highway), which is hereby referred to as the “UGMA WEST” and is a separate urban growth management agreement from this Agreement, which is hereby referred to as the “UGMA EAST”.

NOW THEREFORE, the Parties agree as follows:

## AGREEMENT

### 1. Definitions.

As used in this Agreement, the following words shall mean or include:

- 1.1 Comprehensive Plan. Any plan document as described in ORS 197.015(5) that is adopted by a Party and that applies within the HVUPAE.
  - 1.1.1 City Comprehensive Plan. The City of Happy Valley Comprehensive Plan.
  - 1.1.2 County Comprehensive Plan. The Clackamas County Comprehensive Plan.
  
- 1.2 Land Use Policies. The whole or any part of any comprehensive plan, subarea comprehensive plan, Title 16 of the City’s Municipal Code (“Development Code”), the Clackamas County Zoning and Development Ordinance (“ZDO”), refinement plan, public facility plan developed under OAR Chapter 660, Division I, land use regulation as defined by ORS 197.015(11), or any other generally applicable policy regulating the use or development of land. As applied to Metro, "Land Use Policies" include Planning Goals and Objectives, Regional Urban Growth Goals and Objectives, Functional Plans, and Regional Framework Plans.
  
- 1.3 Happy Valley Urban Planning Area East (“HVUPAE”). The HVUPAE includes unincorporated land within the Portland Metropolitan Urban Growth Boundary (“UGB”) located generally east of 172<sup>nd</sup> Avenue and west of 222<sup>nd</sup> Avenue, as illustrated on the map attached as Exhibit A to this Agreement.

### 2. Terms of this Agreement.

- 2.1 This UGMA EAST becomes effective as specified under Section 8.3, below, and shall continue thereafter for an initial term of 10 years, unless terminated as provided in this Section or modified consistent with Section 8.4. This Agreement automatically renews for one additional 10-year term unless, not later than 90 days prior to the expiration of the initial term of this UGMA, one of the Parties provides the other Party with written notice that it does not wish to renew the UGMA EAST, in which case this UGMA will automatically terminate upon completion of the initial 10-year term. Either Party may terminate this agreement at any time after providing at least 90 days written notice to the other Party.

### 3. General Provisions.

#### 3.1 General Planning and Permitting Responsibilities

- 3.1.1 Comprehensive Plan/Zoning Designations and Amendments. The County Comprehensive Plan and zoning shall apply to all unincorporated land within the HVUPAE until such time as those lands are annexed into the City. Unless otherwise provided by law, the development of a comprehensive plan map amendment or zone change for the unincorporated areas within the HVUPAE shall

be a coordinated joint effort of the Parties. The County shall be responsible for preparing and making a decision on all legislative and quasi-judicial comprehensive plan amendments/zone changes for areas within the HVUPAE not annexed to the City in coordination with the City and consistent with state law and the Metro Functional Plan. The City shall have the unrestricted right to review, comment on and appeal all legislative and quasi-judicial comprehensive plan amendments/zone changes processed by the County within the HVUPAE.

**3.1.2**

Land Use Permitting Authority. The County Comprehensive Plan and land use regulations shall apply to an application for a permit or other land use review within the HVUPAE not annexed to the City. County shall retain responsibility and authority for all implementing regulations and land use actions for all unincorporated lands within the HVUPAE, until lands are annexed to the City.

For properties that annex into the City of Happy Valley in the HVUPAE, the City shall apply the underlying County Plan and zone provisions in accordance with the procedural framework of the City’s Municipal Code until the City has adopted urban City Comprehensive Plan designations and zoning districts for the HVUPAE.

**3.1.3**

Urban Plan Development. The Parties agree that the City shall be responsible for developing and adopting an urban Comprehensive Plan and zoning districts for areas that do not currently have urban designations within the HVUPAE, per Section 4 of this Agreement.

**3.1.4**

Land Divisions. Land divisions that would create parcels smaller than 20 acres in size shall not occur within lands with a Rural Comprehensive Plan designation within the HVUPAE.

**3.2** Annexation.

**3.2.1** Conditions Requiring Annexation. Owners of property adjacent to the City (or separated only by a public right-of-way or body of water), who are seeking access to City-provided services (for example: Planning, Engineering, or Building Division permits or City-provided sanitary or storm sewer services) may/shall\* -be required to file an annexation petition to the City. *\* Note: Text in Section 3.2.1 is still being negotiated among the city and county and will ultimately reflect what is legal and acceptable to both jurisdictions.*

**3.2.2** Annexation Consent. At the discretion of the Board of County Commissioners (“Board”), the County may provide consent for annexations, when such consent is required per ORS 222.170 or ORS 222.125 for properties utilizing county right-of-way for an annexation, if city agrees to accept the transfer of the section of the roadway being used to access the annexed property.

**3.2.3** Annexation Plan. Any City-initiated Annexation Plan shall be developed consistent with applicable state and regional laws. Opportunity shall be provided

to citizens, the County, active Citizen Planning Organizations (“CPOs”) and affected service providers to review and comment on the Annexation Plan prior to any annexation election. Annexation Plan(s) will include development of public facilities plan(s) for the Annexation Plan area(s).

### **3.3 Public Facilities.**

**3.3.1 Public Facilities Plans.** Except as identified in Section 4, the City shall coordinate the preparation or amendment of public facilities plans within the HVUPAE as may be required by OAR Chapter 660, Division 11 (Public Facilities Planning) and applicable sections of ORS Chapter 195 with the appropriate service providers. Upon annexation, an area within the HVUPAE shall be provided with public facilities services through a combination of City-provided services and by way of Intergovernmental Agreements (“IGAs”) with applicable service providers, which may include the following: sanitary storm services – Water Environment Services “WES”); water service providers – Sunrise Water Authority, Clackamas River Water; county road services – Clackamas County Department of Transportation and Development; fire prevention services – Clackamas Fire District No. 1; services related to the provision and maintenance of open space – Metro; mass transit services – Tri-Met; and, school facility planning – North Clackamas School District No. 12, Gresham-Barlow School District, and Centennial School District.

**3.3.2 New Service Districts.** County shall not form any new county service districts to serve any areas within the HVUPAE, nor shall it support the annexation of any land within the HVUPAE to any such districts or to any other service districts without the prior written consent of the City.

## **4. Planning for Urbanization of Rural Lands in the HVUPAE.**

**4.1 Planning authority.** The City shall be responsible for planning for any future urbanization of rural lands within the HVUPAE. The urbanization of rural lands within the HVUPAE will only occur upon annexation to the City. The City shall coordinate with the County Planning Division and other relevant County Department of Transportation and Development (“DTD”) staff regarding future urban planning and development activities and the transportation network in the HVUPAE. County staff shall be invited to participate in the proceedings of all relevant Technical Advisory Committees in the review of urban plans within the HVUPAE. The City shall notify and coordinate with the County on amendments to the City’s Transportation System Plan (“City TSP”).

**4.2 Land use and transportation planning in the HVUPAE.** Building off existing studies and previously completed planning work, the City of Happy Valley and the County will develop the following planning documents for the HVUPAE:

**4.2.1 Integrated Land Use and Transportation Plans (Urban Plans):**

The City may create detailed, integrated land use and transportation plans for “phases,” or portions of the HVUPAE that the City determines are of sufficient size to phase development and urban service provision in a cost-effective and efficient manner. These plans shall include all elements required for a full urban

comprehensive plan for the selected area.

**4.2.1.1 Coordination:** All integrated land use and transportation plans shall be coordinated with the County to ensure consistency with County transportation plans and other planning in adjacent unincorporated rural areas. The City shall lead this planning undertaking with County coordination and participation in all relevant committees.

**4.2.1.2 Notification:** The City shall notify the County Planning Director prior to the initiation of each phase of urban land use and transportation planning. Notification shall, at a minimum, include a map of the area to be planned and an estimated timeframe for adoption of an urban plan.

**4.2.1.3 Providing Employment Land:** The City and County recognize the importance of providing employment land to support stronger economic growth in the County and will work together to identify opportunities to provide such lands in the HVUPAE, to potentially include employment areas different than those identified as Metro Title 4 lands.

**4.2.1.4 Providing Affordable Housing Opportunities:** The City and County recognize the importance of providing land for the development of affordable housing in the County and will work together to identify opportunities to provide such lands in the HVUPAE.

**4.2.2 Clackamas County Transportation System Plan (“County TSP”):** An update of the County TSP will be developed for the Metro UGB area illustrated within Exhibit A beyond (east of) any areas inside the HVUPAE that are not part of an integrated land use and transportation plan that is adopted or actively being completed by the City. The County TSP update will plan for transportation improvements necessary to serve travel patterns that are expected in the future in and adjacent to the HVUPAE including, without limitation, those areas within the Metro UGB but outside the HVUPAE.

**4.3 State Highway System Improvements.** The City and County recognize the importance of working with the Oregon Department of Transportation (“ODOT”) to ensure that state transportation facilities be built/improved to accommodate expected population and employment growth in the HVUPAE and will utilize any subsequent land use and transportation plans to advocate for the timely development of the Sunrise Highway.

## 5. Other City Responsibilities.

**5.1 Functions.** All functions relating to the subject matter of this Agreement not specifically listed in this Section or any Exhibit as being the responsibility of the City will remain the responsibility of County. City shall be responsible for the timely and effective distribution to County of studies, information, requests, data

and personal communications in City's possession on any matter concerning coordination between the City and County and/or regarding any infrastructure or policy issues coordinated by County.

- 5.2** Road Jurisdiction, Transfer and Condition. The City shall assume jurisdiction of the full width of any applicable segment of County road classified by the County as minor arterial, collector, connector, or local street that is within or immediately abutting an area annexed to the City within one year of the date of that annexation, assuming all provisions detailed below have been met. The transfer and assumption of jurisdiction shall be consistent with the provisions of ORS 373.270.

Concurrent with the date that a road is transferred, the County will upgrade the roadway or provide funds equivalent to the cost of a two-inch overlay over the existing pavement area, unless the road has a Pavement Condition Index (PCI) rating of 70 or higher, or the Parties mutually agree that overlay funds are not necessary for transfer. Alternatively, if a roadway or roadway section has a PCI of 50 or less, the City will only accept said roadway once a PCI of 70 or higher is achieved by the County or the Parties mutually agree upon a funding level equivalent to upgrading of the roadway to a PCI of 70 or higher.

**5.2.1** For any County minor arterial, collector, connector or local street within the City boundary that is being transferred, but subsequent to annexation, the County shall allow improvements to be constructed to City standards and defer permitting authority to the City. The City shall issue all appropriate permits directly to the developer.

**5.2.2** For any improvements to a County major arterial road within the City boundary, the County shall determine if City standards along the major arterial are acceptable to the County and do the following:

- A. If the City standards are acceptable to the County, the County shall allow all improvements to be constructed to City standards. The County shall issue all appropriate permits with City concurrence.
- B. If the proposed cross section standards are not acceptable to the County, the County shall require those improvements to be constructed to County standards. The County shall issue all appropriate permits.

- 5.3.** City Notice to and Coordination with the County and CPOs.

**5.3.1.** The City shall provide notice to the County and the appropriate active CPOs at least 20 days prior to the first public hearing on all proposed annexations or extraterritorial service extensions into unincorporated areas.

**5.3.2.** The City shall provide notice to the County at least 20 days prior to the first scheduled public hearing on all proposed legislative changes to the City

Comprehensive Plan or any quasi-judicial hearings regarding properties adjacent to unincorporated areas within the HVUPAE.

**5.3.3.** The City shall notify and coordinate with the County on amendments to the City TSP.

**5.3.4.** City shall provide notice and a service-provider comment letter to the applicable County Department in conjunction with the City's review of any land use application or building permit in which the proposed development activity might affect County facilities.

## **6. Other County Responsibilities.**

### **6.1. County Notice to and Coordination with the City for Lands in HVUPAE.**

**6.1.1.** The County shall provide notice to the City at least 20 days prior to the first scheduled public hearing on all proposed legislative changes to the County Comprehensive Plan text, implementing ordinances or other land use policies affecting land within the HVUPAE, and shall provide notice to the City at least 20 days prior to the first scheduled quasi-judicial public hearing regarding any properties adjacent to the City's incorporated area.

**6.1.2.** The County shall provide notice to the City at least 20 days prior to a staff decision on any Type II application for administrative action as provided in the ZDO for property within the HVUPAE.

**6.1.3.** The County shall notify and invite City staff to participate in or comment on all pre-application meetings for design review, conditional use permits, partitions, subdivisions or other significant development proposals within unincorporated areas of the HVUPAE at least 15 days prior to any such meeting.

**6.1.4.** Any amendments proposed by the County to the UGB within one mile of the HVUPAE will be reviewed jointly by the City and the County prior to submission to Metro.

**6.1.5.** In any County land use proceeding affecting property within the HVUPAE, the County shall enter all written comments received from the City into the public record and shall consider such written comments in the exercise of its planning and plan implementation responsibilities.

## **7. Mutual Indemnification**

**7.1** Subject to Article XI of the Oregon Constitution and ORS 30.260 to 30.300, the City will hold harmless, defend and indemnify the County, its elected officials, officers, and employees, for and against any claims or damages to property or injury to persons, resulting in whole or part from City's acts or omissions in performing any obligations under this Agreement.



7.2 Subject to Article XI of the Oregon Constitution and ORS 30.260 to 30.300, the County will hold harmless, defend and indemnify the City, its elected officials officers and employees for and against any claims or damages to property or injury to persons, resulting in whole or part from the County’s acts or omissions in performing any obligation under this Agreement.

**8. General Provisions.**

8.1 Applicable Law. This Agreement shall be governed by Oregon law, without giving effect to the conflict of law provisions thereof, and the Parties agree to submit to the jurisdiction of the courts of the State of Oregon.

8.2 Insurance Coverage.

8.2.1. **Commercial General Liability Insurance.** Each of the Parties shall obtain and maintain at all times during the course of this Agreement commercial general liability insurance coverage pursuant to Oregon Tort Claims Act and subject to the limits of the Act covering Bodily Injury and Property Damage on an “occurrence” form in the amount of not less than \$1 Million per occurrence/\$2 Million general aggregate for the protection of the other Party, its officers, elected officials and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement.

8.2.2. **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew any Party’s insurance coverage contemplated by this Agreement without 60 days written notice to the other Party. Any failure to comply with the provision will not affect the insurance coverage provided to the Party. The 60-day notice of cancellation provision shall be physically endorsed on to the policy.

8.2.3. **The County may self-insure to meet the minimum insurance requirements of this Section 8.2, to the extent that it maintains a self-insurance program that complies with the insurance requirements applicable under this Section 8.2.**

8.3 Effective Date and Term. This Agreement shall become effective on the last date signed below and shall continue in effect according to its Terms.

8.4 Amendment. This Agreement may be amended at any time consistent with Section 8.9 below.

8.5 Assignment. Except as otherwise provided herein, the Parties may not assign any of their rights or responsibilities under this Agreement without prior written consent from the other Party, except that a Party may delegate or subcontract for performance of any of their responsibilities under this Agreement.

8.6 Dispute Resolution.

**8.6.1.** Subject to mutually agreed upon extensions of time in writing, failure or unreasonable delay by any party to substantially perform any material provision of this agreement shall constitute default. In the event of an alleged default or breach of any term or condition of this agreement, the Party alleging such default or breach shall give the other Party not less than 30 days written notice specifying the nature of the alleged default and the manner in which the default may be cured satisfactorily. During this 30-day period, the Party shall not be considered in default for purposes of termination or instituting legal proceedings.

**8.6.2.** The Parties shall first attempt to resolve the dispute by negotiation, followed by mediation, if negotiation fails to resolve the dispute.

**8.6.3. Step One: (Negotiation).** Each Party will select one or more person(s) to negotiate on behalf of the entity they represent. Those person(s) shall then meet and attempt to resolve the issue. If the dispute is resolved, there shall be a written determination of such resolution, signed by a representative of each Party and ratified by the governing bodies that shall then be binding.

**8.6.4. Step Two: (Mediation).** If the dispute cannot be resolved within thirty (30) days at Step One, the Parties may submit the matter to mediation. The Parties shall attempt to agree on a mediator. If they cannot agree, the Parties shall request a list of five (5) mediators from an entity or firm providing mediation services. The Parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree, each Party shall select one (1) name. The two selected shall select a third person who shall serve as the mediator. The common costs of mediation borne equally by the Parties with each bearing its own costs and fees. If the issue is resolved at this step, a written determination shall be signed by each Party and approved by the governing bodies.

**8.6.5. Step Three (Legal Action).** If the dispute remains unresolved following mediation, the Parties may seek remedy by appropriate proceedings filed in Clackamas County Circuit Court. In any such judicial proceeding, each Party shall be responsible for its own costs and fees.

**8.7**     Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, and all of such counterparts shall constitute one Agreement. Counterparts of executed signature pages may be attached to any one or more counterparts of this Agreement. To facilitate execution of this Agreement, the Parties may execute by facsimile or e-mail transmission counterparts of the signature pages.

**8.8**     Severability. In the event a court of competent jurisdiction deems any portion or part of this Agreement to be unlawful or invalid, only that portion or part of the Agreement shall be considered unenforceable. The remainder of this Agreement shall continue to be valid.

- 8.9** Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior oral or written agreements or representations relating to the HVUPAE. No waiver, consent, modification or change of terms of this Agreement shall bind the Parties unless in writing and signed by each party.
- 8.10** Non-Exclusive Rights and Remedies. Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive and shall be in addition to and cumulative with all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- 8.11** Debt Limitation. 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.
- 8.12** Waiver. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- 8.13** Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- 8.14** No Third-Party Beneficiary. Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the City.
- 8.15** Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be mailed or sent by scanned document (e-mailed) or faxed with hard copy to follow by post, addressed as follows:

To City:           City of Happy Valley  
                      Economic & Community Development Department  
                      16000 SE Misty Drive  
                      Happy Valley, OR 97086

To County:       Clackamas County Planning & Zoning Division  
                      150 Beaver creek Rd.  
                      Oregon City, OR 97045

IN WITNESS WHEREOF, the respective Parties have caused to be signed on their behalf and enter into this Agreement on the last date indicated below.

CITY OF HAPPY VALLEY

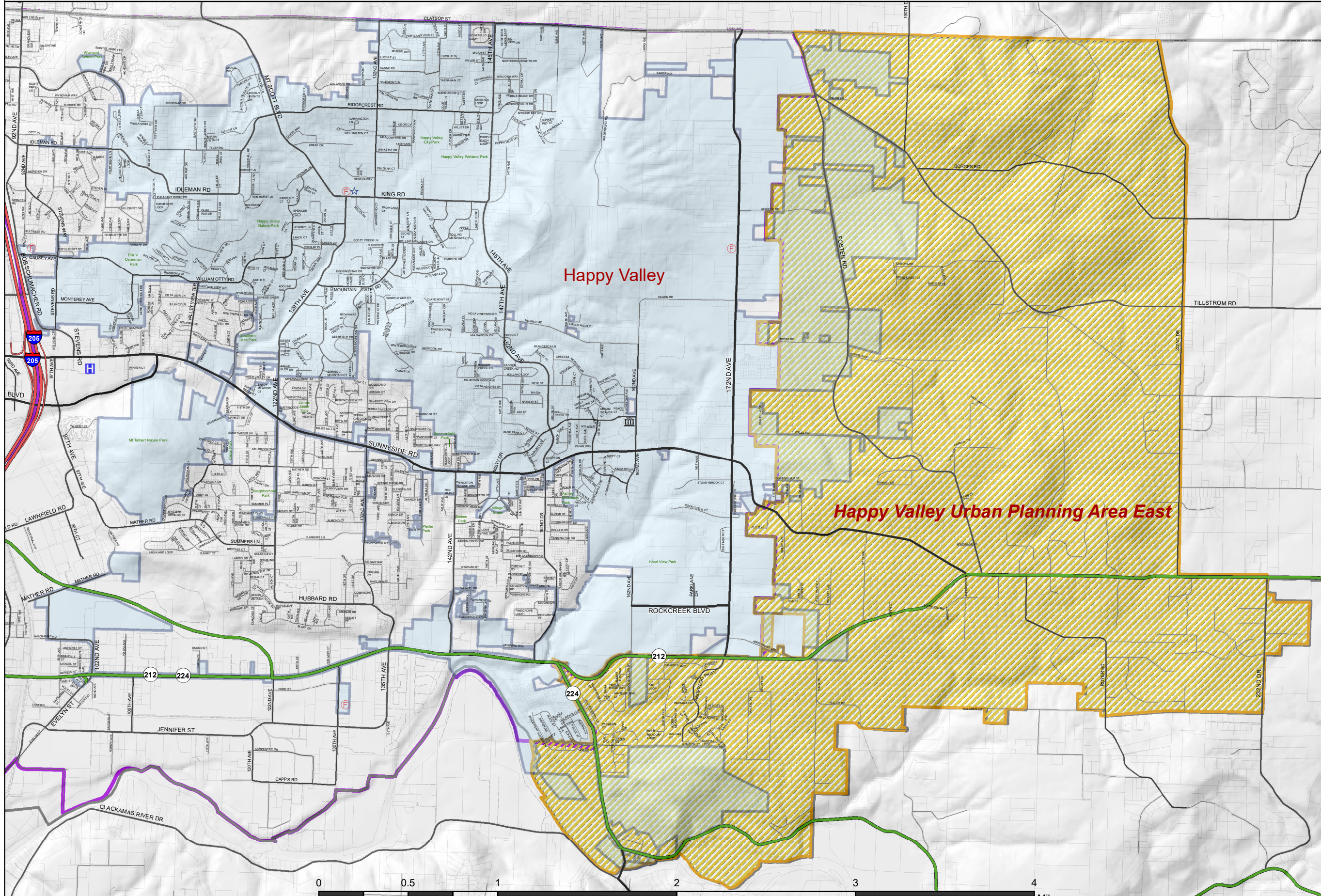
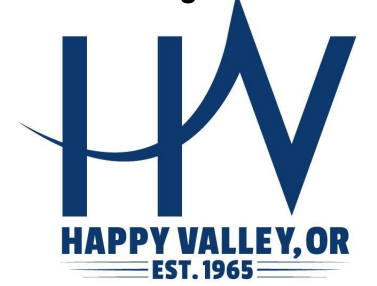
By \_\_\_\_\_ Date \_\_\_\_\_  
Mayor

CLACKAMAS COUNTY

By \_\_\_\_\_ Date \_\_\_\_\_  
Chair, Board of County Commissioners

EXHIBIT "A" – Happy Valley Urban Planning Area East

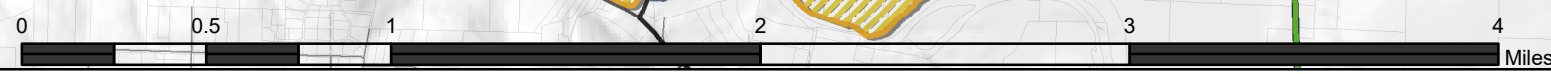
# EXHIBIT A - Happy Valley Urban Planning Area East Map



- Happy Valley City Hall
- Happy Valley Boundary
- Happy Valley Urban Planning Area East
- County Boundary
- Urban Growth Boundary
- Current Happy Valley UGMA
- Tax lots

- Streets**
- Interstate Highway
  - State Highway
  - Major Arterial
  - Minor Arterial
  - Collector
  - Neighborhood
  - Residential/Local
  - Private

Source: Data from Clackamas County GIS (2010)  
 The information on this map was derived from digital databases from the City of Happy Valley. Care was taken in the creation of this map but it is provided "as is". The City of Happy Valley cannot accept any responsibility for any errors, omissions, or positional accuracy, and therefore, there are no warranties which accompany this product. Although information from Land Surveys may have been used in the creation of this product, in no way does this product represent or constitute a Land Survey. Users are cautioned to field verify information on this product before making any decisions.



**CLACKAMAS COUNTY – CITY OF HAPPY VALLEY  
URBAN GROWTH MANAGEMENT AGREEMENT**

This Urban Growth Management Agreement (“UGMA”), is entered into by and between the City of Happy Valley, an Oregon municipal corporation (“City”) and Clackamas County, a political subdivision of the State of Oregon (“County”) (collectively, the “Parties,” and each individually a “Party”).

**RECITALS**

WHEREAS, authority is conferred upon local government under ORS 190.010 to enter into an agreement for the performance of any and all functions and activities that the local government, its officers or agencies has authority to perform; and

WHEREAS, the City and the County have a common interest in coordinated comprehensive plans, compatible land uses and coordinated planning of urban facilities within the Happy Valley Urban Planning Area (HVUPA), as described in Exhibit A to this Agreement; and

WHEREAS, the exchange of information should concentrate on issues that may have a significant impact on either Party and should not entail cumbersome procedural requirements that may increase the time necessary to expedite decision making; and

WHEREAS, OAR 660-003-010 requires management plans for unincorporated areas within an urban growth boundary to be set forth in a statement submitted to the Land Conservation and Development Commission (“LCDC”) at the time of acknowledgement request; and

WHEREAS, OAR 660-011-015 requires an Urban Growth Management Agreement (“UGMA”) to specify the entity responsible for the preparation, adoption and amendment of the public facility plan(s); and

WHEREAS, the City and County previously entered into an UGMA on January 30, 1992, and amended on June 19, 2001, which is to be superseded by this Agreement;

NOW THEREFORE, the Parties agree as follows:

**AGREEMENT**

**1. Definitions**

As used in this Agreement, the following words shall mean or include:

- 1.1** Comprehensive Plan. The City of Happy Valley Comprehensive Plan, the Clackamas County Comprehensive Plan, and any other plan document described

in ORS 197.015(5) that is adopted by a Party and that applies within the Urban Planning Area.

1.2 Land Use Policies. The whole or any part of any comprehensive plan, subarea comprehensive plan, Title 16 of the City's Municipal Code ("Development Code"), refinement plan, public facility plan developed under OAR Chapter 660, Division I, land use regulation as defined by ORS 197.015(11), or any other generally applicable policy regulating the use or development of land. As applied to Metro, "Land Use Policies" include Planning Goals and Objectives, Regional Urban Growth Goals and Objectives, Functional Plans, and Regional Framework Plans.

1.3 Happy Valley Urban Planning Area. The Happy Valley Urban Planning Area ("HVUPA") includes unincorporated land within the Portland Metropolitan Urban Growth Boundary ("UGB") as illustrated on the map attached as Exhibit A to this Agreement.

## 2. Terms of this Agreement.

This Agreement supersedes all prior UGMAs between the parties. This UGMA becomes effective upon the Effective Date and continue thereafter for an initial term of five (5) years, unless terminated as provided in this Section or modified consistent with Section 7.4. This Agreement automatically renews for one ten (10) year term unless, not later than 90 days prior to the expiration of the initial term of this UGMA one of the Parties provides the other with written notice that it does not wish to renew the UGMA. Either party may terminate this agreement at any time after ninety (90) days written notice to the other party.

## 3. Comprehensive Plan Designation/Zoning, Permitting Authority, Annexation and Public Facilities Planning for Lands in the HVUPA.

3.1 Comprehensive Plan/Zoning Map Amendments. The County Comprehensive Plan and zoning shall apply to all unincorporated land within the HVUPA until such time as those lands are annexed into the City. Unless otherwise provided by law, the development of a comprehensive plan and/or comprehensive plan map amendment or zone change for the unincorporated areas within the HVUPA shall be a coordinated joint effort of the Parties. The County shall be responsible for preparing all legislative and quasi-judicial comprehensive plan amendments/zone changes within the HVUPA. The City shall have the unrestricted right to review and comment on all legislative and quasi-judicial comprehensive plan amendments/zone changes prepared by the County within the HVUPA.

3.2 Permitting Authority and Annexation to City. The County Comprehensive Plan and land use regulations shall apply to an application for a permit or other land use review within the HVUPA. The County shall provide notice to the City of all land use applications and proposed legislative amendments to the county comprehensive plan and land use regulations affecting property within the HVUPA. The owner of property that is adjacent to the City (including by

extension of a public right-of-way or body of water) and who is seeking access to City-provided services (for example, Planning, Engineering, or Building Division permits) may be required to consent to annexation to the City.

**3.3** Annexation Plan. Any City-initiated Annexation Plan shall be developed consistent with applicable state and regional laws. Opportunity shall be provided to citizens, the County, active Citizen Planning Organizations (CPOs) and affected service providers to review and comment on the Annexation Plan prior to any annexation election. Annexation Plan(s) will include development of public facilities plan(s) for the Annexation Plan area(s).

**3.4** Public Facilities Plans. The City shall coordinate the preparation or amendment of public facilities plans within the HVUPA as may be required by OAR Chapter 660, Division 11 (Public Facilities Planning) and applicable sections of ORS Chapter 195 with the appropriate service providers. Upon annexation, an area within the HVUPA shall be provided with public facilities services through a combination of City-provided services and by way of intergovernmental agreements (“IGA’s”) with the sewer provider (Clackamas County Service District No. 1), water providers (Sunrise Water Authority and Clackamas River Water), county road services (Clackamas County Department of Transportation and Development), fire prevention service (Clackamas Fire District No. 1), parks services (North Clackamas Parks & Recreation District), open space (Metro), mass transit services (Tri-Met), and school facility planning (North Clackamas School District No. 12).

#### **4. City’s Responsibilities**

**4.1** Functions. All functions not specifically listed in this Section or any Exhibit as a City responsibility shall remain the County’s responsibility. The City shall timely distribute studies, information, requests, data and personal communications to the County on matters regarding infrastructure or policy issues that affect or are coordinated by the County.

**4.2** Road Jurisdiction. The City shall assume jurisdiction of any County road classified by the County as minor arterial, collector, connector, or local street that is within or abutting an area that is annexed to the City. The transfer shall be consistent with the provisions of ORS 373.270. When a road is transferred, the County shall upgrade the road to a Pavement Quality Index (PQI) standard of ‘8’ or provide the City with sufficient funds to allow the City to achieve the same standard. Any road that has been constructed to City required standards shall be considered to have a minimum PQI of ‘8’.

Subsequent to annexation but prior to transfer of either a collector or local street to the City, the following shall apply:

A. For development project(s) within the city limits on a County collector or



local street, the County shall determine if proposed improvements to the roadway can be built within the existing right-of-way to City standards.

B. If so, the County shall issue all appropriate permits directly to the City or developer and the City or developer shall thereafter submit a set of plans and any revisions approved by the City to the County in a timely fashion.

C. Following construction, inspection and acceptance by the City, the full section of the roadway including the roadway improvements shall thereafter be maintained by the City. The City agrees to initiate jurisdictional transfer of the full width of the portion of the road to which the improvements are made, not less than once a year.

**4.3. City Notice to and Coordination with the County and Community Planning Organizations (CPOs)**

A. The City shall provide notice to the County and the appropriate Community Planning Organization (CPO) at least 20 days prior to the first public hearing on all proposed annexations or extraterritorial service extensions into unincorporated areas.

B. The City shall provide notice to the County and appropriate CPO at least 20 days prior to the first public hearing on all proposed legislative changes to the City comprehensive plan or any quasi-judicial action that affects properties adjacent to incorporated areas.

C. The City shall notify and coordinate with the County on amendments to the City's Transportation System Plan (TSP).

D. City shall provide notice and a service-provider comment letter to the applicable County Department in conjunction with the City's review of any land use application or building permit in which the proposed development activity might affect County facilities.

**5. County's Responsibilities.**

**5.1. Development Proposals for Unincorporated HVUPA Areas.**

A. County shall retain responsibility and authority for all implementing regulations and land use actions for all unincorporated lands within the HVUPA, until such time as lands are annexed to the City.

B. County shall not form any new county service districts or support the annexation of land within the unincorporated HVUPA to such districts or to other service districts without first conferring with the City.

**5.2. County Notice to and Coordination with the City for Lands in HVUPA.**

- A. The County shall provide notice to the City at least 20 days prior to the first scheduled public hearing on a quasi-judicial action or proposed legislative change to the County comprehensive plan text or implementing ordinances affecting land within the HVUPA.
- B. The County shall provide notice to the City at least 20 days prior to a staff decision on an application for administrative action as provided in the County's Zoning and Development Ordinance for property within the HVUPA.
- C. The County shall notify and invite City staff to participate in or comment on pre-application meetings for design review, conditional use permits, partitions, subdivisions or other significant development proposals within unincorporated areas of the HVUPA at least 15 days prior to meeting.
- D. Any amendments proposed by the County to the UGB within one mile of the HVUPA will be reviewed by the City and the County prior to submission to Metro.
- E. In any land use proceeding affecting property within the HVUPA, the County shall enter all written comments of the City into the public record and shall consider the same in the exercise of its planning and plan implementation responsibilities.
- F. The County shall organize and track County participation, comments, issues and conditions of approval, pre-application conferences, land use applications, construction plan review, pre-construction meetings, building permit release letters, occupancy permits and any other permit or process that involves coordination with the City.

**6. Mutual Indemnification**

- 6.1 Subject to Article XI of the Oregon Constitution and ORS 30.260 to 30.300, the City will hold harmless, defend and indemnify the County, its elected officials, officers, and employees, for and against any claims or damages to property or injury to persons, resulting in whole or part from City's acts or omissions in performing any obligations under this Agreement.
- 6.2 Subject to Article XI of the Oregon Constitution and ORS 30.260 to 30.300, the County will hold harmless, defend and indemnify the City, its elected officials officers and employees for and against any claims or damages to property or injury to persons, resulting in whole or part from the County's acts or omissions in performing any obligation under this Agreement.

**7. General Provisions.**

- 7.1 Applicable Law. This Agreement shall be governed by Oregon law and the

Parties agree to submit to the jurisdiction of the courts of the State of Oregon.

7.2 Insurance Coverage.

- A. Commercial General Liability Insurance. City shall obtain and maintain at all times during the course of this Agreement commercial general liability insurance coverage pursuant to Oregon Tort Claims Act and subject to the limits of the Act covering Bodily Injury and Property Damage on an "occurrence" form in the amount of not less than \$1 Million per occurrence/\$2 Million general aggregate for the protection of the County, its officers, elected officials and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement.
- B. Additional Insured Provision. The City's insurance shall include "Clackamas County, its agents, officers and employees" as an additional insured.
- C. Notice of Cancellation. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew the City's insurance coverage without 60 days written notice to the County. Any failure to comply with the provision will not affect the insurance coverage provided to the County. The 60 days notice of cancellation provision shall be physically endorsed on to the policy.

7.3 Effective Date and Term. This Agreement shall become effective on the last date signed below and shall continue in effect according to its Terms.

7.4 Amendment. This Agreement may be amended at any time with the written consent of all Parties.

7.5 Assignment. Except as otherwise provided herein, the Parties may not assign any of their rights or responsibilities under this Agreement without prior written consent from the other Party, except that a Party may delegate or subcontract for performance of any of their responsibilities under this Agreement.

7.6 Dispute Resolution.

- A. Subject to mutually agreed upon extensions of time in writing, failure or unreasonable delay by any party to substantially perform any material provision of this agreement shall constitute default. In the event of an alleged default or breach of any term or condition of this agreement, the Party alleging such default or breach shall give the other Party not less than 30 days written notice specifying the nature of the alleged default and the manner in which the default may be cured satisfactorily. During this 30-day period, the Party shall not be considered in default for purposes of termination or instituting legal proceedings.

- B. The Parties shall first attempt to resolve the dispute by negotiation, followed by mediation, if negotiation fails to resolve the dispute.
- C. Step One: (Negotiation). Each Party will select one or more person(s) to negotiate on behalf of the entity they represent. Those person(s) shall then meet and attempt to resolve the issue. If the dispute is resolved, there shall be a written determination of such resolution, signed by a representative of each Party and ratified by the governing bodies that shall then be binding.
- D. Step Two: (Mediation). If the dispute cannot be resolved within thirty (30) days at Step One, the Parties shall submit the matter to mediation. The Parties shall attempt to agree on a mediator. If they cannot agree, the Parties shall request a list of five (5) mediators from an entity or firm providing mediation services. The Parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree, each Party shall select one (1) name. The two selected shall select a third person who shall serve as the mediator. The common costs of mediation borne equally by the Parties with each bearing its own costs and fees. If the issue is resolved at this step, a written determination shall be signed by each Party and approved by the governing bodies.
- E. Step Three (Legal Action). If the dispute remains unresolved following mediation, the Parties may seek remedy by appropriate proceedings filed in Clackamas County Circuit Court. In any such judicial proceeding, each Party shall be responsible for its own costs and fees.

7.7 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, and all of such counterparts shall constitute one Agreement. Counterparts of executed signature pages may be attached to any one or more counterparts of this Agreement. To facilitate execution of this Agreement, the Parties may execute by facsimile transmission counterparts of the signature pages.

7.8 Severability. In the event a court of competent jurisdiction deems any portion or part of this Agreement to be unlawful or invalid, only that portion or part of the Agreement shall be considered unenforceable. The remainder of this Agreement shall continue to be valid.

7.9 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior oral or written agreements or representations relating to the Property. No waiver, consent, modification or change of terms of this Agreement shall bind the Parties unless in writing and signed by each party.

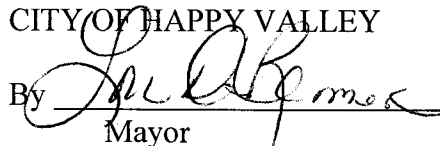
7.10 Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be mailed or sent by scanned document (e-mailed) or faxed with hard copy to follow by post, addressed as follows:

To City: City of Happy Valley  
Economic & Community Development Department  
16000 SE Misty Drive  
Happy Valley, OR 97086

To County: Clackamas County Planning & Zoning Division  
150 Beaver Creek Rd.  
Oregon City, OR 97045


IN WITNESS WHEREOF, the respective parties have caused to be signed in their behalf to make and enter into this Agreement this 18th day of November, 2013.

CITY OF HAPPY VALLEY

By   
Mayor

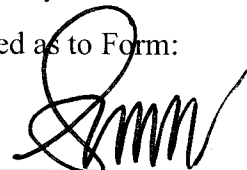
Date 11/18/13

CLACKAMAS COUNTY

By   
Chair, Board of County Commissioners

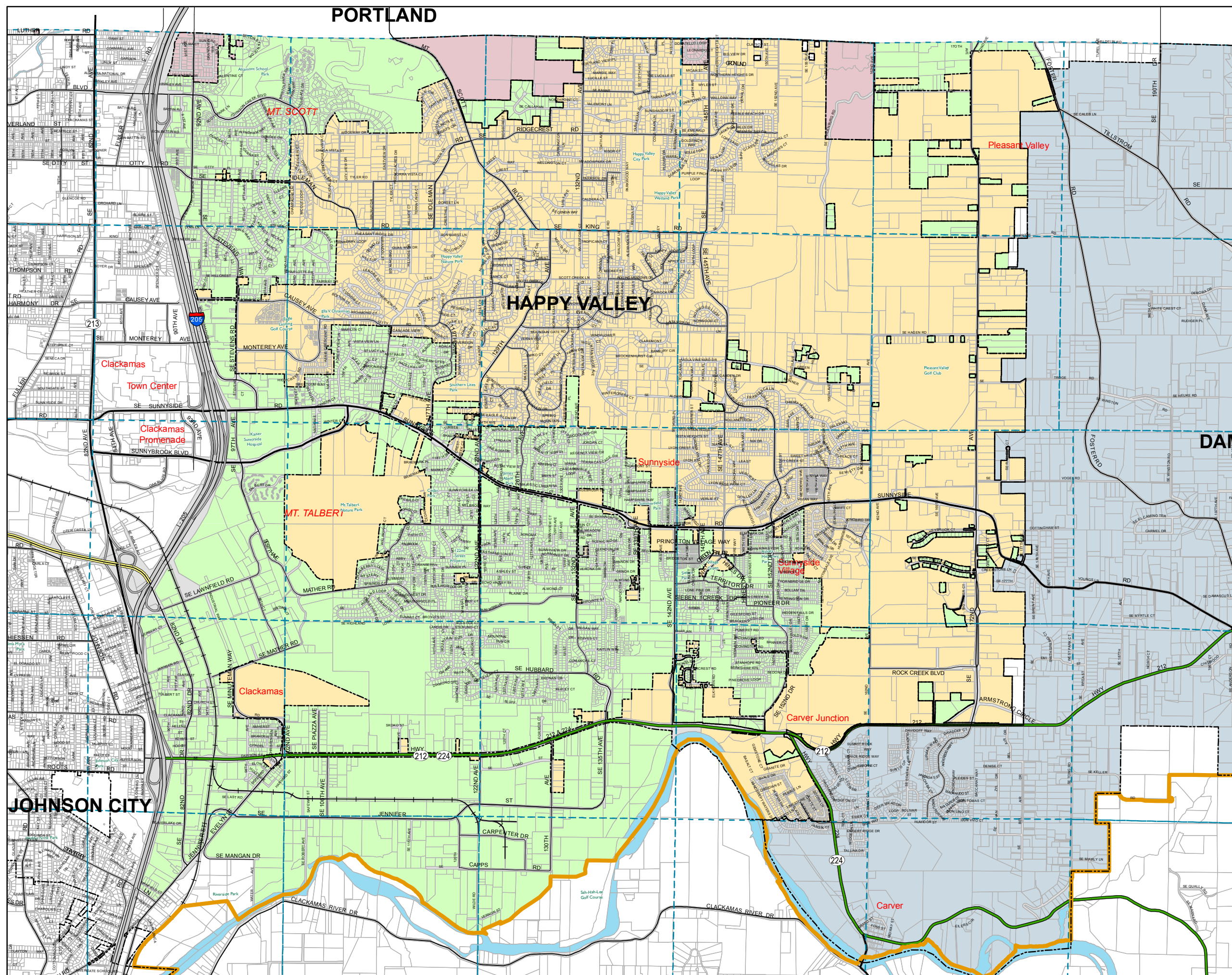
Date 11-17-13  
H.I.

Approved as to Form:

By   
County Counsel

Date 11/7/13

EXHIBIT "A" – Happy Valley Urban Planning Area



**Legend**

- Happy Valley Urban Planning Area (HVUPA)\*
- City of Damascus
- City of Happy Valley
- City of Portland
- Urban Growth Boundary

\*Per Urban Growth Management Agreement (UGMA), adopted Nov. 2013



2,000 1,000 0 Feet  
 Scale = 1:30,000



**GEOGRAPHIC INFORMATION SYSTEMS**

The information on this map was derived from Clackamas County's digital GIS database. Although care was taken in the creation of this data the map is provided "as is". Clackamas County cannot accept responsibility for any errors, omissions, or positional accuracy, and therefore, no warranties accompany this product. Although information from land surveys may have been used in the creation of this product, this in no way represents or constitutes a legal land survey. Users are therefore cautioned to field verify any information before making decisions.

Department of Transportation & Planning, www.clackamas.us  
 150 Beaver Creek Rd, Oregon City, OR 97045 503-742-4500