



AGENDA

Thursday, October 25, 2012 - 10:00 AM
Board of County Commissioners Business Meeting

Beginning Board Order No. 2012-106

I. CALL TO ORDER

- Roll Call
- Pledge of Allegiance
- Approval of Order of Agenda

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

1. Presentation of Clackamas County 3D Downtown Projects (Catherine Comer, Business and Economic Development)
2. Update Presentation on the HEAL Projects through the Clackamas County Public Health Division (Marti Franc, Public Health)

III. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. This portion of Citizen Communication will proceed for ½ hour. If we are unable to hear everyone who has signed up to speak during this time, we will continue Citizen Communication when our business items conclude after the Consent agenda. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

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

- 3 1. Second Reading of Ordinance No. 10-2012 Amending Chapter 11.03 of the Transportation System Development Charge Ordinance to Target Economic Development Incentives and Improve Program Administration (Diedre Landon, DTD, Scot Sideras, County Counsel) *first reading was 10-11-2012*
- 4 2. First Reading of Ordinance No. _____ Amending Title 8 of the Clackamas County Code by Adopting Chapter 8.08, Film and Media production and Establishing a Uniform Permit Process, Fees and Guidelines (Catherine Comer, Business and Economic Development, Scot Sideras, County Counsel)

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

~NO DISCUSSION ITEMS SCHEDULED

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

A. Health, Housing & Human Services

- 5 1. Approval of an Intergovernmental Agreement No. 140030 with the State of Oregon, Department of Human Services for the Operation of the Food Stamp Employment and Training Program - cscoc

B. Elected Officials

- 6 1. Approval of Previous Business Meeting Minutes – bcc
- 7 2. Approval of Amendment No. 1 to the Intergovernmental Agreement Among Clackamas County, the Tri-County Metropolitan Transportation District of Oregon (TriMet) and the City of Portland for Provision of Transit Police Services - ccso

C. County Administration

- 8 1. Board Order No. _____ Authorizing the Continuance of Clackamas County's Participation in the Association of O&C Counties Special Advocacy Fund

D. Technology Services

- 9 1. Approval of the Clackamas County E-Signature and E-Discovery Policies

CITIZEN COMMUNICATION – continued if needed

VII. COUNTY ADMINISTRATOR UPDATE

VIII. COMMISSIONERS COMMUNICATION

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

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



BUSINESS AND COMMUNITY SERVICES

October 25, 2012

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

Board of County Commissioners
Clackamas County

Members of the Board:

PRESENTATION OF CLACKAMAS COUNTY 3D DOWNTOWNS

3D Downtowns is a program offered through Clackamas County Business and Economic Development to provide design opportunities for projects which encourage private investment in downtowns. The program began in July 2011 with design grants valued at \$5,000 to eight communities: Canby, Estacada, Happy Valley, Lake Oswego, Milwaukie, Molalla, Oregon City and Sandy.

Using those grants, and state-of-the art technology, communities are better equipped to creatively "vision" future downtown development and optimize potential sites to improve on-site parking, densities and other key considerations. Today's presentation by Catherine Comer of Business and Economic Development and Greg Mitchell from LRS Architects will highlight the 3D development using several properties identified through the programs.

Respectfully submitted,

A handwritten signature in cursive script that reads "Catherine Comer".

Catherine Comer
Business and Economic Development Manager

A handwritten signature in cursive script that reads "Laura Zentner".

Laura Zentner
Business and Community Services Deputy Director

October 25, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Update Presentation on HEAL projects through the Public Health Division

The Clackamas County Public Health Division of the Health, Housing and Human Services Department (H3S) will provide an update of their successful Healthy Eating, Active Living community RFP program. This program will be used as evidence in the Division's application for Public Health accreditation.

The HEAL grants have been made available to Clackamas County residents for two years. Grants of up to \$8000 are made available to community groups to work on local projects. Groups are expected to leverage additional support and to work in partnership. We will provide examples of the success of this program. The relatively small outlay of county general fund is parlayed into a much larger outcome of community collaboration to improve the health of our county residents.

In the first year, 2010-2011, \$88,000 was distributed to 13 groups, including Kraxenberger Middle School, Duncan Elementary School, Arts and Technology High School, Clackamas Heights, Hillside Park, Canby Community Garden Association, Estacada Greenhouse, CREST at West Linn/Wilsonville School District, Firwood Elementary School, Green Corps, Metropolitan Family Services at Lot Whitcomb Elementary School, Molalla Communities that Care, and Oregon City Farmers Market. The grant funds were used to build walking paths, community gardens, a disc golf course and provided fitness and nutrition education. The projects impacted the lives of over 6000 county residents, raised over \$50,000 in in-kind donations, benefitted from 2300 volunteer hours and produced well over 1300 pounds of fresh, local garden produce.

In 2012, 15 projects are being funded with \$102,500 and we have recently opened the RFP for projects that will begin in 2013.

Respectfully submitted,

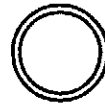


Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Marti Franc at (503) 655-8479.

Healthy Families. Strong Communities.

What is Public Health?



**PUBLIC HEALTH DIVISION
HEALTH, HOUSING, & HUMAN SERVICES
OCTOBER 11TH, 2012**

**BOARD OF COUNTY COMMISSIONERS
PUBLIC MEETING**

Public Health's Purpose and Value

2

At the Public Health Division, our work is focused on protecting and promoting the health of Clackamas County residents.

- **Birth and Death Certificates**
- **Restaurant Inspections**
- **Communicable disease investigation**
- **Immunization**
- **Public Health Nursing**
- **Women, Infants and Children (WIC) nutrition program**
- **Prevention and Education programs**

Example

3

- **Healthy Eating, Active Living Program**

The Board of County Commissioners has approved this program to support community health improvement.

- Provides mini-grants to fund projects for community members, or organizations, that focus on active lifestyle and healthy eating for county residents where they work, live and play.
- Request for proposals currently being accepted at:
www.clackamas.us/publichealth/heal

2011-2012 HEAL Projects

4

Group	Project
AntFarm, Inc.	Created a community garden, taught nutrition awareness and work-life skills.
Boring Middle School	Built school garden and greenhouse to supplement nutrition education and physical activity.
Canby Community Garden Association	Developed 2 community gardens in Canby area.
Cascade Heights Public Charter School	Provided healthier work environment for teachers and promoted student fitness and nutrition.
Child Care Resource and Referral of Clackamas County	Provided training and on-site coaching to childcare providers regarding nutrition and physical activity
Clackamas County Juvenile Department	Promoted healthy eating and local food preparation
Colton School District	Built walking trail to promote community fitness

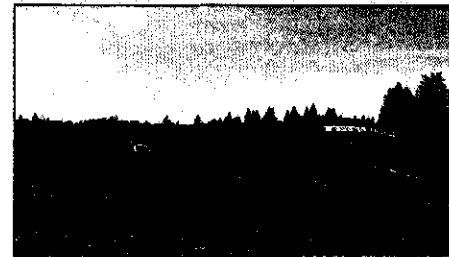
2011-2012 HEAL Projects Cont.

5

Group	Project
Friends of Robinwood Station Community Center	Created community garden and provided education for gardening, cooking and preserving food.
Metropolitan Family Services	Provided healthy eating, active living after-school activities
Milwaukie High School	Increased access to healthy foods during school day.
North Clackamas Parks and Recreation District	Healthy Summer camp for youth in 4 th -8 th grade.
Northwest Family Services	Promoted nutrition education and food awareness in field trips and created a student-based health food policy review board.
OSU Extension	Plot to Plate Program providing gardening and food preparation instruction.
Springwater Environmental Sciences School	Constructed greenhouse to learn about soil, water, food production and healthy eating.

HEAL Projects in Photos

6



Thank you!



For more information about Clackamas County Public Health Division,
please visit:

www.clackamas.us/publichealth

What is Public Health?



**PUBLIC HEALTH DIVISION
HEALTH, HOUSING, & HUMAN SERVICES
OCTOBER 11TH, 2012**

**BOARD OF COUNTY COMMISSIONERS
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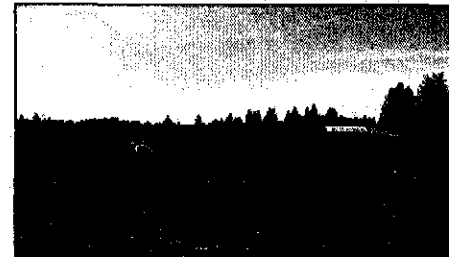
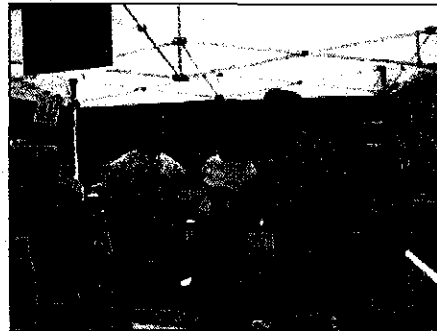
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HEAL Projects in Photos

6



Thank you!



For more information about Clackamas County Public Health Division,
please visit:

www.clackamas.us/publichealth



3 COPY

Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

October 25, 2012

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Second Reading of Ordinance #10-2012 Amending Chapter 11.03, Transportation
System Development Charge**

On October 11, 2012, the Board held its first hearing on Ordinance #10-2012, amending Chapter 11.03, which contains the provisions for a Transportation System Development Charge ("TSDC"). New and expanding developments rely on improvements made to County roads through the capital improvement program. Documentation is attached in response to two specific questions that were raised during the public comment section of the first reading. Since the first hearing on October 11th, staff has not received any additional questions regarding the proposed changes to this amendment.

The Transportation System Development Charge ("TSDC") is a one-time payment on new development based on the number of vehicle trips the development is forecast to generate. The TSDC spreads the cost of increased capacity road projects to new development because new and expanding developments rely on improvements made to arterial, boulevard, and collector roads through the County's capital improvement program. TSDC money is used to fund capacity improvements, which can include operational efficiencies (e.g., signalization) that increase the number of vehicles accommodated by the system or added lane miles. The County has two TSDC districts, one with the City of Happy Valley (Joint Area TSDC) and the other for unincorporated areas of the county (Countywide TSDC). The ability to impose a TSDC is set out by ORS 223.297 through 223.314. The County's TSDC ordinance is found in County Code Chapter 11.03.

The proposed amendments to Chapter 11.03 are timely and coincide with the efforts of numerous departments to improve access for multi-modal transportation users in the County. Changes target economic development incentives by reducing the TSDC for mixed-use developments and developments in close proximity to transit because with the adequate density, these developments are demonstrated to reduce the traffic on surrounding roadways. Other changes to the ordinance improve program administration and provide clarity to citizens and developers.

Changes to the ordinance that offer economic incentives for development include:

1. Incentivizing developments that reduce trips on adjacent roadways through mixed-use and/or the development's proximity to transit, which are both proven to reduce the traffic on surrounding roadways when the development hosts the right mix of users. The mixed-use and transit oriented reductions can be combined when a development qualifies for both.
2. Removing language that treats the occupancy of an existing structure as new construction after being vacant for a period of time.
3. Providing an extension on credit vouchers for qualifying improvements built by developers.
4. Implementing a sliding scale for interest charges on assessments financed by the County and setting a maximum principal balance to minimize County liability..

Amendments to Chapter 11.03 that improve program administration and offer clarity to citizens and developers include:

5. Replacing an obsolete cost indicator used to calculate the annual adjustment factor.
6. Refining and adding definitions of terms used in the ordinance.

All these proposed revisions to the TSDC ordinance have been written in partnership with the City of Happy Valley, which jointly administers one of the two TSDC programs in the County. The proposed changes have been presented to the Development Liaison Committee for its review and discussion. Drafts were distributed to interested developers and the holders of credit vouchers. Ernie Platt and Justin Wood of the Portland Metro Home Builders Association ("HBA") reviewed the language and distributed the redlines to HBA members. The Board of County Commissioners deliberated the changes to the TSDC ordinance in a Study Session held on July 24, 2012; followed by discussion during the City of Happy Valley City Council Work Session on August 24, 2012.

Recommendation

Staff respectfully recommends the Board of Commissioners approve the proposed amendments to the TSDC ordinance that have been reviewed by our partner city, developers, and other interested parties to offer justifiable economic incentives and improve program administration.

Sincerely,

Diedre Landon

Diedre Landon
Policy Analyst, Senior

For information on this issue or copies of attachments
please contact Diedre Landon at 503-742-4411 or DLandon@co.clackamas.or.us

From: Todd Chase [mailto:ToddC@fcsgroup.com]
Sent: Thursday, October 11, 2012 1:23 PM
To: Landon, Diedre
Cc: Michael Walter
Subject: TSDC Ordinance hearing questions

Hi Diedre,

This email provides additional points of information that you may decide to share with others during the hearing process or at the next reading.

With regard to the EPA Model that we used, here is an excerpt and a link to the Web site.

http://www.epa.gov/smartgrowth/mxd_tripgeneration.html

“A national study for the U.S. Environmental Protection Agency (EPA), performed by a team composed of both Fehr & Peers and academic researchers, developed a new methodology to more accurately predict the traffic impacts of MXDs. Fehr & Peers has developed various analysis tools for implementation the findings of the MXD research.

The EPA study evaluated household travel surveys from 239 mixed-use developments in Seattle, Portland, Sacramento, Houston, Atlanta and Boston and found statistical relationships between site characteristics and the amount of vehicle travel generated in and out of the site. MXDs were found to reduce traffic impacts relative to single-use suburban development, due to the following key factors such as diverse on-site activities that capture a large share of trips internally, placement within walkable areas with good transit access that generate high shares of walk and transit trips, and central locations that reduce trip lengths.”

While the Portland and Seattle trip generation information was included in the trip reduction assumptions, the model relies on national results from 239 mixed use developments in the 6 aforementioned urban regions.

Clackamas County can decide to customize the trip reduction assumptions over time, if the model results in measurable variances from measured results.

With regard to the cost of the technical study:

The technical study cost \$4,000 and was paid for by the City of Happy Valley.

Best regards,

Todd

Todd Chase, AICP, LEED
Senior Project Manager
work: (503) 841-6543 cell: (503) 313-6360
4380 SW Macadam Ave, Suite 220
Portland, OR 97239
FCS GROUP www.fcsgroup.com

ORDINANCE NO. 10-2012

An Ordinance Amending Chapter 11.03, Transportation System Development Charge, of the Clackamas County Code

WHEREAS, Chapter 11.03, Transportation System Development Charge, of the Clackamas County Code contains those provisions authorized by Oregon Revised Statutes ORS 223.297 through 223.314; and

WHEREAS, it has been determined by the Board of County Commissioners that amendments to Chapter 11.03 will improve access for multi-modal transportation users, target economic development incentives, and improve program administration and provide clarity to citizens and developers; and

WHEREAS, the proposed amendments have been written in partnership with the City of Happy Valley, which jointly administers one of the two programs applying the provisions of Chapter 11.03, and have been reviewed by a liaison committee, developers, and a professional association; and

WHEREAS, this amendment contains all the changes requested by the Board of County Commissioners ; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 11.03, Transportation System Development Charge, of the Clackamas County Code is hereby amended as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

ADOPTED this _____ day of _____, 2012.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT A

CHAPTER 11.03 TRANSPORTATION SYSTEM DEVELOPMENT CHARGE

11.03.010 PURPOSE

- A) New development within Unincorporated Clackamas County (Countywide Area) and within the Happy Valley/Clackamas County Joint Area will use existing, excess traffic capacity and contributes to the need for increased capacity on arterial, boulevard, and collector roads and therefore should contribute to the funding for such facilities. These Transportation System Development Charges will reimburse the County, or City, for a portion of the cost of excess capacity and fund a portion of the needed increased capacity for arterial, boulevard, and collector roads associated with such development. The County may develop and enact system development charges jointly with cities, as demonstrated in the Happy Valley/Clackamas County Joint Area. [Amended by Section 1 of Ord. No. 01-2002, enacted 1-10-02]
- B) ORS 223.297 through 223.314 grant the County and the City the authority to impose a Transportation System Development Charge to equitably spread the costs of essential capital improvements to new development. Future developments will contribute their fair share to the cost of existing, excess capacity facilities and improvements and additions to transportation facilities required to accommodate the capacity needs created by growth. In its discretion, the Board of Commissioners may choose to impose a charge on classes of development types that is less than the maximum allowed by law in the Countywide Area, or in conjunction with the City Council in the Happy Valley Joint Area. The County may enact one or more charges in areas that are smaller than the entire unincorporated County, such as the Happy Valley/Clackamas County Joint Area. [Amended by Section 1 of Ord. No. 01-2002, enacted 1-10-02]
- C) The Transportation System Development Charge is incurred upon the issuance of a permit to develop property at a specific use, density and/or intensity. The incurred charge is less than the actual cost of providing public facilities commensurate with the needs of the chosen use, density, and/or intensity. Decisions regarding uses, densities, and/or intensities cause direct and proportional changes in the amount of the incurred charge. The Transportation System Development Charge is separate from assessments, or other fees provided by law or imposed as a condition of development. It is a fee for service because it relates a development's fee to receipt of services based upon the nature of that development.
- D) The Transportation System Development Charges imposed by this chapter are not intended to be a tax on property or on a property owner as a direct consequence of ownership of property within the meaning of Section 11b, Article XI of the Oregon Constitution or the legislation implementing that section. [Amended by Section 1 of Ord. 01-2002, enacted 1-10-02]

- E) The funding provided by this Chapter constitutes a mandatory collection method based upon the guidelines set forth in ORS 223.297 – 223.314 to assure the construction of increased capacity in arterial, boulevard, and collector roads as shown in the Countywide Area and the Happy Valley Joint Area methodology, respectively.
- F) This Chapter is intended to reimburse Clackamas County, and Clackamas County/City of Happy Valley partnership in the Happy Valley/Clackamas County Joint Area, for the costs of existing, excess capacity and to provide a financing mechanism for needed increased capacity in arterial, boulevard, and collector roads associated with new development and not for maintenance of existing roads.
- G) Clackamas County hereby adopts the methodology report entitled “Countywide Transportation System Development Charges Methodology Update Report” (dated November 30, 2006), and Clackamas County and the City of Happy Valley each hereby adopt the methodology report entitled “Happy Valley/Clackamas County Joint Capital Improvement Plan Area, Transportation System Development Charges Methodology Report” (dated November 30, 2006) and the agencies incorporate by reference the assumptions, conclusions, project lists, charges and findings in the reports which refer to the determination of costs of excess capacity, and anticipated costs of capital improvements required to accommodate growth, and the rates for the Transportation System Development Charges to finance these capital improvements in each geographic area. The charges adopted by the Countywide Methodology report do not apply in the geographic area covered by the Happy Valley/Clackamas County Joint Area, and the charges adopted by the Happy Valley Joint Area Methodology report to not apply in the unincorporated geographic area outside the joint district boundaries. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02]

11.03.020 DEFINITIONS

All terms not defined below shall be defined by the permitting jurisdiction in the Clackamas County Zoning and Development Ordinance or City Development Code, respectively.

- A) **ACCESSORY DWELLING UNIT** means a unit complying with Clackamas County ZDO 301.08(G) or City of Happy Valley Planning Code 16.44.050 respectively. Accessory Dwelling Units will be charged the adopted rate for the Institute of Transportation Engineers (ITE) classification of “220 - Apartment.”
- B) **ARTERIAL** means that term as defined and used in the Transportation Element of the County Comprehensive Plan.
- C) **AVERAGE WEEKDAY TRIPS** means the average 24-hour total of all vehicle trips counted to and from a study site from Monday through Friday.. Average weekday trips are calculated by using the Institute of Transportation Engineers (ITE) Manual or as otherwise provided by this Chapter.
- D) **BOARD** means the Board of County Commission of Clackamas County, Oregon.

- E) **BOULEVARD** means that term as defined and used in the Transportation Element of the County Comprehensive Plan.
- F) **BUILDING OFFICIAL** means that person, or his designee, certified by the State and designated as such to administer the State Building Codes for the County or City.
- G) **BUILDING PERMIT** means that permit issued by the County or City Building Official pursuant to the most recently published versions of the State of Oregon Structural Specialty Code Section 105, and the Oregon Residential Specialty Code Section R-105. In addition, Building Permit shall mean the Manufactured Home Installation Permit issued by the County or City Building Official, relating to the placement of manufactured homes.
- H) **BUS TRANSIT CORRIDOR** includes current fixed-route public bus service (excludes dial-a-ride shuttles and taxi service).
- D) **CAPACITY** means the maximum rate of flow at which persons or vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour or persons per hour (i.e., capacity is frequently increased by methods such as the addition of travel lanes, right turn or left turn refuges, improved width, hazard elimination, alignment or other geometric characteristics of the roadway, signalization or signalization improvements such as synchronization.).
- J) **CAPITAL IMPROVEMENT PLAN** means a plan and list of capital projects adopted by the Board of County Commissioners and/or City Council identifying the estimated cost and timing for projects needed in a twenty year timeframe.
- K) **CITY** means the City of Happy Valley, Oregon.
- L) **CITY COUNCIL** means the elected City Council of the City of Happy Valley, Oregon.
- M) **COLLECTOR** means that term as defined and used in the Transportation Element of the County Comprehensive Plan.
- N) **COMPREHENSIVE PLAN** means the County and/or City generalized, coordinated land use map and policy statement that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation facilities, and recreational and natural resources and air and water quality management programs.
- O) **CONSTRUCTION COST INDEX** means that index published by the Engineering News Record (ENR) Northwest (Seattle, Washington) titled "Construction Cost Index."
- P) **COUNTY** means Clackamas County, Oregon.
- Q) **DEVELOPMENT AGREEMENT** means the tool the CITY or COUNTY will use to secure the developer's compliance with the commitment to build-out a phased master-plan project, qualifying the initial phases for a reduction under the station area and/or mixed-use reduction provisions.

- R) DEVELOPMENT PERMIT means a grading, excavation, engineering, building, land use or similar permit issued by the County or City that approves NEW DEVELOPMENT as defined by this ordinance.
- S) DEPARTMENT means the Clackamas County Department of Transportation and Development or the City of Happy Valley Economic and Community Development Department.
- T) DEPARTMENT DIRECTOR means the Director of the Clackamas County Department of Transportation and Development or the City Manager of Happy Valley.
- U) FINANCE DIRECTOR is that person assigned by the Board of County Commissioners the responsibility of managing the Finance Department for Clackamas County, or his or her designee.
- V) FLOOR AREA RATIO means the ratio of the total amount of enclosed gross floor area within a structure to the amount of buildable acreage. For purposes of calculation, both floor area and net site area shall be converted to square feet. (For example, a single-story building constructed on one-quarter of the net developable site would have a floor area ratio of 0.25. If a second story were added, the floor area ratio would increase to 0.50, etc.) Gross floor area for the purposes of this ordinance will mirror the definition in the most recent ITE manual.
- W) GUEST HOME means a unit complying with Clackamas County ZDO 833. GUEST HOMES will not be charged a Transportation System Development Charge Assessment because these units share a kitchen and laundry facility with the primary dwelling on the parcel, and as such are not used for boarding, lodging, or rental.
- X) IMPROVEMENT FEE means a fee for costs associated with capital improvements to be constructed.
- Y) INCREASED CAPACITY FACILITIES include capital improvements to an arterial, collector, or boulevard shown in the project lists in the Reports adopted by Section 11.03.010(G) which increase the level of performance or service provided by existing facilities, or provide new facilities. Such improvements include, but are not limited to, signalization, channelization, widening, drainage facilities, pedestrian improvements, street extensions, railroad crossing protective devices, bridges and bikeways adjacent to the roadway.
- Z) INTERNAL CAPTURE RATE is defined as a percent reduction of trip generation for component land uses to account for trips made internally on site. A reduction of trip generation rates can potentially decrease traffic impact and help reduce external congestion. The INTERNAL CAPTURE RATE is the percent reduction of trip generation estimates for land uses to account for trips made internally on a MIXED-USE DEVELOPMENT site.
- AA) ITE TRIP GENERATION MANUAL means the most recently published edition of the manual entitled Trip Generation, published by the Institute of Transportation Engineers. A copy of the ITE Trip Generation Manual shall be kept on file with the County Department of Transportation and Development. All land uses referenced in this ordinance are those defined in the most recently published edition of the ITE Manual.

- BB) LIGHT RAIL TRANSIT STATION AREA is defined as the passenger station platform along a fixed-route light rail alignment.
- CC) LOCAL STREET means that term as defined and used in the Transportation Element of the County Comprehensive Plan.
- DD) LONG TERM FINANCING Bonds issued by the County to finance a capital improvement in accordance with ORS 223.205 – 223.295.
- EE) MIXED-USE DEVELOPMENT is generally planned as a single real-estate land development project with a structure, or structures, containing two or more different and interacting land uses. These areas are characteristically higher density, compact walkable areas. Mixing of uses typically includes residential (townhomes, apartments, or detached homes on small lots), retail (mostly specialty and convenience), restaurants, hotels, office buildings, movie theatres, and any other compatible and complimentary uses.
- FF) NEW DEVELOPMENT means site improvements that increase overall trip generation.
- GG) QUALIFIED PUBLIC IMPROVEMENT means an increased capacity facility larger than a LOCAL a capital improvement that is required as a condition of development approval, identified in a project list included in a Methodology Report adopted by Section 11.03.010(G) and is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.
- HH) REIMBURSEMENT FEE means a fee for costs associated with capital improvements already constructed or under construction when the fee is established, for which the local government determines that capacity exists.
- II) RIGHT-OF-WAY means that portion of land that is dedicated for public use. Public uses may include but are not limited to pedestrian facilities (e.g., sidewalks, plazas), utility placement, signage, etc.
- JJ) STATION AREA includes parcels with some portion of the development site located within a 0.25- (one quarter) mile radius (straight line distance measurement) of a LIGHT RAIL STATION PLATFORM or a BUS TRANSIT CORRIDOR, both of which facilitate travel to multiple geographic routes, typically resulting in reduced impact to the transportation system by encouraging multi-modal transportation and reducing the impact on the surrounding transportation system. Reference Table 1 – Station Area Development TSDC Reduction Requirements, in Section 11.03.030(F), for further definition of project requirements to qualify for a station area reduction.
- KK) TRANSPORTATION SYSTEM DEVELOPMENT CHARGE (TSDC) means the fee to be paid pursuant to Section 11.03.030 of this Chapter. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 2 of Ord. 01-2002, 1/10/02]

11.03.030

APPLICATION

- A) A Transportation System Development Charge is imposed upon all new development within unincorporated Clackamas County and the Happy Valley/Clackamas County Joint Area for which a development or building permit is required. Where an intergovernmental agreement imposes a city's System Development Charge for transportation facilities on new development within unincorporated Clackamas County, the County shall not impose its own Transportation System Development Charge.
- B) The applicant for a development or building permit shall, at the time of application, provide the Department with all of the necessary and applicable information, such as the description of use, number of dwelling units or square footage of structures, information about occupancy and size of any existing use on the site, necessary to calculate the Transportation System Development Charge. The Department shall notify the applicant of the right to appeal the decision on the calculation of the charge pursuant to 11.03.080.
- C) The amount of the Transportation System Development Charge shall be determined as identified in the Methodology Reports adopted pursuant to Section 11.03.010(G), and amended pursuant to Section 11.03.030(G), and Section 11.03.090 or adjusted pursuant to Section 11.03.030(D) or 11.03.030(E).
- D) If the County or City has not assigned a Transportation System Development Charge rate for the identified land use listed in the ITE Manual, or if data is "Not Available" in the ITE Manual, the Department shall at its option either:
- 1) Identify the land use that has a trip generation rate most similar to the use in question and apply that rate.
 - 2) Consider trip generation data, gathered in a credible manner, preferably by a registered traffic engineer, for the same or similar use. Such a study shall be prepared at the applicant's expense and must be submitted at least two weeks prior to expected issuance of a development or building permit. The Department Director or the Director's designee has the right to accept, accept in part, modify, or reject the calculations offered under this option.
 - 3) The following guidelines apply to data collection under option 2 for land uses not in the ITE Manual.
 - (a) The applicant shall submit a list of similar uses with similar characteristics in Oregon, Washington, California, or preferably in the Portland region. Uses must have been open for business for at least a year.
 - (b) The Department will determine the number of sites and locations for which the applicant will be required to submit traffic counts.
 - (c) The applicant shall supply the Department with the following information for each site:
 - (1) Monthly adjustment factors to adjust trip generation to the fourth highest business (earnings) month.

- (2) Standard days and hours of operations.
 - (3) Counts from sites on a weekday (mid-week – two day minimum) from 7:00 to 9:00 a.m. and from 4:00 to 6:00 p.m. Actual counting time and days may vary depending on uses and standard days of operation and shall be approved by the Department. Data collection shall be compliant with the ITE Trip Generation Manual.
 - (4) Quantification of pass by, pedestrian, bicycle and transit trips when applicable.
 - (5) A vicinity map for each site.
- (d) The applicant shall adjust this data as follows:
- (1) Adjust a.m. and p.m. trips to average weekday trips based on the proportion of similar uses in the current edition of the ITE Manual.
 - (2) Adjust daily number to average weekday trips if weekend data are collected.
 - (3) Adjust average weekday trips to the fourth highest month based on monthly adjustment factors supplied by the applicant.
 - (4) Adjust pass by, pedestrian, bicycle, and transit trips for potential trip reduction.
- (e) The Department shall review the applicant's data collection and adjustments, and the Department Director or the Director's designee shall issue a final ruling to the applicant regarding which data and adjustments will be used for Transportation System Development Charges.
- (1) A fee will be charged for the review of formal alternate trip generation data. The fee will be set by Resolution.
- E) Any developer requiring the execution of a formal Development Agreement to clarify Transportation System Development Charge assessments, reductions for Station Area Development (Table 1), or reductions for Mixed-Use Development (Table 2) will be required to pay a deposit (as set by Resolution) prior to staff drafting the agreement.
- F) Station area developments reduce vehicle trips on the adjacent roadway. Projects meeting the development density requirements that fall within a station area are eligible to receive a reduction that correlates to the reduced impact of the eligible development. An approved Station Area Development is eligible for a reduction on TSDC assessments as outlined in Table 1 (below) when some portion of the development site is located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a light rail station platform or a bus transit corridor route alignment. This reduction may be combined with any applicable Mixed-Use Development reduction (Table 2).

Table 1 – STATION AREA DEVELOPMENT TSDC REDUCTION REQUIREMENTS

REDUCTION LEVEL	TSDC REDUCTION (% TRANSPORTATION IMPACT REDUCTION)	TRANSIT ACCESS REQUIREMENT (WITHIN 0.25 MILE RADIUS OF ¹)	DEVELOPMENT DENSITY REQUIREMENT(S)
Level 1	5% Vehicle Trip Reduction	Bus Transit Corridor ²	Minimum residential density of 24 units per acre
			Minimum FAR of 2.0 per acre for non-residential development
Level 2	10% Vehicle Trip Reduction	Bus Transit Corridor ²	Minimum res. density of 24 dwellings per acre AND minimum FAR of 2.0 per acre for non-res. development
Level 3	5% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum residential density of 12 dwellings per acre ⁴
			Minimum FAR of 1.0 per acre for non-res. development
Level 4	10% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum Res. Density of 24 dwellings per gross acre
Level 5	15% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum Res. Density of 24 dwellings per acre AND at least 15% of the total gross res. & non-res. floor area devoted to commercial/retail uses
			Minimum FAR of 2.0 per acre for non-res. development
Level 6	20% Vehicle Trip Reduction	Light Rail Transit Station ³	Minimum res. density of 24 dwellings per acre AND minimum FAR of 2.0 per acre for non-res. development

Notes:

¹ Some portion of the development site must be located within a 0.25-(one quarter) mile radius (straight line distance measurement) of a light rail station platform or a bus transit corridor route alignment to qualify for TSDC reduction.

² Bus transit corridors include current fixed-route public bus service (excludes dial-a-ride shuttles and taxi service).

³ Light rail transit station area is defined as the passenger station platform along a fixed route alignment.

⁴ The stated residential density for this TSDC reduction level has been interpolated based on ITE Trip Generation Handbook results.

Source: ITE, Trip Generation Handbook, 2nd Edition, Appendix B, with noted exception.

G) Mixed-use developments generate internal trip capture, thus reducing external trip generation rates on surrounding roads. In such event, the Department, for purposes of establishing the Transportation System Development Charge for a Mixed-Use Development, shall apply a Mixed-Use Development TSDC reduction to the eligible structure, or structures, which correlate to the internal trip capture of the proposed development as detailed in Table 2 (below). This reduction may be combined with any applicable Station Area Development reduction (Table 1).

REDUCTION LEVEL	TSDC REDUCTION (% TRANSPORTATION IMPACT REDUCTIONS)	DEVELOPMENT DENSITY REQUIREMENTS
Level 1	7% Vehicle Trip Reduction	Mixed-use development with at least two different land use types (e.g., retail and office) within the same tax lot or master-planned area
Level 2	10% Vehicle Trip Reduction	Mixed-use development with a minimum residential density of 12 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 3	14% Vehicle Trip Reduction	Mixed-use development with a minimum res. density of 24 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 4	16% Vehicle Trip Reduction	Mixed-use development with a minimum residential density of 32 dwellings per gross acre AND minimum of 0.3 FAR per gross acre for non-residential development
Level 5	18% Vehicle Trip Reduction	Mixed-use development with a minimum residential density of 40 dwellings per gross acre AND minimum of 0.5 FAR per gross acre for non-residential development

Source: derived using EPA Mixed-Use Trip Generation Model v4.0.

- 1) If the proposed development includes more than one parcel of land and/or more than one structure, the Mixed-Use Development reduction shall be authorized as part of a

development approval outlining the final build-out of the master plan development area. The applicable reduction shall be memorialized in a DEVELOPMENT AGREEMENT (the tool the CITY or COUNTY will use to secure the developer's compliance with the commitment to build-out a phased master-plan project, qualifying the initial phases for a reduction under the station area and/or mixed-use reduction provisions) and recorded as a right-to-lien against each parcel included within the approved development area, allowing for renewal on active development projects.

- a. If a development avails itself of the Mixed-Use Development reduction and does not construct the development within the term of the development agreement, the County and/or City will capture any unwarranted reduction provided by the Department at the time of permitting any built structures based on the original conceptual plan that the final built development does not warrant, by:
 - i. The Developer will have an opportunity to pay the TSDC reductions that were attributed to a built structure within the Mixed-Use Development; or
 - ii. The County and/or City can collect the TSDC reductions that were attributed to a built structure within the Mixed-Use Development by filing a lien against the benefitting parcels.

H) Notwithstanding any other provision, the rates adopted pursuant to 11.03.030(C) shall, annually, be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on (1) the change in average market value of undeveloped land, except resource properties, in Clackamas County according to the records of the County Tax Assessor; (2) the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and (3) the Washington State Department of Transportation (WSDOT) Construction Cost Index; and shall be determined as follows:

	(1) Change in Average Market Value	x	0.30	30%
	(3) Change in WSDOT Construction Cost Index	x	0.35	35%
+	(2) Change in ENR Construction Cost Index	x	0.35	35%
=	Transportation System Development Charge Adjustment Factor		1.00	100%

The Transportation System Development Charge Adjustment Factor shall be used to adjust the Transportation System Development Charge rates each calendar year, unless it is otherwise adjusted by the Board and City Council based on adoption of an updated methodology or capital improvement plan, or through an Annual Review as described in 11.03.090. However, if (1) the Transportation System Development Charge Adjustment Factor results in a negative value, no adjustment to the rates will be made that calendar year; or (2) the adjustment factor results in a factor less than 1.0% (0.99%-0), no adjustment to the rates will be made that calendar year. [Codified by

Ord. 05-2000, 7/13/00; Amended by Section 6 of Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02]

11.03.040 COLLECTION

- A) The Transportation System Development Charge is due and payable at the time of issuance of the Development Permit. The Development Permit shall not be issued, except as provided in Subsection C(3) or D of this Section, until payment is made. The Transportation System Development Charge (TSDC) rate in effect at the time that a complete development permit submittal is received by the County or City will be applied to that permit. That TSDC rate is effective for 180-days from the date the land use approval is given or the development permit is submitted to the Building Department, whichever comes last. At the expiration of the 180-day period, if the permit is not yet issued, any annual rate adjustments applied under Section 11.03.030(H) can be applied to the permit.
- B) Notwithstanding Section 11.03.030(A), the following are exempt from the Transportation System Development Charge:
- 1) Replacement of any existing single-family structure (which include manufactured homes not in a manufactured home park, townhomes and condominiums) for residential purposes only, except to the extent such remodeling or replacement creates additional dwelling units.
 - 2) Replacement of any existing multi-family (which include duplexes, triplexes and multi-tenant apartments), except to the extent such remodeling or replacement creates additional dwelling units.
 - 3) Replacement of existing office, business and commercial, industrial or institutional structures (which include manufactured home parks), except to the extent that a change of use, building addition, or other modification generates additional, average weekday trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(G), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable. [Amended by Section 7 of Ord. 01-2002, enacted 1-10-02] [Amended by Section 3 of Ord. 02-2002, enacted 2-28-02].
 - 4) Relocation of any structure originally located on property that the County or the City acquire in-fee as a part of a capital transportation project that results in a building encroachment over public right-of-way or easements, when the remaining remnant will not be redevelopable, such that the structure is relocated to another parcel within the same system development charge district. Except to the extent such relocation creates additional dwelling units and/or additional average weekday trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(G), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable.
 - 5) Replacement of any structure located on excess property that the County or the City acquire in-fee as a part of a capital transportation project that can be marketed, or available for

occupancy, except to the extent such remodeling or replacement creates additional dwelling units and/or additional average weekday trips as determined in the manner set forth in a Methodology Report adopted by Section 11.03.010(G), or as provided in Section 11.03.030(D) or 11.03.030(E), whichever is applicable:

- (1) The agency has been provided a reasonable period of time to meet public notification requirements for sale or other disposition (i.e., public auction); and
- (2) Upon completion of the project, after access has been restored and/or recorded whichever is the later, such that the property has legal ingress/egress for development or occupancy purposes.

C) Payment of the Transportation System Development Charge by a person who is also eligible for a credit voucher for construction of an increased capacity facility may be delayed until a date certain to be set by the Department at the time of development or building permit issuance.

Payment may only be delayed for the same development which is associated with the construction of the capital improvement for which credit is given, and the permittee shall provide the Department with security to secure payment of the Charge. The security shall be in an amount determined by the Department, and must be in a form outlined in Subsection (1) or (2) below, or an alternative method approved by County Counsel. [Amended by Section 8 of Ord. 01-2002, enacted 1-10-02]

A permittee eligible for delay of payment of the Transportation System Development Charge pursuant to this section shall secure payment of the assessment, prior to issuance of the development or building permit, by either:

- 1) Placing cash in the amount of the assessment in an escrow account accessible by the County or City, respectively. Permittee shall reconcile any remaining balance after applying the credit voucher to the outstanding balance, or revenue in the escrow account shall be withdrawn to cover the balance. Once the balance is reconciled any remaining revenue in the escrow account shall be released, but not later than 180-days after the issuance of the credit voucher against the improvement pursuant to Section 11.03.050.
- 2) The permittee can apply for delay of payment of the Transportation System Development Charge pursuant to ordinance Section 11.03.040(D). Once the credit voucher is issued, the permittee can apply all (or a portion of) the credit voucher toward the principal and interest balance on the account, or continue making installment payments in accordance with the payment plan throughout the duration of the loan.

D) When a Transportation System Development Charge is due and payable, the permittee may apply to the County for payment in twenty (20) semiannual installments, secured by a lien on the property upon which the development is to occur, to include interest on the unpaid balance, if that payment option is required to be made available to the permittee by ORS 223.207.

- 1) The County shall provide forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. The

application fee for this option shall be \$500. [Amended by Section 9 of Ord. 01-2002, enacted 1-10-02]

- 2) The applicable interest rate shall be determined as follows: ~~fixed at the current prime lending rate plus three percentage points.~~

Principal	Interest Rate
\$0-24,999	Current prime lending rate plus 3.0 percentage points
\$25,000-\$500,000	Current prime lending rate plus 2.0 percentage points

- 3) An applicant requesting installment payments shall have the burden of demonstrating the authority to assent to the imposition of a lien on the property and that the interest of the permittee is adequate to secure payment of the lien. The Department Director, or Director's Designee, may order the imposition of the lien as recommended by the Department. [Amended by Section 10 of Ord. 02-2002, enacted 1-10-02]

- 4) Upon the Department Director, or Director's Designee's, order the Department shall cause the lien to be recorded on the lien docket kept by the County Clerk. From that time the County shall have a lien upon the described parcel for the amount of the Transportation System Development Charge, together with interest on the unpaid balance at the rate established by the Department Director, or Director's Designee's. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230. Upon satisfaction of the obligation the Department Director, or Director's Designee shall request the County Clerk to release the lien. [Amended by Section 11 of Ord. 01-2002, enacted 1-10-02]

- E) With the passage of Article XI, Section 11 B of the Oregon Constitution, progressive payment shall be taken for all unpaid debt. The Department Director, or Director's Designee, will be notified immediately by the Department of any account thirty (30) days or more past due. The Department Director, or Director's Designee, shall then send a letter to the defaulting party demanding payment no later than thirty (30) days following the date of the demand letter. The demand letter shall require payment of all amounts to bring the account current including any applicable interest or other penalty and shall demand full compliance with a "time is of the essence" clause according to the type of obligation at issue. The time for payment to bring the account current shall be left to the best professional judgment of the Department Director, or Director's Designee, depending upon the type of debt and amount owed but in no event shall time for payment exceed the next payment due date or any other requirements imposed by debt instruments executed by the County in favor of any third party or other agreements that may have been executed by the County.

- 1) If payment has not been made following the first notice, the Department Director, or Director's Designee, shall send a second notice, with a copy to the Finance Director, detailing the prior defaults and notices thereof indicating that further action, including legal action, will be taken.
- 2) If, following the second notice, time for payment has expired, then the Finance Director shall include the defaulting person or entity on a list entitled "Collection/Foreclosure" and consult with appropriate staff and legal counsel regarding the most efficient and cost effective method for collection of the debt.
- 3) The Finance Director shall determine if the matter will be referred to legal counsel, a debt collection agency or other method for collection. If referred to legal counsel, a demand letter to the debtor shall be sent declaring a default, accelerating the entire balance and requiring full payment within a reasonable period of time not to exceed thirty (30) days. If no satisfactory response is forthcoming, the Finance Director may extend the time limits for legal action in cases of extraordinary hardship; such determination shall be at the sole discretion of the Finance Director and not subject to review by the Board.
- 4) Upon referral and direction by the Finance Director, counsel may proceed with foreclosure of the assessment lien or take other legal action authorized by law which is deemed most appropriate under the circumstances.
- 5) If the Finance Director determines that it is most effective to use the services of a collection agency, the Finance Director may solicit proposals and make a recommendation to the Board regarding selection of a firm consistent with the Clackamas County Local Contract Review Board Rules and ORS Chapter 279. The Finance Director shall be authorized to negotiate a contract regarding the amount of compensation, length of term and methods of collection, subject to final review and approval by the Board. However, the contract shall specifically provide that the collection agency shall fully comply with the Fair Debt Collection Practices Act, 15 U.S.C. 1601, et seq., and shall provide for full indemnification and protection of the County from any and all claims for unfair or unlawful debt collection practices. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02; Amended by Ord. 05-2003, 3/13/03]

11.03.050 CREDIT

- A) The person responsible for providing a qualified public improvement shall be entitled to receive a credit voucher that may be used to satisfy a Transportation System Development Charge obligation within the same geographic collection area for which the credit is given (i.e., Countywide Area or Happy Valley/Clackamas County Joint Area). An application for credit must be received no later than 90-days after the date the improvement has been accepted by the responsible government.

- B) The credit amount shall not exceed the portion of the actual cost of the project that is eligible for SDC funding as shown in the methodology reports adopted by 11.03.010.
- C) The "actual cost" of the project or improvement means the cost of materials, land and construction including design and engineering, permits, use of equipment, and labor directly related to capacity-increasing capital improvements above the local street level.
- D) Credit will be given for the value of real property donated for right of way needed as a part of the increased capacity facility. The land value shall be calculated either at a per square foot value using the then current real market value for the real property shown in the records of the County Tax Assessor, or through a certified market appraisal, paid for by the applicant, that establishes the land value when the property was donated for the needed right of way.
- E) Any credit voucher provided for in this Chapter is transferable to any person. Credits shall apply against only the applicable Transportation System Development Charges. No credit issued after January 11, 2002, may be redeemed for cash. A credit issued prior to that date may be redeemed in the manner available when the credit was issued. The Department Director, or Director's Designee, shall implement a system to insure the authenticity of the credit documents submitted to the Department to satisfy an assessment.
- F) A credit voucher may only be transferred to another party within the first seven years after the date it is issued by the Department, except as outlined in Subsection 1 below, and the transfer must be executed within that same time period. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02; Amended by Ord. 02-2002, 2/28/02]
- 1) A credit voucher may be applied against an applicable Transportation System Development Charge, pursuant to the above sections, on a project owned by the final holder of the voucher from year seven (7) to year ten (10).
 - a. Between year seven (7) and year ten (10) credit voucher transfers are restricted to inclusion in land sale agreements.
 - b. No credit voucher may be redeemed more than ten (10) years after the date it was issued by the Department, at which point the voucher expires and any remaining balance is reduced to zero.
 - 2) The first six (6) credit voucher transfers per credit voucher holder each fiscal year will be free of charge; subsequent transfers will be charged a fee, as set by Resolution. The fee may be paid in cash, or the owner of the credit voucher can opt to reduce the outstanding voucher to cover the cost of the transfer fee.
- I) The Department Director can delegate signature authority for credit vouchers to a designee.

11.03.060 REFUNDS

Refunds may be given by the County upon finding that there was a clerical error in the calculation of the Transportation System Development Charge. Refunds shall not be allowed for failure to claim credit, as provided for in Section 11.03.050, at the time of development or building permit issuance. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2002, 1/10/02]

- 1) The refund must be requested within six (6) months of the date the assessment was paid; failure to avail oneself of this grace period forfeits any future right or interest in the assessment paid and the credit will remain with the parcel for future development.
- 2) A fee (set by Resolution) will be charged on any refund of an assessment paid on development that did not commence. The fee may be paid in cash or the applicant can opt to reduce the amount of the refund to cover the cost of the fee.

11.03.070 DEDICATED FUNDS, PROJECT LISTS

- A) There are created two dedicated funds entitled the County Transportation System Development Charge Fund, and the Happy Valley/Clackamas County Joint SDC Fund, herein "funds," one fund for each of the TSDC charges imposed by this chapter. All monies derived from the Transportation System Development Charges shall be placed in the respective fund. Transportation System Development Charge revenue shall be used to fund those projects identified in the Methodology Reports adopted by Section 11.03.010(G), increased capacity facilities, and costs related to the administration of the TSDC program as provided by ORS 223.307.
- B) The Project Lists adopted by Section 11.03.010(G) shall be amended from time to time by County staff administrative action. The updated project list shall serve as an amendment to the TSDC Methodology Reports. This change will move completed projects from the list of credit eligible projects, and will not trigger a revision to the TSDC rates until a point in time when a new TSDC methodology is adopted.
- C) The Project Lists adopted by Section 11.03.010(G) may be amended from time to time by Board Resolution. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 15 of Ord. 01-2002, enacted 1-10-02] [Amended by Section 5 of Ord. 02-2002, 2-28-02] If a system development charge will be increased by a proposed modification of a project list to include capacity increasing capital improvement(s):
 - 1) The County shall provide, at least 30 days prior to the adoption of the modification, notice of the proposed modification to the persons who have requested written notice under ORS 223.305(6).
 - 2) If the County receives a written request for a hearing on the proposed modification within seven days of the date the proposed modification is scheduled for adoption, the County shall hold a public hearing.

- 3) Notwithstanding ORS 294.160, a public hearing is not required if the County does not receive a written request for a hearing.
- 4) The decision of the County to increase the system development charge by modifying the list may be judicially reviewed only as provided in ORS 34.010 to 34.100.

11.03.080 APPEAL

- A) An applicant may appeal a decision of the Department to the County Hearings Officer by filing a written request and paying the appeals fee with the County within fourteen (14) days of the Department's decision, or payment of the assessment, whichever comes first. The individual acting as the Hearings Officer will be appointed by the Board of County Commissioners.
- B) Appeals Fee – The fee for formally appealing a decision to the Hearings Officer will be set by Resolution.
- C) The decision of the Hearings Officer shall be reviewable solely under ORS 34.010 through 34.100. The person who has appealed a decision shall be notified of this right to review of the decision. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 16 of Ord. 01-2002, 1/10/02; Amended by Ord. 05-2003, 3/13/03]

11.03.090 ANNUAL REVIEW

- A) The County shall prepare an annual review to determine that sufficient funds will be available to help fund the needed increased capacity facilities, to ensure that the adopted Transportation System Development Charge rate keeps pace with inflation, and to ensure that such facilities will not be over-funded by the Transportation System Development Charge receipts.
- B) In the event, upon annual review, it is determined an adjustment to the Transportation System Development Charge is necessary in order to ensure sufficient funding for the construction of increased capacity facilities or to ensure such facilities are not over-funded by the Transportation System Development Charge, the Board and/or Council shall propose and adopt appropriately adjusted Transportation System Development Charge rates.
- C) Prior to January 1 of each year the County shall provide an annual accounting for the activity occurring in the dedicated funds created by 11.03.070 for the previous fiscal year. The accounting shall show by fund the total amount of system development charges collected, the amount spent on each project that was funded in whole or in part in that fiscal year, and the amount attributed to the costs of complying with the provisions of ORS 223.297 to 223.314. [Codified by Ord. 05-2000, 7/13/00; Amended by Section 17 of Ord. 01-2002, 1-10-02]



4 COPY
GARY BARTH
DIRECTOR

BUSINESS AND COMMUNITY SERVICES

October 25, 2012

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Amending Title 8 of the Clackamas County Code by Adopting
Chapter 8.08, Film and Media Production and Establishing a Uniform
Permit Process, Fees and Guidelines**

Business and Economic Development staff has worked with County Counsel, the film and media industry, and our cities to develop a Clackamas County Film and Media Ordinance as well as, a Uniform Film Permit Application which includes Fees and Guidelines. This Ordinance will create a process in which Clackamas County will institute a filming permit application as well as establish fees and guidelines for use of County parks and public places in unincorporated areas. Further, Clackamas County's Film and Media Ordinance will serve as a model ordinance that cities are encouraged to adopt in order to promote a uniform permitting process throughout the County. This model ordinance is not intended to address the regulations of each local jurisdiction but provides general guidance for ensuring film friendly, unified policies and fees throughout Clackamas County.

The Clackamas County Film and Media Production Program is a new initiative under Business and Economic Development which was created to advance jobs and business in the film and media industry. The 2012 Clackamas County Economic Landscape Study identified Film and Media Production as an emerging cluster generating 4,791 direct jobs and \$212M in GDP.

In conducting outreach and developing strategies for growth in this creative cluster, economic development staff has learned from industry representatives that the lack of uniform filming permitting discourages production companies from filming in certain locations. An online permitting process with unified fees and guidelines will help to build film and media opportunities in Clackamas County as well as to take the frustration and "red tape" out of the permitting process countywide.

Recommendation

Staff respectfully recommends the Board of County Commissioners read the proposed ordinance by title only and hold a second reading scheduled for November 8, 2012 along with the Resolution adopting new film and media program fees.

Sincerely,

A handwritten signature in cursive script that reads "Laura Zentner".

Laura Zentner
Business and Community Services Deputy Director

For information on this issue or copies of attachments please contact Jamie Johnk
at 503-742-4413 or jamieljoh@clackamas.us

ORDINANCE NO. _____

An Ordinance Amending Title 8 of the Clackamas County Code by Adding Chapter 8.08 Film and Media Production

WHEREAS, Title 8 of the Clackamas County Code contains certain provisions relating to the transaction of business in Clackamas County; and

WHEREAS, it has been determined by the Board of County Commissioners that the motion picture, television, and commercial photography industries and the residents, businesses, and visitors of Clackamas County would be well served by an efficient and effective system for the granting of permits to carry on these activities within the borders of Clackamas County; and

WHEREAS, the lack of a uniform film permit process and fees discourages film and media production companies from filming in certain locations; and

WHEREAS, the proposed Chapter 8.08 will establish a filming permit application and set out fees and guidelines for the use of County parks and public places in unincorporated areas and prompt a uniform permitting process throughout the County; and

WHEREAS, the proposed amendments have been written in partnership with the film and media industries; and

WHEREAS, cities in Clackamas County are welcome to establish a uniform permit ordinance utilizing this ordinance as a template. This model ordinance is not intended to address the circumstances of each local jurisdiction but instead provide general guidance for promoting unified policies and fees throughout Clackamas County which to encourage film and media productions; and

WHEREAS, the Clackamas County Code now contains no provisions pertaining to the regulation of the motion picture, television, and commercial production; and

WHEREAS, the proposed amendment contain all the changes requested by the Board of County Commissioners; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 8.08, Film and Media Production, is hereby added to the Clackamas County Code to read as follows:

8.08.010 Purpose

This chapter is intended to provide an efficient and uniform permit and approval processes in unincorporated Clackamas County for the motion picture, television, and

commercial photography industries throughout Clackamas County, for the safety of the public and the promotion of its businesses.

8.08.020 Definitions

- A. CHARITABLE FILMS, shall mean commercials, motion pictures, television, videotapes, digital recording or photography produced by a nonprofit organization, which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes or photos.
- B. COMMERCIAL PHOTOGRAPHY shall mean a moving image or photography production created to advertise or sell a product or service.
- C. MOTION PICTURE, TELEVISION, shall mean and include all activity attendant to staging or shooting motion pictures, television shows or programs, commercials, and student films produced to satisfy a post-secondary school course requirement at an educational institution in any medium including film, tape, or digital format.
- D. NEWS MEDIA shall mean the photographing, filming, or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers, or camerapersons.
- E. STUDIO shall mean a fixed place of business certified as such by local fire authority having jurisdiction where filming activities (motion or commercial photography) are regularly conducted upon the premises.

8.08.030 Permits and Exemptions

- A. Permits: Applicants must obtain permits for commercial photography, motion picture, or television production within any unincorporated area within the County.
- B. Exemptions: The provisions of this chapter shall not apply to or affect the following:
 - 1. Reporters, photographers, or camerapersons in the employ of a newspaper, news service, or similar entity engaged in on-the-spot, spontaneous print media, publishing, or broadcasting of news events concerning those persons, scenes, or occurrences which are in the news and of general public interest.
 - 2. The recording of visual images whether motion or photography, solely for private personal use and not commercial use.

3. Filming activities whether motion or commercial photography conducted at a studio.

8.08.040 Application for Permit

- A. The following information shall be included in the application for permit:
 1. The name, address, email address, and telephone number of the person(s) in charge of the activity;
 2. The property address at which the activity is to be conducted as well as the name of the representative of the property, their address, email address, and telephone number;
 3. The specific location on the property that will be used by the applicant;
 4. The hours and dates such activity will occur;
 5. The exact number of personnel to be involved;
 6. A general statement of the character or nature of the proposed activity, including a description of any activity that may cause public alarm such as but not limited to, animals, gunfire or pyrotechnics, and low flying aircraft;
 7. The requested number of County personnel (i.e., police, fire) needed for public safety during the activity. The applicant shall reimburse the County for any personnel provided as agreed upon at the time of application;
 8. The exact amount/type of vehicles/equipment to be used during the activity, along with a parking plan; and
 9. A commitment that the applicant shall hold the County harmless and otherwise indemnify the County against any liability caused by the proposed activity.
- B. The permit is valid for a period of sixty (60) days from the date of issuance or for a single production (whichever comes first). If multiple productions are taking place by a single production company, a permit is required for each production.
- C. An extension of the sixty (60) day permit may be requested in writing, must be made to the County, and must be received by the County no less than twenty-four (24) hours during the County's normal business days (Monday – Thursday) prior to the expiration of the existing permit. The extension request must include the following information:

1. Duration of the extension request.
 2. A revised Certificate of Insurance covering the extension dates; and
 3. A check for any additional fees associated with the extension request.
- D. Upon the written request of the applicant, the County may change the date for which the permit has been issued, provided established limitations are complied with in respect to time and location of production.
- E. No film permit shall be issued for any production or use that violates federal, state or local laws.
- F. To ensure cleanup and restoration of any public property, an applicant may be required to submit a refundable deposit. Upon completion of filming and inspection of the site by the County, if no verifiable damage has occurred, the security deposit should be returned to the applicant.
- G. Fees shall be set by a resolution adopted by the Board of County Commissioners.

8.08.050 Liability and Insurance

- A. Before a permit is issued for the use of any public property for the purpose of taking motion pictures, television, or commercial photography a certificate of insurance will be required in the amount not less than \$1,000,000 naming the County as a co-insured for protection against claims of third persons for personal injuries, wrongful deaths, and property damage. The County, including its officers and employees, shall be named as additional insured. The certificate shall not be subject to cancellation or modification until after thirty (30) days' written notice to the County. A copy of the certificate shall remain on file with the County.
- B. An applicant shall conform to all applicable federal and state requirements for Worker's Compensation Insurance for all persons operating under a permit.

8.08.060 Violation

If an applicant violates any provisions of this ordinance or a permit issued pursuant thereto, the County may provide the applicant with a verbal or written notice of such violation. If the applicant fails to correct the violation, the County may revoke the permit and all activity must cease.

8.08.070 Rules and Regulations

The County is hereby authorized and directed to promulgate rules and regulations, subject to approval by resolution of the Board of County Commissioners, governing the form, time and location of any activities reached by this ordinance.

ADOPTED this _____ day of _____, 2012.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

A RESOLUTION OF THE CLACKAMAS
COUNTY BOARD OF COUNTY
COMMISSIONERS ADOPTING NEW FILM
AND MEDIA PROGRAM FEES

RESOLUTION NO. _____

NOW, THEREFORE; BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS
THAT:

Section 1: Pursuant to Section 1.01.090 of the Clackamas County Code, the Board adopts the fees shown on the attachment which are incorporated by this reference.

Section 2: The Board hereby directs that the fees shown on the attachment shall be included in Appendix A of the Clackamas County Code.

Section 3: Pursuant to ORS 310.145, the Board classifies the fees adopted by this resolution as fees not subject to the limits of section 11b, Article XI of the Oregon Constitution.

Section 4: Effective Date. The fees authorized by Section 1 of this resolution and shown on the attachments shall become effective on February 6, 2012.

DATED this 8th day of November, 2012.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Charlotte Lehan, Chair

Recording Secretary



Clackamas County Film & Media Program

CLACKAMAS COUNTY PARKS AND PUBLIC PLACES

FEES and GUIDELINES

Permit Fee:

- Motion Picture, Television or Video \$ 0 *
 - Commercial Advertisement \$ 0 *
- * Clackamas County is "Permit Fee Free" for filming in County parks and properties.*

Property Use Fee:

- **Motion Picture, Television or Video:**
 - 1 - 24 People \$ 300-600 per day
 - 25 – 50 People \$ 600-750 per day
 - Over 50 People \$ 750-1,000 per day
- **Commercial Advertisement:**
 - 1 - 24 People \$ 200 per day
 - 25 – 50 People \$ 350 per day
 - Over 50 People \$ 500 per day

Cost Recovery Fee(s):

- Park Staff \$ 47 per hour/person
- Water/Electricity \$ 35 per day
- Clean-up TBD
- Traffic Control TBD
- Police/Fire TBD
- Other Costs: _____ TBD

For More Information Contact:

Clackamas County Parks Department
 Jeroen Kok, Parks Manager | 503-742-4421 | Email: jkok@clackamas.us
 Thomas Gray, Parks Coordinator | 503-742-4414 | Email: tomgra@clackamas.us

Clackamas County Film & Media Office
 Jamie Johnk, Coordinator | Phone: 503-742-4413 | Email: jamiejoh@clackamas.us
 Clackamas County Business & Economic Development
 150 Beaver Creek Road | Oregon City, OR 97045

October 25, 2012

Board of County Commissioners
Clackamas County

**Approval of an Intergovernmental Agreement #140030 with the
State of Oregon, Department of Human Services (DHS), for the operation
of the Food Stamp Employment and Training Program OFSET**

Community Solutions for Clackamas County (CSCC) a Division of the of Health, Housing and Human Services Department requests the approval of an Intergovernmental Agreement (IGA) with the State of Oregon DHS #140030, to operate the OFSET (Food Stamp Employment and Training) Program.

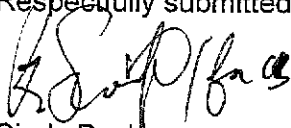
CSCC will continue responsibility for service management to referred clientele. Contract requirements include conducting a weekly job search information session, monitoring of client work search, issuance of support services, and staffing the career center to assist adult clients with employment placement.

Total amount of this agreement is \$218,096 in revenue. This agreement is effective October 1, 2012 and terminates on September 30, 2013. No County General Funds are involved. County Counsel reviewed and approved this contract on October 15, 2012.

Recommendation

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

Respectfully submitted,


Cindy Becker
Director

For additional information on this subject please contact Lori Mack at 503-655-8843



Agreement Number 140030

**State of Oregon
Intergovernmental Agreement**

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 dhsalt@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This Agreement is between the State of Oregon, acting by and through its Department of Human Services, hereinafter referred to as "DHS" and,

**Clackamas County
d.b.a. Community Solutions for Clackamas County
Attn: Lori Mack
112 11th Street
Oregon City, OR 97045
Phone number: 503-655-8843
Fax number: 503-655-8841
Email: lorimac@co.clackamas.or.us**

hereinafter referred to as "County."

Work to be performed under this Agreement relates principally to the DHS

**Office of Self-Sufficiency
Supplemental Nutrition Assistance Program (SNAP)
Food Stamp Employment and Training Program (OFSET)
500 Summer Street NE, E-48
Salem, Oregon 97301-1066
Agreement Administrator: *Belit Burke* or delegate
Telephone: (503)947-5389
Fax: (503)373-7032
Email: belit.burke@state.or.us**

1. Effective Date and Duration.

Per OAR 125-247-0288(1)(a)(B), this Agreement shall become effective on October 1, 2012, regardless of the date it is fully executed by every party and, when required, approved by Department of Justice. Unless extended or terminated earlier in accordance with its terms, this Agreement shall terminate on September 30, 2013. Agreement termination or expiration shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

2. AGREEMENT DOCUMENTS

a. This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:

- (1) Exhibit A, Part 1: Services to Be Provided
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Terms and Conditions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Required Federal Terms and Conditions
- (7) Exhibit E: SNAP Employment and Training Billing Form
- (8) Exhibit F: SNAP Employment and Training Service Plan

There are no understandings, agreements or representations, oral or written, regarding this Agreement that are not specified in it.

b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: this Agreement without Exhibits, Exhibits D, A, B, F, C and E.

c. For purposes of this Agreement, "Services" means specific services to be delivered by County as set forth in Exhibit A.

2. Consideration.

a. The maximum, not-to-exceed compensation payable to Agency under this Agreement, which includes any allowable expenses, is \$218,096.00. DHS will not pay County any amount in excess of the not-to-exceed compensation of this Agreement for completing the Work, and will not pay

4. **County Data and Certification.**

- a. County Information. County shall provide information set forth below. This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

Please print or type the following information.

Name (exactly as filed with the IRS): Clackamas County
Address: 112 11th Street
City, State & ZIP: Oregon City, OR 97045
E-mail: LoriMac@co-clackamas.or.us
Telephone: (503) 655-8893 Facsimile: (503) 655-8891
Federal Employer Identification Number: 93-6002286

Proof of Insurance:

Workers' Compensation Insurance Company: SELF INSURED
Policy # N/A Expiration Date: N/A

The above information must be provided prior to Agreement approval. County shall provide proof of Insurance upon request by DHS or DHS designee.

- b. Certification. By signature on this Agreement, the undersigned hereby certifies under penalty of perjury that:
- (1) The undersigned is authorized to act on behalf of County and that County is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620;
 - (2) The data information in Section 5.a. is County's true and accurate information;

for Work performed before the date this Agreement becomes effective or after the termination or expiration of this Agreement. If the maximum compensation is increased by amendment of this Agreement, the amendment must be fully effective before County performs Work subject to the amendment.

- b. Interim payments to County shall be subject to ORS 293.462, and shall be made in accordance with the payment schedule and requirements in Exhibit A, Part 2, "Payment and Financial Reporting".
3. DHS will pay only for completed Work under this Agreement. For purposes of this Agreement, "Work" means the tasks or services and deliverables accepted by DHS, and which are described in Exhibit A, Part 1, "Services to Be Provided". **Vendor or Sub-Recipient Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, DHS' determination is that:

County is a sub-recipient; **OR** County is a vendor.

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 10.560.

- (3) To the best of the undersigned's knowledge, County has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
 - (4) County and County's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>;
 - (5) County is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at <https://www.sam.gov/portal/public/SAM/>; and
 - (6) County is not subject to backup withholding because:
 - (a) County is exempt from backup withholding;
 - (b) County has not been notified by the IRS that County is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified County that County is no longer subject to backup withholding.
- c. County is required to provide its Federal Employer Identification Number (FEIN). By County's signature on this Agreement, County hereby certifies that the FEIN provided to DHS is true and accurate. If this information changes, County is also required to provide DHS with the new FEIN within 10 days.

EACH PARTY, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Signatures

Clackamas County, d.b.a. Community Solutions for Clackamas County By:

Authorized Signature	Title	Date
----------------------	-------	------

**State of Oregon acting by and through its Department of Human Services
By:**

Authorized Signature	Title	Date
----------------------	-------	------

Approved for Legal Sufficiency:

<u>Approved by email per ORS 291.047 by AAG Jeff Wahl</u>	<u>9-24-12</u>
Assistant Attorney General	Date

Office of Contracts and Procurement:

Contract Specialist	Date
---------------------	------



Clackamas County Sheriff's Office

7

RAIG ROBERTS, Sheriff

October 25, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Amendment No. 1 to the Intergovernmental Agreement Among Clackamas County, the Tri County Metropolitan Transportation District of Oregon (TriMet) and the City of Portland For Provision of Transit Police Services

This Amendment number one amends the intergovernmental agreement dated July 1, 2010 among TriMet, the City of Portland, and Clackamas County for provision of Transit Police services effective September 1, 2011. The purpose of the amendment is to recognize that the Transit Police services are funded in part by U.S. Department of Homeland Security Transit Security Grant funds and the U.S. Department of Homeland Security.

The parties to the agreement agree that they are subject to all provisions prescribed for third party contracts by that financial assistance agreement as set forth in amendment No. 1. All other terms and conditions of the original agreement shall remain in full force and effect. There are no funds involved in this agreement.

County Counsel approved this agreement.

RECOMMENDATION

It is our recommendation that the Board approve this Intergovernmental Agreement amendment No. 1 among Clackamas County, TriMet and the City of Portland for provision of transit police services.

Sincerely,

Matt Ellington, Undersheriff

**INTERGOVERNMENTAL AGREEMENT AMONG THE TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON (TRIMET), THE CITY OF PORTLAND
AND CLACKAMAS COUNTY**

CONTRACT 10-0810, AMENDMENT NO. 1

This Amendment No. 1 amends the July 1, 2010 Intergovernmental Agreement ("Agreement") among the Tri-County Metropolitan Transportation District of Oregon ("TriMet"), the City of Portland ("Portland") and Clackamas County ("Clackamas") (collectively referred to as the "Parties") for provision of Transit Police Division ("Transit Police") services, effective September 1, 2011.

The Parties agree as follows:

1. This Agreement is funded in part by a U.S. Department of Homeland Security Transit Security Grant between TriMet and the U.S. Department of Homeland Security. This Agreement is subject to all provisions prescribed for third party contracts by that financial assistance agreement as set forth in the attached and incorporated Exhibit A.
2. All other terms and conditions of the Agreement shall remain in full force and effect.

The individuals signing below represent and warrant that they have authority to bind the party for which they sign.

CLACKAMAS COUNTY
2051 Kaen Road
Oregon City, OR 97045

CITY OF PORTLAND
1221 SW 4TH Ave.
Portland Or. 97204

**TRI-COUNTY METROPOLITAN TRANSPORTATION
DISTRICT OF OREGON (TRIMET)**
4012 SE 17TH Ave.
Portland, OR. 97202

Charlotte Lehan
Chair
Clackamas County Commissioner

Sam Adams
Sam Adams
Mayor

Harry Saporta
Harry Saporta
Safety & Security Executive

date

September 20, 2012
date

24 APRIL 2012
date

Craig Roberts
Craig Roberts
Sheriff

Lavone Griffin-Valade
Lavone Griffin-Valade
Auditor

5/27/12
date

9/27/12
date

Approved as to form:

Kimberly J. ...
Legal Counsel

APPROVED AS TO FORM

James H. Van Dyke
CITY ATTORNEY
City Attorney

...
TriMet Legal Counsel

May 8, 2012
date

8/23/12
date

April 24, 2012
date

EXHIBIT A
U.S. DEPARTMENT OF HOMELAND SECURITY TRANSIT SECURITY GRANT CONTRACT
REQUIREMENTS

As used below, the term "Contractor" shall mean Clackamas County

I. DEFINITIONS

- A. Homeland Security Directive includes any Homeland Security circular, notice, order or guidance providing information about Homeland Security programs, application processing procedures, and Project management guidelines.
- B. Government means the United States of America and any executive department or agency thereof.
- C. Homeland Security means the United States Department of Homeland Security (DHS) or it's Office of Domestic Preparedness.
- D. Third Party Subcontract means a subcontract at any tier entered into by Contractor or a subcontractor, financed in whole or in part with Federal assistance originally derived from Homeland Security.

II. FEDERAL REQUIREMENTS

- A. Homeland Security requires that a grant recipient require that any contractor employed in completion of a DHS grant project comply with the following standard requirements, the terms and conditions of which are incorporated herein by reference. In addition, any such contractor shall require each of its subcontractors employed in the completion of the project to comply with these requirements:

Administrative Requirements:

- 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, including the provisions set forth in this Exhibit A
- 44 CFR part 10, Environmental Considerations

Cost Principles:

- 2 CFR Part 225, Cost Principles for State, Local, and Indian tribal Governments (formerly OMB Circular A-87)

Audit Requirements:

- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

- B. Contractor shall at all times comply with all applicable regulations, policies, procedures and Homeland Security Directives, including without limitation those listed directly or by reference in the Transit Security financial assistance agreement between TriMet and the Homeland Security, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor's failure to so comply shall constitute a material breach of this Agreement. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

- C. All Homeland Security mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause TriMet to be in violation of the Homeland Security terms and conditions.

III. ACCESS TO RECORDS

- A. Contractor agrees to provide TriMet, Homeland Security, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- B. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than six years after the later of: (a) the date of termination or expiration of this Agreement or (b) the date Contractor receives final payment under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until TriMet, Homeland Security, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- D. Contractor agrees to include paragraphs A, B, and C above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

IV. DEBARMENT AND SUSPENSION

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. By signing this Agreement, Contractor makes a material representation of fact relied upon by TriMet that Contractor has complied with 49 CFR Part 29. If it is later determined that Contractor knowingly rendered an erroneous representation of compliance with 49 CFR Part 29, in addition to and without limitation of the remedies available to TriMet, the Federal Government may pursue any available remedies, including but not limited to suspension and/or debarment. In addition, Contractor is required to comply with 49 CFR 29, Subpart C throughout the term of this Agreement, and must include the requirement to comply with 49 CFR Part 29, Subpart C in any lower tier covered transaction it enters into.

V. NO FEDERAL GOVERNMENT OBLIGATIONS TO CONTRACTOR

- A. TriMet and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Government, the Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to TriMet, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

- B. Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

VI. **CONTRACT WORK HOURS AND SAFETY STANDARDS** (applicable to non-construction contracts in excess of \$2,500 that employ laborers or mechanics)

- A. **Compliance:** Contractor agrees that it shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-330) as amended and as supplemented by Department of Labor regulations (29 C.F.R. Part 5), which are incorporated herein.
- B. **Overtime:** No contractor or subcontractor contracting for any part of the work under this Agreement which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- C. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause in Paragraph B of this section, Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph B of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph B of this section.
- D. **Withholding for unpaid wages and liquidated damages** - TriMet shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph C of this section.
- E. **Subcontracts** - The contractor or subcontractor shall include in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

VII. **NOTICE OF REPORTING REQUIREMENTS**

Contractor shall comply with the reporting requirements of Homeland Security stated in 44 C.F.R. §§ 13.40 et seq. The Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further

agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

VIII. COPYRIGHTS

- A. Contractor agrees that Homeland Security shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes:
 - 1. The copyright in any work developed with the assistance of funds provided under this Agreement;
 - 2. Any rights of copyright to which Contractor purchases ownership with the assistance of funds provided under this Agreement.
- B. Contractor agrees to include paragraph A above in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

IX. PATENT RIGHTS

- A. General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, TriMet and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the Homeland Security. Unless the Government later makes a contrary determination in writing, irrespective of the Contractor's status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual), TriMet and Contractor agree to take the necessary actions to provide, through Homeland Security, those rights in that invention due the Government in accordance with 44 CFR Part 13.36(i) (8).
- B. The Contractor also agrees to include paragraph A above in each third party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by Homeland Security.

X. ENERGY CONSERVATION REQUIREMENTS

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub L. 94-163, 89 Stat.871). Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by Homeland Security. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

XI. ENVIRONMENTAL REQUIREMENTS

- A. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Contractor agrees to report each violation of these requirements to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA regional office.

- B. Contractor agrees to comply with applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. Contractor agrees to report each violation to TriMet and understands and agrees that TriMet will, in turn, report each violation as required to assure notification to Homeland Security and the appropriate EPA Regional Office.
- C. Contractor will comply with Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- D. Contractor agrees to include the requirements at paragraphs A, B and C above in each third party subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by Homeland Security.

CERTIFICATION

REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loan, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Clackamas County, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any.

Executed this 22 day of May 2012

By:

Craig Roberts
(Signature of authorized official)

Shuff
(Title of authorized official)



STEVE WHEELER
COUNTY ADMINISTRATOR

OFFICE OF THE COUNTY ADMINISTRATOR

October 25, 2012

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Board Order Approving the Continuance of the County's Balance
in the Association of Oregon and California Land Grant Counties
Special Advocacy Fund**

Clackamas County is a member of the Association of Oregon and California Land Grant Counties (Association of O&C Counties), hereafter referred to as "the Association," for the purpose of benefitting from the Association's activities affecting the management of O&C lands and O&C functions relating to Public Law (P.L.) 106-393 which is also known as the "Secure Rural Schools and Community Self-Determination Act of 2000."

In 2009, Clackamas County entered into an intergovernmental agreement for the creation of a Special Advocacy fund to provide the resources necessary to support efforts to reauthorize the Secure Rural Schools (SRS) safety-net legislation and to fund development of a management solution when SRS is no longer available. The Association's Board of Directors has voted unanimously to request all counties with balances on deposit in the Fund to approve continuation of the Fund and to leave their balances in the Fund in order to continue funding the services of the Association and its forestry and economics consultants, including continued legislative advocacy.

The Special Advocacy Fund has allowed the Association to continue as a source of information and advocacy regarding the O&C Lands. The last SRS payments will be received following the conclusion of FFY 2012, with final payments to counties made at the end of 2012 or early 2013. The Association has helped facilitate the distribution of those payments as well as assisting Clackamas County in its federal compliance requirements. The amount that Clackamas County holds in deposit with the Special Advocacy Fund is \$21,294.

RECOMMENDATIONS

Staff respectfully recommends the Board approve leaving the County's balance of \$21,294 in the Special Advocacy Fund. If adopted, the attached Board Order will be implemented and Clackamas County's balance on deposit with the Special Advocacy fund will remain in the fund for the support of the Association's efforts in the interest of Clackamas County. Your favorable consideration is requested.

Sincerely,

Nancy Newton for Steve Wheeler

Steve Wheeler
County Administrator

For information on this issue or copies of attachments,
please contact Nancy Newton at 503-742-5918

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

In the Matter of the FFY 2012-13
Association of Oregon & California
Land Grant Counties
Special Advocacy Fund



Order No.
Page 1 of 2

WHEREAS, the County has a statutory right to share in annual receipts from the O&C lands; and

WHEREAS, the County is a member of the Association of Oregon and California Land Grant Counties (the "Association") and the Association, on behalf of its member counties, engages in activities affecting the management of O&C lands and the O&C related revenues in order to protect, preserve and enhance the interests of the Association's members; and

WHEREAS, members of the Association entered into an intergovernmental agreement in 2009 to create a "Special Advocacy Fund" to carry out activities in furtherance of the County's interests and provide continued funding for the Association's efforts to protect the County's interests in the O&C lands and O&C related revenues through November 1, 2012, when the Special Advocacy Fund terminates and remaining balances on deposit returned to the counties; and

WHEREAS, the Association's Board of Directors has voted unanimously to request all counties with balances in the Special Advocacy Fund to approve continuation of the Fund, and to leave their balances on deposit in the Fund for the purpose of funding the Association's advocacy for federal legislation that provides payments to counties and the associated land management solutions that restore revenue sharing from productive activity on the) &C lands; and

WHEREAS, the County desires to maintain its balance in the Special Advocacy Fund on and after November 1, 21012, for the purpose of funding the services of the Association and its forestry and economics consultants, including advocating for legislation that provides payments to counties and associated management solutions when direct payments are no longer a viable option; and

WHEREAS, the County will make its balance in the Fund available for the purposes stated, along with all other counties who elect to maintain their balances in the Fund, upon the approval of withdrawals in budgets submitted to and approved by the Association's membership at the Association's annual meetings or approved at special meetings of the membership convened pursuant to Article VII, Section 12 of the Association's Bylaws;

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

In the Matter of the FFY 2012-13
Association of Oregon & California
Land Grant Counties
Special Advocacy Fund



Order No.
Page 2 of 2

NOW, THEREFORE, it is hereby ordered:

1. Clackamas County hereby approves a leaving in the County's balance in the Special Advocacy Fund on and after November 1, 2012.
2. Withdrawals from the County's balance in the Special Advocacy fund for use in supporting advocacy by the Association shall be only as part of budgets approved by vote of the association's membership at the association's annual meetings or approved at special meetings of the membership convened pursuant to Article VII, Section 2 of the Association's Bylaws.

ADOPTED this 25th day of October, 2012

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Charlotte Lehan, Chair

Recording Secretary



Dave Cummins
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

October 25, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of E-Signature and E-Discovery Policies

Clackamas County currently has no definitive policy managing technology related to the utilization of electronic signatures, or E-Signatures and related electronic approvals for documents, processes, or applications. The lack of policy impacts the ability of the County to implement new applications or document workflow processes that require some level of approval due to the current use of physical signatures. Clackamas County also does not have a policy managing the process for requesting, dissemination and review of the various types of data available for discovery whether through public records request, legal request or internal County management. Whether it is for efficient delivery of services or documents via E-Signatures, or the secure and appropriate discovery of information, both of these policies are needed.

Technology Services has multiple technical methods available that can be utilized, based on the business needs of the process, to provide electronic signatures or approvals in lieu of physical signatures. This allows for the development of efficient processes both for the processing of documents such as contracts and the delivery of services (internally and externally to the public) such as applying for volunteer services or permits.

In order to implement these services, an official policy needs to be adopted that accomplishes two required tasks: First is to establish an official policy defining the use of electronic signatures to meet the Federal and State legal guidelines for the use of electronic substitution of signatures or approvals by public entities. This policy has been co-developed with County Counsel to meet those guidelines. Second is a defined process for the review of each service or document to determine the appropriate technical solution to utilize electronic approvals and to document that solution. This E-Signature policy also satisfies that requirement.

Technology Services also houses and maintains a large amount of data including files, email, web logs, video surveillance etc. There are numerous types of discovery requests seeking copies of this information based on particular criteria to meet legal, public records, management or some other requirement. The E-Discovery policy provides a structured process for processing document requests. This policy will prevent inappropriate requests or results from being released as well as maintaining a consistent approach to the handling of potentially sensitive information.

Both policies were presented to the Board during its Study Session on October 16, 2012. The policies are presented to the Board for approval on its consent agenda.

Neither of these policies has any direct financial impact nor requires any funding. The goal is that the E-Signature policy will actually drive efficiencies in the both the delivery of services and processing of documents thus providing savings for the County in the long run.

County Counsel and Records Management have reviewed and assisted in the development for both of these policies.

RECOMMENDATION:

Staff respectfully recommends the approval and formal adoption of both the E-Signature and E-Discovery policies as County policies that apply to all County departments.

Sincerely,



Dave Cummings
CIO Technology Services

For more information on this issue or copies of attachments contact Dave DeVore (503) 723-4996



Technology Services

E-Discovery Policy

POLICY:	E-Discovery
DATE:	01-01-2012
REVISION:	1.0 DD
EFFECT:	DRAFT
REVIEW:	

1. PURPOSE

Clackamas County maintains a large amount of electronic information in many forms and formats. Much of this data is confidential or sensitive and must meet strict regulatory policies as to storage, handling and distribution. This includes requests, both internal and external, for access to or copies of data for purposes other than the intended application by entities outside the managing agency. Such requests must be reviewed, processed and completed in such a manner as to ensure data security and appropriate use. *This requires the coordination of multiple County departments.* The purpose of this policy is to outline the process for requesting and approving such requests so that the data security is maintained and County liability limited.

2. SCOPE

This policy applies to any request for County owned / managed data for the purposes of discovery or review outside the intended utilization of the data or the managing agency. This includes data that is owned by external agencies but stored on County systems or under County stewardship. This includes any form of electronic data such as, but not limited to: Electronic files, databases, video, Email, Voice Mail, Instant messaging or texting, audio, images, logs etc. This does not apply to paper copies or microfiche— only electronic data. Examples of E-Discovery requests covered by this policy include, but are not limited to:

- Email
- Internet Logs
- CCTV Video
- Contents of File Systems
- Security Access Logs
- Network Access Logs

This policy does not cover the use of data in another application or ongoing reporting solution. Such use is covered under the Data Utilization Policy. This policy also does not apply to data that is administered by a Managing Agency as part of the normal business operations of the agency or any requests for such data that is normally available without filing a discovery request.

3. DEFINITIONS

For use in this policy, the following terminology is defined:

- **Public Records Request**
Any request from a source external to the County not involved in a legal investigation.
- **Internal E-Discovery**
Any request from a source within the County.
- **Employee Services (DES)**
Clackamas County Department of Employee Services. DES verifies requests as appropriate and where employees are involved, that all procedures are properly followed.
- **County Counsel (CC)**
Clackamas County Office of County Counsel. CC verifies requests as legal, appropriate and all procedures are properly followed. CC may also review discovery results prior to release for screening and verification of appropriate data.

- **Records Management (RM)**
Clackamas County Department of Records Management. RM processes many of the requests for data in the County and will coordinate as required with other County agencies in the processing and review of the request depending on the request specifics.
- **Technology Services (TS)**
Clackamas County Department of Technology Services. TS manages the technology, storage and in many cases, the processing of E-Discovery requests. TS ONLY processes requests in accordance with the processes defined within this policy.
- **Facilities (FAC)**
Facilities is responsible for the overall security of the County facilities and therefore is responsible for some aspects of security related E-Discovery requests. TS and FAC will coordinate together on approved E-Discovery requests to ensure the appropriate data is provided.
- **Managing Agency**
The County (or external) agency that is responsible for the data and maintaining its security. Many E-Discovery requests are made directly to the Managing Agency who will coordinate the request with the appropriate County agencies for review and approval.

4. PUBLIC RECORDS REQUEST

The following process is to be followed for Public Records Request:

- Normal requests are filed with Records Management as outlined by the instructions defined at <http://www.clackamas.us/rm/request.jsp> Some requests may also be filed directly with County Counsel, especially those involved in a legal action.
- Records Management and/or County Counsel processes the request and reviews it with the required County agencies such as DES and Managing Agencies to determine if appropriate and costs.
- Records Management and/or County Counsel coordinates with TS as required to process the request and produce discovery results. All processing requests made to TS need to be made to the Director or deputy Director of TS who will coordinate the request.
- TS may coordinate with other required departments as needed to complete the request.
- If required, results are sent to County Counsel for review to ensure no inappropriate data are included in the results.
- After review, Records Management and/or County Counsel coordinates releasing the resulting discovery results to the requesting source as well as any associated fees for the request.
- Unless otherwise instructed by County Counsel, all request are considered confidential and handled as such with all appropriate regulations regarding handling of the data enforced (such as protecting personally identifiable information etc).

5. INTERNAL E-DISCOVERY

The following process is to be followed for Internal E-Discovery Request:

- If the request is related to a work performance issue:
 - Requests are filed with the Director of DES or assigned designate.
 - DES reviews the request and determines if appropriate.
 - DES, if required, coordinates with County Counsel in the review of the request to determine if appropriate, legal, and how to proceed with the request.
 - DES and/or County Counsel coordinate with the requesting agency and TS if required to process the request and produce discovery results. All processing requests made to TS need to be made to the Director or deputy Director of TS who will coordinate the request.

- Results are sent to DES or to the requesting agency if approved by DES.
- If the request is related to a internal investigation or request:
 - Requests are filed with County Counsel or assigned designate.
 - County Counsel reviews the request and determines if appropriate.
 - County Counsel coordinates with the requesting agency and TS if required to process the request and produce discovery results. All processing requests made to TS need to be made to the Director or deputy Director of TS who will coordinate the request.
 - Results are sent to County Counsel for review.
 - Depending on the request / data specifics, County Counsel coordinates with the requesting agency as required to review the discovery results, remove inappropriate data, and determines eligible data for release.
- TS may coordinate with other required departments as needed to complete the request.
- Unless otherwise instructed by County Counsel, all request are considered confidential and handled as such with all appropriate regulations regarding handling of the data enforced (such as protecting personally identifiable information etc).

6. EXCEPTIONS

The following are exceptions to the processes defined in this policy:

- Special situations as requested and coordinated by County Counsel for investigations.
- Special situations as requested and coordinated by the District Attorney for investigations.
- As required in the process of a criminal investigation.
- Processing the contents of a no longer active staff member's PC drive and / or File System as needed by the Managing Agency.

7. RETENTION

Electronic information covered by this policy may have retention schedules that can impact the Discovery request. The following schedules are followed for the retention of the various types of electronic information:

FILE TYPE	RETENTION	NOTES
Electronic Files	Variable	Depends on retention rules for particular files
Email	10 years	Discovery is available for 10 years prior to request date
Web Logs	90 Days	Logs purged automatically after 90 days
Security Video	30 Days	Some variable, most set to 30 day over-write
Security Logs	90 Days	Logs purged after 90 days

8. QUESTIONS

For any questions related to this policy or the discovery of Electronic Data, please contact the Office of County Counsel at (503)-655-8362. For more information on Public Records Request, please go to the web site: <http://www.clackamas.us/rm/request.jsp>



Technology Services

E-Signature Policy

POLICY:	E-Signature
DATE:	10-01-2012
REVISION:	2.1 DD
EFFECT:	DRAFT
REVIEW:	ANNUAL

1. PURPOSE

The purpose of this policy is to define the types of signatures available for use and outline the process for determining the type of signature required on any given document type. As the need for Document Management, work flow and paperless systems increases in the County, the need to utilize E-Signatures where ever possible becomes important for the efficient processing of electronic documents and their business systems.

2. SCOPE

- This policy applies to any document, whether electronic or paper, owned, processed or managed by the County that requires some level of approval or authority that historically has been / or could be satisfied by a signature.
- This policy applies to both internally and externally processed documents including the use of signatures or approvals of non-County staff.
- This policy defines which documents can satisfactorily meet the requirements of a signature via some level of electronic signature, authentication, or assumed signature process.
- This policy shall not alter any retention schedules of any public records subject to this policy.

3. AUTHORITY

This policy applies to County documents under authority of the following statutes:

- *US Electronic Signatures in Global and National Commerce Act, 15 USC §7001.*
Facilitating the use of electronic records and signatures in interstate and foreign commerce by ensuring the legal enforceability of contracts entered into electronically.
- *Oregon Uniform Electronic Transaction Act, ORS 84.001 et seq.*
Establishes that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form. If a law requires a signature, an electronic signature satisfies the law.
- *ORS 84.052*
Applies to governmental agencies and allows for the acceptance and distribution of electronic records provided the governmental agency adopts policies concerning electronic signatures, including the extent, creation, storage, process, use, and format.

4. DEFINITIONS

For use in this policy, the following terminology is defined:

- **County Counsel (CC)**
Clackamas County Office of County Counsel. CC verifies the legal requirements for a signature for a given document type.

- **Records Management (RM)**
Clackamas County Department of Records Management. RM may also verify the legal or business process requirements for a signature based on documents type.
- **Technology Services (TS)**
Clackamas County Department of Technology Services. TS may provide technical solutions to meet digital or authenticated signature requirements as well as work flow solutions.
- **Managing Agency**
The County or external agency that is the owner of or responsible for the document type or business process requiring some level of approval.
- **Internal Document**
Any document that is restricted to internal processing within the County administration or departments and the approval process requires only County staff. This does not preclude the document from being distributed externally, only the approval process must remain with County staff.
- **External Document**
Any document that at some point requires the use of non-County personnel to approve or sign the document.

5. TYPES OF SIGNATURES - INTERNAL

The following defines the types of signatures available for use with Internal Documents:

- **PHYSICAL**
The document requires a hard copy and physical signature. Even in an electronic work flow process, final approval must be physically signed for official record. Whenever possible it is recommended that the documents approval process be designed to utilize non-physical signatures until the final version is ready for printing and signing utilizing an attached signature page.
- **DIGITAL SIGNATURE**
Physical printed copy with original signature is not required; however a digital signature is required to be attached with the electronic document. Signature may be obtained in several methods depending on the requirements of the business process:
 - Signature Pad
 - Pre-scanned stored signature
 - Preapproved signature seal
 - Signature E-Certificate
 This signature type allows for full paperless workflow with a signature process built into the workflow. Printed documents would show the signature as if it was physically signed.
- **AUTHENTICATED OR ASSUMED SIGNATURE APPROVAL**
This process requires no actual signature for approval or authorization. This authenticated or assumed signature approval process requires that the document management system or workflow be accessible only after a secure authentication to the system, such as a secure network account or business system with an additional account and password. The secured access is valid authorization to approve documents without an actual signature. The data, account, or process information of the authorization representing the signature must be maintained electronically with the document.

- **HYBRID**

While not actually a different type of E-signature, the blending of the 3 types of internal E-signatures is also available as long as it can be built into the document life cycle. An example would be a document utilizing Authenticated Approvals during the development of the document and a physical signature once the document is finalized and printed. A signature page, or several initialed sections etc could be utilized as the final stage of the document process. Hybrid documents would still utilize Addendum A to define the type(s) of signatures making sure the various points in the lifecycle of the documents where the various signatures are used is well defined.

6. TYPES OF SIGNATURES - EXTERNAL

As with internal documents, there are also standards for the use of E-signatures on external documents and the required signature and approval process.

- **PHYSICAL**

The document requires a hard copy and physical signature.

- **DIGITAL CERTIFICATE**

A standard digital certificate is attached to the documents with pre-established credentials.

- **ACCOUNT**

User creates an account on a County owned or managed system for secure access.

- **EMAIL VERIFICATION**

An Email is sent or received to verify the identity of the individual user.

- **TERMS & CONDITIONS**

The user is required to acknowledge electronically the Terms & Conditions of the document or the process.

- **HYBRID**

A blending of the approved External Signature types to support the business requirements.

7. PROCESS

To determine the signature requirements of a particular document or process, the following process is recommended:

- Contact your department's Records Coordinator to determine what the legal requirements are for signatures or approvals. If you do not have a coordinator, contact Records Management directly.
- Confirm the business requirements of the document are fully understood and are part of the analysis process along with any proposed work flow processes. TS may assist in this analysis to confirm the work flow process is technically feasible.
- Your Records Coordinator will then work with County Counsel for the legal requirements and final e-signature approval.
- Once the signature requirements are defined, the Records Coordinator needs final approval from the Managing Agency's management.
- Once all approvals are obtained, the Records Coordinator or designee will coordinate with TS on any required technology or workflow modifications to meet the new signature requirements.
- TS will add the Document Type and Signature Requirements to the E-Signature Addendum and update the posting on the TS Policies Website.

8. EXCEPTIONS

The following are exceptions to the processes defined in this policy:

- Approvals or signatures requiring some type of official seal representing a professional registration, licensure, or certification are conditional exempted from this policy unless the Managing Agency has established procedures to accept and process digital signatures in a manner consistent with this policy.

9. QUESTIONS

For any questions related to this policy or the determination of required signature type, please contact the Office of County Counsel at (503) 655-8362. For more information on methods in capturing digital signatures or authenticated approval, or how to utilize e-signatures in the management of documents please contact Technology Services at (503) 655-8346 or via a Help Desk request online at <http://web1.clackamas.us/toolbox/help>

10. ADDEDUM A – Signature List - INTERNAL Documents

The following is a list of internal document types in the County and the approved signature method for each type. If a particular document type is not listed, please see the PROCESS section of this policy on how to determine the signature requirements. This list will be updated periodically as new signature requirements are determined.

**** SAMPLE ****

DOCUMENT TYPE	DEPARTMENT	SIGNATURE	NOTES
Board Orders	BCC	Physical	Original copies must be physically signed
Medical Prescriptions	H3S – Primary	Digital	Must be digitally captured on the document
Travel Requests	County - Finance	Authenticated	Network login sufficient for approval
H3S Contracts	H3S	Hybrid	Development via Authenticated workflow, the final version printed and signed

