



OFFICE OF COUNTY COUNSEL

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

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April 13, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Enter into a License Agreement with Jason and Kristie Boyd to access and board up to two horses at property donated to the County by John and Marilee Wetten.

Purpose/Outcomes	Enter into License Agreement with Jason and Kristie Boyd for county owned property on South May Road
Dollar Amount and Fiscal Impact	It is not anticipated that this License Agreement will have any fiscal impact on Clackamas County
Funding Source	N/A
Duration	Terminable at will
Previous Board Action	The Board accepted real property donation from John and Marilee Wetten with the condition that the County enter a License Agreement with Jason and Kristie Boyd to board horses
Strategic Plan Alignment	<ul style="list-style-type: none"> • Build public trust through good government • Ensure safe, healthy and secure communities • Honor, utilize, promote and invest in our natural resources
Counsel Review	Yes, SLM
Procurement Review	None Needed
Contact Person	Stephen L. Madkour, County Counsel
Contract No.	N/A

BACKGROUND:

Clackamas residents John and Marilee Wetten owned an undeveloped 12.86 acre parcel of property off of May Road in unincorporated Clackamas County. They had

previously lived at a farm property nearby where they raised their family. John Wetten was a long time educator and later a principal in Gladstone at what is now known as John Wetten Elementary School.

In late 2020, the Wettens approached Clackamas County and inquired about the County's interest in receiving the property to be used in perpetuity for parks purposes. County staff and Commissioner Savas toured the property with John Wetten on November 18, 2020. Presently, the Wettens allow a neighbor to pasture his horses on the open area of the parcel and to use the trails.

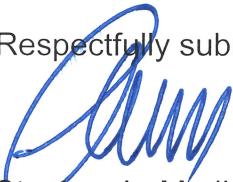
As part of the donation, the Wettens requested that the park be named after them. Additionally, they requested that for the time being the neighbors Jason and Kristie Boyd be allowed to continue to pasture his horses on the property.

Consistent with the Wettens' request and the Board's direction, County Counsel prepared and circulated the License Agreement. County Parks reviewed and approved of the terms of the Agreement. The Boyds have signed the agreement. The License Agreement with the neighbors Jason and Kristie Boyd will allow them to continue to access the property and pasture up to two of their horses on the property. There is no charge for use of the property. The Agreement is terminable at will.

RECOMMENDATION:

County Counsel recommends that then Board authorize the Chair to sign the License Agreement with Jason and Kristie Boyd on behalf of Clackamas County.

Respectfully submitted,



Stephen L. Madkour
County Counsel

Attachment: License Agreement

3/29/21

LICENSE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2021, by and between **CLACKAMAS COUNTY**, a political subdivision of the State of Oregon (hereinafter "**Licensor**"); and **JASON L. BOYD AND KRISTIE A. BOYD** (collectively "**Licensee**").

RECITALS

A. Licensee owns the land legally described in **Exhibit "A"** which is attached hereto and incorporated herein. The Licensor owns adjacent land that is legally described in **Exhibit "B"** which is attached hereto and incorporated herein (the "**County Property**").

B. Licensor recently acquired the County Property by donation from John and Marilee Wetten for the development and operation of a public park, recreation, or environmental education uses.

C. Prior to the Licensor's acquisition of the County Property, the Licensee used the Wetten's property with their consent for boarding, training, and pasturing of two horses. As part of the consideration supporting the donation of the County Property to the Licensor, the Licensor has agreed to allow the Licensee to continue to use the County Property for these purposes into the foreseeable future.

AGREEMENT

In consideration of Zero Dollars (\$0.00) but other good and valuable consideration by each of the parties to the other, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Licensor and Licensee hereby confirm that the statements set forth above are accurate.
2. Subject to the Licensee's strict adherence to the terms and conditions herein contained, Licensor hereby grants to Licensee the non-exclusive right to use the County Property in a manner consistent with Licensee's prior use, which includes hiking and horseback riding on the existing trails and pasturing horses. Licensee presently pastures two horses on the property. No additional horses or livestock will be permitted on the property unless with the express written permission of the Licensor.
3. Nothing in this Agreement shall be construed to restrict Licensor's ability to charge rent for use of the County Property.
4. Licensee's rights for use of the County Property shall automatically terminate at such time as Licensor creates a public recreational or educational facility and opens the facility to the public. Notwithstanding anything in this Agreement to the contrary, Licensor may

terminate this Agreement for any reason in its sole and absolute discretion. Licensor will attempt to provide Licensee at least 30 days' notice prior to terminating Licensee's privilege to use and occupy the County Property.

5. Licensee hereby accepts the County Property "as is," in its condition on the date hereof, and acknowledges and agrees that the County Property (a) shall be used only for the Licensees' personal use, as described herein and for no other purpose, (b) is suitable for Licensees' intended use, and (c) may be used or altered by Licensor and others for any and all purposes that do not materially restrict Licensees' use of the County Property.

6. Licensee will be using the County Property with the express consent of Licensor and shall acquire no adverse or prescriptive rights thereto. Licensee has erected temporary fencing but will not erect any additional improvement, obstruction or structure (temporary or permanent), on the County Property. Licensee will not perform any excavation or soil disturbing activities within the License Area. Licensee will not use, or permit anyone else to use, any hazardous activities, materials, or substances in or around the County Property or use the County Property in any manner which would violate any federal, state, and/or local, laws, rules and regulations.

7. Licensee agrees to use the County Property with care and to repair any and all damage caused by Licensee's use of the County Property.

8. Licensee agrees to observe and provide surveillance services to the County, reporting to Parks (503-742-4414 or parksinfo@clackamas.us) if they observe any illegal activity, fires, facility damage, safety hazards, or other similar issues occurring on the property. In an emergency situation, reporting to Parks is secondary, after reporting to Police, Fire or EMS as appropriate.

9. Licensee will have access to the property to utilize and maintain existing trails, fencing, and associated horse pasture facilities. Licensee will not develop new trails or infrastructure without the express written permission of the Licensor. Licensee may perform basic tree pruning to maintain trail clearances but may not fell trees nor harvest any standing or downed trees for building materials, firewood, or any other purpose without the express written permission of the Licensor.

10. Licensee agrees to indemnify, release, and hold the Licensor harmless against any and all damage, liability, loss, claims, costs or expenses (including reasonable attorney's fees) which may arise out of the Licensee's use of the County Property or the activities of the Licensee or the Licensee's agents, contractors, guests, invitees or employees within and upon the County Property.

11. The Licensee hereby acknowledges and agrees that the Licensee does not have, and shall not obtain, any rights whatsoever in or to the County Property except as expressly set forth herein.

12. Should either party seek to enforce an action against the other arising out the use of the County Property or this Agreement, each party shall be responsible for its own attorney fees and other related fees.

13. Licensee may not assign, transfer, encumber or convey this License Agreement. This License Agreement is personal to Licensee.

14. This Agreement sets forth the entire Agreement between the parties with respect to the County Property. Except in the case of a termination as described in Paragraph 4 above, this Agreement can only be modified by a written instrument which is duly executed by Licensor and Licensee.

15. This License Agreement shall be governed by the laws of the State of Oregon.

16. Every notice, demand, consent, approval or other document or instrument required or permitted to be served upon any of the parties hereto shall be in writing and shall be deemed to have been duly served on the day of mailing or delivery, and shall be delivered in hand, or sent by registered, certified or express United States mail, postage prepaid, return receipt requested, (or by commercial expedited delivery service) addressed to the respective parties at the addresses set forth below:

17. The principal offices and mailing address of the Agency for purposes of this Agreement is:

Clackamas County
c/o Office of County Counsel
2051 Kaen Rd., Suite 254
Oregon City, OR 97045
503-655-8362

The mailing address of Licensee for purposes of this Agreement is:

Jason and Kristie Boyd
20556 S May Road
Oregon City, OR 97045
503-657-4344
Jason@pwpinc.net

18. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by

law.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement as of the date first above written.

"LICENSOR"

CLACKAMAS COUNTY

By: _____
Chair

Date: _____, 2021

"LICENSEE "

JASON L. BOYD

By: Jason L. Boyd

Date: 3/29, 2021

KRISTIE A. BOYD

By: Kristie A. Boyd

Date: 3/29, 2021

EXHIBIT "A"

Licensee Property

20556 South May Road, Oregon City, Oregon
Parcel No. 01329841

EXHIBIT "B"

County Property

Tract 8, WITTENBERG ACRES, in the County of Clackamas and State of Oregon. EXCEPT that portion within roads. Commonly known as Parcel No. 0076383