



AGENDA

Thursday, December 13, 2012 - 10:00 AM
Board of County Commissioners Business Meeting

Beginning Board Order No. 2012-

I. CALL TO ORDER

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

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

1. Presentation of the Government Channel Programming Awards for the 2012 (Steve Lobel, Cable Communications)

III. LAND USE ISSUES *(No public testimony on these items)*

READING AND ADOPTION OF A ZDO ORDINANCE

No Public Hearing necessary per Oregon Administrative Rule 660-0180020(4)

1. Zoning and Development Ordinance Amendment - **ZDO-241** - An Ordinance Amending Sections of the Clackamas County Zoning and Development Ordinance (Rhett Tatum, County Counsel)

READING AND ADOPTION OF PREVIOUSLY APPROVED ZDO ORDINANCE

Previously approved on May 20, 2012

And

PREVIOUSLY APPROVED LAND USE BOARD ORDER

Previously approved on August 1, 2012

2. Zoning and Development Ordinance Amendment - **ZDO-237** - An Ordinance Amending Chapter 10 of the Clackamas County Comprehensive Plan the Clackamas County Zoning and Development Ordinance and Board Order No. _____ Approval of a Comprehensive Plan Amendments and Zone Change for Veritas Investment Inc. (Rhett Tatum, County Counsel)

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

1. Resolution No. _____ for Clackamas County Supplemental Budget (Greater than ten Percent) for Fiscal Year 2012-2013 (Diane Padilla, Budget Manager)

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 a Behavioral Health Services Agreement with Alternative Services of Oregon, Inc. for Behavioral Consultation Services and Outpatient Mental Health Services - BH
- 6 2. Approval of a Professional Services Agreement with LifeWorks NW Providing On-site Services at the Gladstone Center for Children and Families - BH
- 7 3. Approval of a Behavioral Health Services Agreement with Options Counseling Services of Oregon, Inc. for Intensive Community-Based Services for Children and Outpatient Mental Health Services - BH

B. Department of Transportation & Development

- 8 1. Approval of the Renewal for an Oregon Department of Transportation Flexible Services Maintenance Agreement for Equipment and Services with the Oregon Department of Transportation.

C. Finance Department

- 9 1. Resolution No. _____ for Clackamas County for a Supplemental Budget (Less Than Ten Percent) for Fiscal Year 2012-2013
- 10 2. Resolution No. _____ for Clackamas County for Budgeting of New Specific Purpose Revenue for Fiscal Year 2012-2013
- 11 3. Resolution No. _____ for Clackamas County for Transfer of Appropriations for Fiscal Year 2012-2013

D. Elected Officials

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

E. Business & Community Services

- 13 1. Approval of a Transfer of Ownership of the Three Creeks Real Property to Clackamas County Service District No. 1

VII. WATER ENVIRONMENT SERVICES

- 14 1. Approval of Amendment No. 1 to the Agreement with Perkins Cole LLP for Legal Representation and Support Regarding the Blue Heron West National pollutant Discharge Elimination System Permit
- 15 2. Approval of Change Order No. 3 between Clackamas County Service District No. 1 and Richard Phillip Marine, Inc. for the Hoodland Emergency Outfall Repairs Project

- 16 3. Approval of a Mutual Investment Agreement between Clackamas County Service District No. 1 and the Tri-City Service District

VIII. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

IX. COUNTY ADMINISTRATOR UPDATE

X. 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>



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Debbie McCoy
Manager

CABLE COMMUNICATIONS

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

December 13, 2012

Board of Commissioners
Clackamas County

Members of the Board:

PRESENTATION OF THE GOVERNMENT CHANNEL PROGRAMMING AWARDS FOR 2012

The Cable Communications Division is pleased to present to the Board of County Commissioners the recent programming awards received for the Clackamas County Government Channel productions. At the NATOA (National Association of Telecommunications Officers and Advisors) 27th Annual Government Programming Awards competition on September 29, 2012 in New Orleans, we received one First Place Award; two Second Place Awards; three Third Place Awards plus three Honorable Mentions. Additionally, the channel received one Award of Excellence, two Awards of Distinction from the Videographer Awards competition held in June of this year and an Honorable Mention in the Best of the Northwest competition.

We have a video clip to show you highlighting our achievements. These will include our honors from the NATOA awards competition where we were awarded Honorable Mention for "Excellence in Government Programming" in this national competition. We received a First Place for: "Fall Senior Softball League" by videographer Kevin Brown. Two Second Place awards were received for: "Creature Feature Open" and "Remembering the Holocaust" both produced by Kevin Brown. Two third place awards were received for "Open Minds, Open Doors" by videographers Chris Miller, Marc Ivanish and Valerie Garrison, hosted by Kimberly Jacobsen; and "Get Plugged In" hosted by Kimberly Jacobsen, directed by Valerie Garrison and videographers Marc Ivanish, Terry Musgrove, Alison Grayson, Rene Hinneberg and technician Ritch Marvin. The magazine series "Inside Clackamas County" written and hosted by Kimberly Jacobsen and supported by videographers Marc Ivanish, Chris Miller and Alison Grayson and "Remembering the Holocaust" by videographer Kevin Brown received Honorable Mentions.

The Channel won an Honorable Mention in the Best of the Northwest competition for: "Remembering the Holocaust" by videographer Kevin Brown.

Awards of Distinction for "Inside Clackamas County - Molalla Farm Loop" hosted by Kimberly Jacobsen and videographer Alison Grayson; "Sheriff's K-9 Unit" produced by Marc Ivanish; and an Award of Excellence for "Remembering the Holocaust" by videographer Kevin Brown was received in the Videographer Awards competition.

These programming competitions are highly competitive with entries throughout the United States and some international entries. Clackamas County Cable Communications is pleased to have won 13 awards again this year for our programming. Since its inception the Clackamas County Government Channel has won 208 awards.

Respectfully submitted,

Steve Lobel
Cable Communications



OFFICE OF COUNTY COUNSEL

December 13, 2012

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

Stephen Madkour
COUNTY COUNSEL

Board of Commissioners
Clackamas County

David W. Anderson
Kimberley A. Ybarra-Cole
Kathleen Rastetter
Scot A. Sideras
Chris Storey
Scott C. Ciecko
Alexander Gordon
Rhett C. Tatum

Members of the Board:

ASSISTANTS

Adoption of ZDO-241

The Clackamas County Zoning and Development Ordinance (ZDO) implements state law for farmland and mixed farm- and forestland through Sections 401 and 407. Earlier this year, the county adopted changes to these sections of the ZDO to bring them into compliance with state statutes and administrative rules. Subsequently, new legislation enacted by the 2012 Oregon Legislature took effect. The primary purpose of ZDO-241 is to amend our code to reflect this new legislation. In addition, several minor errors/omissions from the earlier ZDO update are proposed for correction. The 2012 state legislation addressed dog-related uses: dog training, testing trials and commercial dog boarding kennels. Within specified limits, training and testing trials are allowed uses under state law in the Exclusive Farm Use and Ag/Forest zoning districts. The county may not restrict these uses. Commercial dog boarding kennels, as well as training and testing trials that exceed the specified limits, may be allowed by the County subject to a more comprehensive review process.

The Planning Commission held a public hearing on ZDO-241 and recommends approval. There was no public testimony. Typically the Board holds its own public hearing; however, under OAR 660-018-0020(4), the Board is not required to conduct a public hearing if the purpose of the amendments are to reflect recent changes to state law. The Department of Land Conservation and Development has confirmed that this process is appropriate for these amendments. Additionally, it has been the Board's longstanding direction to the Planning Department to ensure that the county's EFU zones include all uses allowed by state law.

Recommendation

Staff recommends that the Board adopt ZDO-241.

Respectfully submitted,

Rhett C. Tatum
Assistant County Counsel

For Information on this issue please contact Anja Mundy at 503-655-8362

ORDINANCE NO. ZDO-241

**An Ordinance amending Sections
401, 407 and 836 of the
Clackamas County Zoning and Development Ordinance**

WHEREAS, in August 2012, the Planning Director initiated an amendment to the natural resource zoning district provisions of the Zoning and Development Ordinance, in response to changes in the corresponding state law; and

WHEREAS, under Oregon Administrative Rule 660-018-0020(4), a local government may amend land use regulations solely for the purpose of conforming the regulations to new requirements in a land use statute without holding a public hearing, notwithstanding contrary provisions of local law; and

WHEREAS, the Planning Director initiated a public hearing with the Planning Commission because Section 1400 of the Zoning and Development Ordinance requires that a public hearing shall be held by a majority of the whole Planning Commission on all proposed amendments to the Ordinance; and

WHEREAS, an annual and ongoing process of amendments to the Zoning and Development Ordinance is necessary to maintain consistency throughout the Ordinance in response to annual and ongoing changes in state statutes; and

WHEREAS, it is a policy of the Board of County Commissioners to provide all available allowed uses in state statute to citizens and the development community, encourage sound land use and development and improve the Zoning and Development Ordinance as necessary; and

WHEREAS, the Department of Land Conservation and Development has been duly noticed of the proposed amendments; and

WHEREAS, the Department of Land Conservation and Development has acknowledged in writing that the amendments are conforming the county's land use regulations to ORS 215.283 and other provisions of the ORS and OAR; and

WHEREAS, after a duly-noticed public hearing on November 26, 2012, the Clackamas County Planning Commission recommended approval of ZDO-241; now therefore

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Sections 401, 407 and 836 of the Clackamas County Zoning and Development Ordinance are hereby amended as shown in Exhibit A hereto.

Section 2: This ordinance shall be effective on January 1, 2013.

ADOPTED this 13th day of December, 2012

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

836 HOME OCCUPATIONS FOR CANINE SKILLS TRAINING

836.01 APPLICABILITY

Section 836 shall apply in the ~~Exclusive Farm Use, Timber, and Ag/Forest~~ zoning districts.

[Added by Ord. ZDO-230, 9/26/11]

836.02 DEFINITIONS

Unless specifically defined in Subsection 836.02, words or phrases used in Section 836 shall be interpreted to give them the same meaning as they have in common usage and to give Section 836 its most reasonable application.

- A. Canine Skills Training: Canine obedience, agility, tracking, lure coursing, herding, and similar canine training programs and activities.
- B. Employee: Any on-site person, whether they work full-time or part-time in the home occupation business, including, but not limited to, the operator, partners, assistants, and any other persons or family members participating in the operation of the business.
- C. Operator: The person who conducts the home occupation, has majority ownership interest in the business, lives full-time in a dwelling on the subject property, and is responsible for strategic decisions and day-to-day operations of the business.

[Added by Ord. ZDO-230, 9/26/11]

836.03 CONDITIONAL STANDARDS

A home occupation for canine skills training shall comply with the following standards:

- A. The home occupation shall be sited on a lot of record that contains a lawfully established dwelling.
- B. The operator of the home occupation shall be a resident of the property on which the home occupation is located.
- C. The home occupation shall have no more than five full-time or part-time employees on the site at any time.
- D. The home occupation shall be operated substantially within the operator's dwelling or other buildings normally associated with uses permitted in the zone in which the subject property is located.

- E. The construction of any structure that would not otherwise be allowed in the zoning district in which the subject property is located shall be prohibited. This standard will not permit the construction of new buildings for which the sole intent is to house the proposed home occupation.
- F. The use shall not take an outward appearance nor manifest any characteristics of a business or operation of a service commercial nature, except for those characteristics normally associated with or allowed for a primary use in the subject zoning district, on non-training session days.
- G. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- H. Prior to operating the home occupation, the applicant shall record a written irrevocable statement in the deed records of the County binding upon the landowner, and the landowner's successors in interest, acknowledging the right of adjacent and nearby farm and forest operators to employ accepted farm and forest management practices and prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes 30.936 or 30.937. Impacts from farming and forest practices may include, but are not limited to: noise, dust, spray, smoke, vibrations, and visual impacts.
- I. The evaluation of compliance with Subsection 1203.01(D) shall include consideration of impacts on dwellings even though dwellings are not primary uses in the ~~Exclusive Farm Use, Timber, and Ag/Forest~~ zoning districts.
- J. Noise shall be regulated as follows:
 - 1. From 8:00 a.m. until 10:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise create by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise that is detectable to normal sensory perception off the subject property.
 - a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 836.03(J)(1).
 - b. Subsection 836.03(J)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
 - 2. A noise study may be required to demonstrate compliance with Subsection 806.03(I)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter

shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

- K. The home occupation shall comply with Section 1015, except as modified by Subsection 836.03(K).
1. The minimum parking requirement shall be one off-street space per canine handler, based upon the maximum number of handlers permitted for any single training session. An additional space shall be provided for each employee.
 2. One or more Americans with Disabilities Act (ADA) spaces may be required as deemed necessary by the Building Codes Division and, if required, the ADA space(s) shall be appropriately surfaced and signed to meet ADA accessibility requirements.
 3. The minimum parking space requirements for the home occupation shall be in addition to the parking required for other permitted uses on the subject property.
 4. On-street parking shall be prohibited.
- L. Signs: Signs shall be permitted pursuant to Section 1010.

[Added by Ord. ZDO-230, 9/26/11]

Ordinance ZDO-241
Zoning and Development Ordinance Amendments

Text to be added is underlined. Text to be deleted is ~~struck through~~.

SECTION 400

NATURAL RESOURCE DISTRICTS

401 EXCLUSIVE FARM USE DISTRICT (EFU)

401.01 PURPOSE

Section 401 is adopted to implement the goals and policies of the Comprehensive Plan for Agriculture areas.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12]

401.02 AREA OF APPLICATION

Property may be zoned Exclusive Farm Use District when the site has a Comprehensive Plan designation of Agriculture and the criteria in Section 1202 are satisfied.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-234, 6/7/12]

401.03 DEFINITIONS

Unless specifically defined in Subsection 401.03 or in Section 202, words or phrases used in Section 401 shall be interpreted to give them the same meaning as they have in common usage and to give Section 401 its most reasonable application.

- A. Accessory Farm Dwelling: Includes all types of residential dwellings allowed by the applicable state building code and the number of dwelling units is determined by a land use decision.
- B. Agricultural Land: As defined in Oregon Administrative Rules (OAR) 660-33-0020.
- C. Commercial Farm: A farm unit with all of the following characteristics:
 - 1. The land is used for the primary purpose of obtaining a profit in money from farm use;
 - 2. The net income derived from farm products is significant; and

3. Products from the farm unit contribute substantially to the agricultural economy, to agricultural processors, and to farm markets.
- D. Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.
- E. Farm Operator: A person who resides on and actively manages a "farm unit".
- F. Farm Stand: A structure located on a part of the farm operation owned by the farm operator that is designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of the incidental items and fees from promotional activity do not make up more than 25 percent of the total sales of the farm stand; and the farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings, or public entertainment.
- G. Farm Unit: The contiguous and noncontiguous tracts within the County or a contiguous county held in common ownership and used by the farm operator for farm use.
- H. Farm Use: As defined in Oregon Revised Statutes (ORS) 215.203.
- I. Fee-based Activity to Promote the Sale of Farm Crops or Livestock: A common farm-dependent accessory activity directly related to the sale of farm crops or livestock sold at the farm stand, such as, but not limited to, hay rides, corn mazes, and educational how-to-farm workshops, but not including activities with no direct relationship to the farm crops or livestock sold at the farm stand, such as, but not limited to, quilting classes, dance lessons, jewelry making, or crafts that are only intended to bring customers to the farm stand.
- J. Golf Course: As defined in OAR 660-033-0130(20).
- K. High Value Farmland: As defined in ORS 215.710 and OAR 660-033-0020(8).
- L. Immediate Family: A spouse, children, adopted children, stepchildren, to include the long term care of grandchildren and step-grandchildren, but not to include other extended family members.
- M. Irrigated: Agricultural land watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated"

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if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. An area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.

- N. Low Value Farmland: All land not defined as High Value Farmland in ORS 215.710 and OAR 660-033-0020(8).
- O. Noncommercial Farm: A parcel where all or part of the land is used for production of farm products for use or consumption by the owners or residents of the property, or which provides insignificant income.
- P. Owner: For purposes of a Lot of Record Dwelling, owner includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, niece, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.
- Q. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.
- R. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.
- S. Relative: For purposes of a Temporary Dwelling for Care, relative means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin.
- T. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a county or public road, or contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-234, 6/7/12]

401.04 PRIMARY USES ALLOWED ON LOW AND HIGH VALUE FARMLAND

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Repealed by Ord. ZDO-234, 6/7/12]

401.04 USES AUTHORIZED

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Table 401-1 identifies the uses authorized in the Exclusive Farm Use District. As used in Table 401-1:

- A. "A" means the use is allowed.
- B. "PDR" means the use is subject to Planning Director Review pursuant to Subsection 1305.02.
- C. "CU" means the use is a Conditional Use, subject to Sections 1203 and 1300.
- D. The "Subject To" column identifies any specific provisions of Subsection 401.05 to which the use is subject.
- E. "N" means not applicable.
- F. "*NA1" means the use is not allowed except as set forth in Subsection 401.05(K)(1).
- G. "*NA2" means the use is not allowed except as set forth in Subsection 401.05(K)(1) or 401.05(K)(2) and (3).
- H. "HO" means the use must be reviewed by the Hearings Officer pursuant to Section 1300 for compliance with standards as outlined within this Ordinance or by state law.
- I. "HV" is referencing High Value Farmland as provided for in ORS 215.710 and OAR 660-033-0020(8).
- J. "LV" is referencing Low Value Farmland, lands not described in ORS 215.710 and OAR 660-033-0020(8).

Table 401-1: Uses Authorized in the Exclusive Farm Use District

	HV	LV	Use	Subject To
FARM AND FOREST USES	A	A	Propagation or harvesting of a forest product.	
	A	A	Farm use as defined in ORS 215.203	
	A	A	Other buildings customarily provided in conjunction with farm use.	
	PDR	PDR	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.	401.05(A)(1) & (B)(1)
	CU	CU	A facility for the primary processing of forest products.	401.05(A)(1) & (B)(2)
NATURAL RESOURCE USES	HV	LV	Use	Subject To
	A	A	Creation of, restoration of, or enhancement of wetlands.	
	PDR	PDR	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1) & (C)(1)
RESIDENTIAL USES	HV	LV	Use	Subject To
	A	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	A	Alteration, restoration, or replacement of a lawfully established dwelling.	401.05(A)(3) & (D)(1)
	PDR	PDR	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places.	401.05(A)(3)
RESIDENTIAL USES (cont.)	N	PDR	Lot of Record Dwelling on Low Value Farmland.	401.05(A)(2), (3), (4) & (D)(2)
	PDR	N	Lot of Record Dwelling on Class III or IV High Value Farmland.	401.05(A)(2), (3), (4) & (D)(3)
	HO	N	Lot of Record Dwelling on Class I or II High Value Farmland.	401.05(A)(1), (2), (3), (4) & (D)(4)
	PDR	N	Dwelling customarily provided in conjunction with a farm use on High Value Farmland.	401.05(A)(3) & (D)(5)
	N	PDR	Dwelling customarily provided in conjunction with a farm use on Low Value Farmland.	401.05(A)(3) & (D)(6)
	PDR	PDR	Dwelling customarily provided in conjunction with a commercial dairy farm.	401.05(A)(3) & (D)(7)
	NPDR	PDR	160 acre test for a dwelling.	401.05(A)(3), (4) & (D)(8)
	NPDR	PDR	Capability test for a dwelling.	401.05(A)(3), (4) & (D)(9)
	PDR	PDR	A single-family dwelling not provided in conjunction with farm use; a nonfarm dwelling.	401.05(A)(3), (4) & (D)(10)
	PDR	PDR	Accessory farm dwelling for a relative.	401.05(A)(3) & (D)(11)
	PDR	PDR	Accessory farm dwelling for year-round and seasonal farm workers.	401.05(A)(3) & (D)(12)
	PDR	PDR	Temporary dwelling for care, subject to Subsection 1204.03.	401.05(A)(1), (3) & (D)(13)

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	PDR	PDR	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	PDR	PDR	Residential home or facility as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)
	HV	LV	Use	Subject To
COMMERCIAL USES	A	A	Family daycare provider.	
	A	A	<u>Dog training classes.</u>	401.05(E)(9)
	A	A	<u>Dog testing trials.</u>	401.05(E)(10)
	PDR	PDR	Farm stands, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o).	
	PDR	PDR	Home occupations, subject to Section 822.	401.05(A)(1) & (E)(1)
	PDR	PDR	A landscape contracting business.	401.05(A)(1) & (E)(2)
	PDR	PDR	Agri-tourism single event.	401.05(A)(1) & (E)(3)
	PDR	PDR	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (E)(4)
	PDR	PDR	A winery as described in ORS 215.452 or 215.453 but not a restaurant open more than 25 days per calendar year, subject to ORS 215.452 or 215.453, whichever is applicable.	
	CU	CU	A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.	401.05(A)(1), (E)(5) & (6)
	CU	CU	Home occupation to host events, subject to Section 806.	401.05(A)(1) & (E)(1)
	CU	CU	Home occupation for canine skills training, subject to Section 836.	401.05(A)(1) & (E)(1)
	CU	CU	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(KL) or Subsection 401.05(B)(1).	401.05(A)(1) & (E)(6)
	CU	CU	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (E)(7)
CU	CU	An aerial fireworks display business.	401.05(A)(1) & (E)(8)	
CU ⁴ NA	CU	<u>Commercial dog boarding kennels.</u>	401.05(A)(1)	
	CU	CU	<u>Dog training classes or testing trials that cannot be established under Subsection 401.05(E)(9) or (10).</u>	401.05(A)(1)
	HV	LV	Use	Subject To
MINERAL, AGGREGATE, OIL, AND GAS USES	A	A	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	A	A	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not	

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			be a basis for an exception under ORS 197.732(1)(a) or (b).	
	CU	CU	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (F)(1) & (F)(1)(a)
	CU	CU	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (F)(1) & (F)(1)(b)
	CU	CU	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (F)(1) & (F)(1)(c)
	CU	CU	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.	401.05(A)(1), (F)(1) & (F)(1)(d)
	HV	LV	Use	Subject To
TRANSPORTATION USES	A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
TRANSPORTATION USES (cont.)	PDR	PDR	Parking of no more than seven log trucks, subject to ORS 215.311	401.05(A)(1)
	PDR	PDR	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	401.05(A)(1)
	PDR	PDR	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	401.05(A)(1)
	PDR	PDR	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	401.05(A)(1)
	CU	CU	Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401.	401.05(G)(1)
	CU	CU	Personal-use airports for airplanes and	401.05(A)(1) & (G)(2)

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			helicopter pads, including associated hangar, maintenance, and service facilities.	
	CU	CU	Transportation improvements on rural lands, subject to OAR 660-012-0065.	401.05(A)(1)
	HV	LV	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	A	A	Irrigation reservoirs, canals, delivery lines, and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	A	Solar energy system.	
	A	A	Rainwater collection systems as an accessory use.	
	A	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	A	Meteorological towers.	
	A	A	Wind energy power production systems as an accessory use.	401.05(H)(1)
	A	A	Collocation of antennas on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	A	Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and are located on one or more of the following: a public right-of-way; land immediately adjacent to a public right-of-way provided the written consent of all adjacent property owners has been obtained; and/or the property to be served by the utility.	
PDR	PDR	Essential public communication services, as defined in Subsection 835.03(D). The use is subject to ORS 215.275, if it includes a transmission tower less than or equal to 200 feet in height.	401.05(A)(1)	
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	PDR	PDR	Collocation of wireless telecommunication facilities as identified in Subsection 835.05(A)(2), subject to Section 835, provided such facilities include a transmission tower that is over 200 feet in height.	401.05(A)(1)
	PDR	PDR	Utility facilities necessary for public service, including wireless telecommunication facilities not otherwise provided for in Section 401 and wetland waste water treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.	401.05(A)(1) & (H)(2)
	PDR	N	Composting operations and facilities on high value farmland.	401.05(A)(1) & (H)(3)
	N	PDR	Composting operations and facilities on low value farmland.	401.05(A)(1) & (H)(4)
	*NA1	CU	Composting operations and facilities, subject to Section 834.	401.05(A)(1) & (H)(5)

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	CU	CU	Transmission towers over 200 feet in height, except as otherwise provided in Section 401 for essential public communication services. Towers supporting wireless telecommunication facilities are subject to Section 835.	401.05(A)(1)
	CU	CU	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind or photovoltaic solar power generation facilities.	401.05(A)(1) & (H)(6)
	CU	CU	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(37).	401.05(A)(1)
	CU	CU	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130(38).	401.05(A)(1)
	*NA1	CU	A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.	401.05(A)(1)
	HV	LV	Use	Subject To
PARKS, PUBLIC, AND QUASI-PUBLIC USES	A	A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468(B).095.	
	A	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)	PDR	PDR	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(A)(1) & (I)(1)
	PDR	PDR	Public parks and playgrounds.	401.05(A)(1), (5) & (I)(2)
	PDR	PDR	Fire service facilities providing rural fire protection services.	401.05(A)(1)
	PDR	PDR	Community centers.	401.05(A)(1), (5) & (I)(3)
	PDR	PDR	Living history museum.	401.05(A)(1), (5) & (I)(4)
	PDR	PDR	Firearms training facility as provided in ORS 197.770.	401.05(A)(5) & (I)(5)
	PDR	PDR	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	PDR	PDR	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison	401.05(A)(1)

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			supervision, but not including a correctional facility as defined under ORS 162.135.	
	*NA1	PDR	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)
	CU	CU	Operations for the extraction and bottling of water.	401.05(A)(1)
	CU	CU	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	*NA2	CU	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
	*NA1	CU	Private parks, playgrounds, hunting and fishing preserves, and campgrounds.	401.05(A)(1), (5) & (I)(6)
	*NA1	CU	Golf courses.	401.05(A)(1), (5) & (I)(7)
	HV	LV	Use	Subject To
OUTDOOR GATHERINGS	A	A	An outdoor mass gathering or other gathering described in ORS 197.015(10)(d).	401.05(J)(1)
	CU	CU	Any outdoor gathering subject to review of the Planning Commission under ORS 433.763.	401.05(A)(1) & (J)(2)

[Added by Ord. ZDO-234, 6/7/12]

401.05 PRIMARY USES ALLOWED ON LOW VALUE FARMLAND

[Amended by Ord. ZDO-224, 5/31/11; Repealed by Ord. ZDO-234, 6/7/12]

401.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 401-1. The applicability of a specific criterion to a listed use is established by Table 401-1.

A. General Criteria

1. Uses may be approved only where such uses:
 - a. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - b. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
2. The Natural Resources Conservation Service (NRCS) Internet Soils Survey for Clackamas County shall be used to determine the soil

classification and soil rating for a specific lot of record, except for purposes of approving a Lot of Record Dwelling application, the applicant may submit a report from a professional soils classifier whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.

3. The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
4. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.
5. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
 - a. Any enclosed structures or group of enclosed structures described in Subsection 401.05(A)(5) within a tract must be separated by at least one-half mile. For purposes of Subsection 401.05(A)(5), "tract" means a tract as defined by Subsection 401.03(T) that was in existence as of June 17, 2010.
 - b. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of Subsection 401.05(A)(5).

B. Farm and Forest Uses

1. A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141 shall be located on a farm that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage, or other farm use or devote more than 10,000 square feet to the

processing activities within another building supporting farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. Any division of a lot of record that separates a processing facility from the farm operation on which it is located is prohibited.

2. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in Subsection 401.05(B)(2), means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in Subsection 401.05(B)(2) means timber grown upon a tract where the primary processing facility is located.

C. Natural Resource Uses

1. The County shall provide notice of all applications for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission to the Oregon Department of Agriculture. Notice shall be provided in accordance with Section 1302 but shall be mailed at least 20 calendar days prior to the issuance of the Planning Director's decision.

D. Residential Uses

1. Alteration, restoration, or replacement of a lawfully established dwelling.
 - a. A lawfully established dwelling is a single-family dwelling which has:
 - i. Intact exterior walls and roof structure;
 - ii. Indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - iii. Interior wiring for interior lights; and
 - iv. A heating system.
 - b. In the case of replacement, the dwelling to be replaced shall be:
 - i. Removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the

same lot of record. A dwelling established under Subsection 401.05(D)(1) shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot of record not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the County a deed restriction prohibiting the siting of a dwelling on that portion of the lot of record. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the County. The release shall be signed by the County or its designee and state that the provisions of Subsection 401.05(D)(1)(b) regarding replacement dwellings have changed to allow the siting of another dwelling. The Planning Director shall maintain a record of the lots of record that do not qualify for the siting of a new dwelling under the provisions of Subsection 401.05(D)(1)(b), including a copy of the deed restrictions and release statements filed under Subsection 401.05(D)(1)(b); and

- ii. For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
2. Lot of Record Dwelling when determined to be located on Low Value Farmland, subject to the following criteria:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
 - b. The lot of record has been under the continuous ownership of the present owner who either,
 - i. Acquired the lot of record prior to January 1, 1985, or
 - ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.

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- c. The tract on which the dwelling will be sited does not include a dwelling;
 - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
 - e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged *Comprehensive Plan*, this Ordinance and other provisions of law.
 - f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership shall remain in common ownership as long as the dwelling remains as approved.
 - g. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. The Oregon Department of Fish and Wildlife (ODFW) suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
3. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Class III and IV Soil, subject to the following criteria:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
 - b. The lot of record has been under the continuous ownership of the present owner who either,
 - i. Acquired the lot of record prior to January 1, 1985, or
 - ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.
 - c. The tract on which the dwelling will be sited does not include a dwelling.
 - d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.

- e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.
 - f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.
 - g. The tract is no more than 21 acres.
 - h. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or, the tract is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary.
 - i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or the impacts can be adequately mitigated so as not to interfere. Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of impact mitigation measures, winter range is seriously considered impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet.
4. Lot of Record Dwelling when determined to be located on High Value Farmland consisting predominantly of Prime, Unique, Class I or II Soils if a Hearings Officer review pursuant to Subsection 1300 finds the following:
- a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.
 - b. The lot of record has been under the continuous ownership of the present owner who either,
 - i. Acquired the lot of record prior to January 1, 1985, or

- ii. Acquired the lot of record by devise or intestate succession from a person or persons who had continuously owned the property since January 1, 1985.
- c. The tract on which the dwelling will be sited does not include a dwelling;
- d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.
- e. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Comprehensive Plan, this Ordinance and other provisions of law.
- f. When the lot of record on which the dwelling will be sited is part of a tract, all remaining portions of the common ownership land shall remain in common ownership as long as the dwelling remains as approved.
- g. The lot of record cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. Extraordinary circumstances include very steep slopes, deep ravines, rivers, streams, roads, railroads or utility lines or other similar natural or physical barriers that by themselves or in combination, separate the subject property from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.
- h. The dwelling will not materially alter the stability of the overall land use pattern in the area.
- i. The dwelling either will not seriously interfere with the preservation of big game winter range areas identified on Comprehensive Plan Map III-2, *Scenic and Distinctive Resource Areas*, or can be adequately mitigated. (Estimated impacts and appropriate mitigation measures shall be submitted by the applicant and based on the best available data and assessment methods from the appropriate agency. ODFW suggests to the County that in the absence of mitigation measures, winter range is seriously impacted by residential densities which exceed one unit per 80 acres or one unit per 40 acres, if clustered within 200 feet).

5. Dwelling in conjunction with a farm use on High Value Farm Land: A primary farm dwelling for the farm operator may be allowed subject to the following criteria:
 - a. The subject tract is currently employed in farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;
 - b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
 - c. The lot of record on which the dwelling will be sited was lawfully created;
 - d. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract;
 - e. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;
 - f. In determining the gross income requirement, the cost of purchased livestock shall be deducted from the total gross annual income attributed to the tract.
 - g. Only gross income from land owned, not leased or rented, shall be counted.
 - h. An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used again to qualify any other parcel for a primary farm dwelling.
 - i. Only a lot of record zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.
6. Dwelling in conjunction with a farm use on Low Value Farmland: A primary farm dwelling for the farm operator may be allowed on low value farmland subject to the following criteria:

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- a. The subject tract is currently employed in farm use on which the farm operator earned at least \$32,500 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years;
 - b. Lots or record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
 - c. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract;
 - d. The lot of record on which the dwelling will be sited was lawfully created;
 - e. The dwelling will be occupied by a person or persons who produced the commodities which generated the income;
 - f. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
 - g. Only gross income from land owned, not leased or rented, shall be counted.
 - h. Gross farm income earned from a lot of record which has been used previously to qualify another lot of record for the construction or siting of a primary farm dwelling may not be used.
 - i. Only lots of record zoned for farm use in Clackamas County or a contiguous county may be used to meet the gross income requirements.
 - j. An irrevocable deed restriction shall be recorded with the County Clerk's Office acknowledging that all future rights to construct a dwelling on other properties used to qualify the primary farm dwelling is precluded except for accessory farm dwellings, accessory relative farm dwellings, temporary hardship dwelling or replacement dwellings, and that any gross farm income used to qualify the primary farm dwelling cannot be used to qualify any other parcel for a primary farm dwelling.
7. A dwelling customarily provided in conjunction with a commercial dairy farm, which is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(3)(a) or (4)(a), whichever is applicable, from the sale of fluid milk, if;

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- a. The subject tract will be employed as a commercial dairy; and
 - b. The dwelling is sited on the same lot of record as the buildings required by the commercial dairy; and
 - c. Except for a replacement of a lawfully established dwelling, there is no other dwelling on the subject tract; and
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and
 - e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - f. The Oregon Department of Agriculture has approved the following:
 - i. A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
 - ii. A Producer License for the sale of dairy products under ORS 621.072.
8. 160 Acre Test, subject to the following criteria:
- a. The parcel on which the dwelling will be located is at least 160 acres.
 - b. The subject tract is currently employed in a farm use.
 - c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale.
 - d. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract; or
9. Capability Test, subject to the following criteria:
- a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract.

- b. Lots of record in Eastern Oregon shall not be used to qualify a dwelling under this criterion.
 - c. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Subsection 401.05(D)(9)(a).
 - d. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in Subsection 401.05(D)(9)(a).
 - e. The subject lot of record on which the dwelling is proposed is not less than 10 acres.
 - f. Except as permitted in Subsection 401.05(D)(12), there is no other dwelling on the subject tract.
 - g. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
 - h. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Subsection 401.05(D)(9)(a).
10. Dwelling not in Conjunction with a Farm Use: A dwelling for a nonfarm use may be allowed subject to the following criteria:
- a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
 - b. The dwelling will be sited on a lot of record that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils;
 - c. The dwelling will be sited on a lot of record lawfully created before January 1, 1993.
 - d. The dwelling is situated upon a parcel, or a portion of a parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable trees, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of

the tract. A parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. A parcel is not generally unsuitable because it is too small to be farmed profitably by itself. If the parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm it is considered suitable.

- e. If the parcel is under forest deferral, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot of record is under forest deferral, the area is not generally unsuitable simply because it is too small to be managed for forest production profitably by itself. If a parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not generally unsuitable.
- f. The dwelling shall not materially alter the stability of the overall land use pattern of the area. The County shall consider the cumulative impact of possible new nonfarm dwellings and on other lots of record in the area similarly situated, subject to Oregon Administrative Rules (OAR) 660-033-0130(4)(a)(D)(i) through (iii).
- g. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a "distinct agricultural area" based on topography, soils types, land use pattern, or the type of farm operations or practices that distinguish it from other adjacent agricultural areas. Findings shall describe the study area, its boundaries, and the location of the subject parcel with this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area; and to the extent OAR 660-033-0130(4)(a)(D)(ii) is applicable.
- h. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

- i. The dwelling shall comply with such other conditions as the County considers necessary.
 - j. Prior to Planning Director approval for issuance of a building or manufactured dwelling permit, the applicant shall notify the County Assessor that the lot of record is no longer being used for farmland and; request the County Assessor to disqualify the lot of record for special assessment under ORS 308.370, 308.765, 321.257 to 321.381, 321.730 or 321.815 and; pay any additional tax imposed upon disqualification from special assessment. A lot of record that has been disqualified pursuant to Subsection 401.05(D)(10)(j) shall not requalify for special assessment unless, when combined with another contiguous lot of record, it constitutes a qualifying parcel.
11. Accessory Farm Dwelling – Relative: An accessory farm dwelling for a relative, and their immediate family unless otherwise specified, of the farm operator may be allowed subject to the following criteria:
- a. The accessory farm dwelling shall be located on the same lot of record as the primary farm dwelling of the farm operator;
 - b. The accessory farm dwelling shall be located on a lawfully created lot of record;
 - c. The accessory farm dwelling shall be occupied by child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin, of the farm operator or the farm operator's spouse, whose assistance in the management and farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.
 - d. The size, type, and intensity of the farm operation shall be used to evaluate the need for the dwelling.
 - e. The net income derived from the farm products shall be significant and products from the farm unit shall contribute substantially to the agricultural economy, to agricultural processors and farm markets.
 - f. The accessory farm dwelling shall be occupied by a person or persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management of the farm use of the farm unit. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing;

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- g. There are no other dwellings on the lot of record that are vacant or currently occupied by persons not working on the subject farm unit that could reasonably be used as an accessory farm dwelling.
 - h. At any time the accessory farm dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.
 - i. Any lot of record land division or property line adjustment which results in the location of any accessory farm dwelling on a lot of record separate from the farm use property for which it has been established is prohibited.
12. Accessory Farm Dwellings – Year-round and Seasonal Farm Workers:
An accessory farm dwelling for a nonrelative, and their immediate family unless otherwise specified, of the farm operator may be allowed subject to the following criteria:
- a. The accessory farm dwelling shall be occupied by a person or persons who will be principally engaged in the farm use of the land and on other commercial farms in the area, whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator on the farm unit.
 - b. The accessory farm dwelling shall be located on a lawfully created lot of record;
 - c. The accessory farm dwelling shall be located:
 - i. On the same lot of record as the primary farm dwelling; or
 - ii. On the same tract as the primary farm dwelling when the lot of record on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots of record in the tract; or
 - iii. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot of record is conveyed to another party. The

manufactured dwelling may remain if it is re-approved pursuant to Section 401; or

- iv. On any lot of record, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under Subsection 401.05(D)(12)(c)(iv) shall be removed, demolished, or converted to a nonresidential use when farm worker housing is no longer required.
- v. On a lot of record on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot of record at least the size of the applicable minimum lot size and the lot of record complies with the gross farm income requirements of Subsection 401.05(D)(12)(g) or 401.05(D)(12)(h), whichever is applicable.
- d. There are no other dwellings on lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
- e. All multi-unit accessory dwellings shall be consistent with the intent of the Legislative Assembly as provided in ORS 215.243.
- f. The primary farm dwelling to which the proposed dwelling would be accessory shall meet one of the following:
 - g. On Low Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned the lower of at least \$32,500 in gross annual income from the sale of farm products or at least the midpoint of the median income range of gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon, in each of the last two years or three of the last five years or in an average of three of the last five years, or
 - h. On land identified as High Value Farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each

of the last two years or three of the last five years or in an average of three of the last five years.

- i. In determining the gross annual income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- j. Only gross annual income from land owned, not leased or rented, shall be counted.
- k. Any proposed land division or property line adjustment of a lot of record for an accessory farm dwelling approved pursuant to Subsection 401.05(D)(12) shall not be approved. If it is determined that an accessory farm dwelling satisfies the requirements for a dwelling in conjunction with a farm use under Subsection 401.05(D)(5) or (6), a parcel may be created consistent with the minimum parcel size requirements in Subsection 401.07(A).
- l. An accessory farm dwelling approved pursuant to Subsection 401.05(D)(12) shall not later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 401.05(D)(10).
- m. At any time the dwelling is not used for farm help or the farm management plan is not implemented and maintained as approved in the land use application, the dwelling shall be removed, demolished or if not a manufactured dwelling, converted to a nonresidential accessory structure (change of occupancy permit) within 90 days.
- n. Any lot of record land division or property line adjustment which results in the location of any accessory farm dwelling on a lot of record separate from the farm use property for which it has been established is prohibited.
- o. "Farmworker", means an individual who, for an agreed remuneration or rate of pay, performs labor, temporarily or on a continuing basis, for a person in the production of farm products, planting, cultivating or harvesting of seasonal agricultural crops; or forestation or reforestation of land, including but not limited to planting, transplanting, tubing, precommercial thinning and thinning of trees or seedlings, the clearing, piling and disposal of brush and slash and other related activities.
- p. "Farmworker Housing", means housing limited to occupancy by farmworkers and their immediate families, and no dwelling unit of

which is occupied by a relative of the owner or operator of the farmworker housing.

- q. "Relative", for the purposes of Subsection 401.05(D)(12), means an ancestor, lineal descendant, or whole or half sibling of the owner or operator or the spouse of the owner or operator.
- r. "Farmworker Housing Owner", means a person that owns farmworker housing. It does not mean a person whose interest in the farmworker housing is that of a holder of a security interest in the housing.

13. One manufactured dwelling, residential trailer, or recreational vehicle, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling, residential trailer, or recreational vehicle shall be removed or demolished. A temporary residence approved under Subsection 401.05(D)(13) is not eligible for replacement under Subsection 401.05(D)(1). County Department of Water Environment Services on-site sewage disposal system review and removal requirements also apply.

E. Commercial Uses

- 1. The home occupation shall not unreasonably interfere with other uses permitted in the EFU zoning district and shall not be used as justification for a zone change.
- 2. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
- 3. A single agri-tourism or other commercial event or activity in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(a), and (6) and the following:
 - a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and
 - b. "Incidental and subordinate", as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and
 - c. "Agri-tourism", means a commercial event or activity that is logically, physically, and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.

4. Agri-tourism for up to six events or other commercial events or activities in a calendar year that is personal to the applicant and is not transferrable by sale of the tract, subject to ORS 215.239, 215.283(4)(c), and (6) and the following:
 - a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings; and
 - b. "Incidental and subordinate", as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and
 - c. "Agri-tourism", means a commercial event or activity that is logically, physically, and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.
5. A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year, subject to the following:
 - a. Other events and activities not included in a large winery by statute shall only include commercial activities that are in conjunction with farm use;
 - b. The commercial activities shall be essential to the practice of agriculture;
 - c. "Incidental", as related to a winery, means that all goods and services shall be included in the 25% incidental gross sales income limit, whether provided directly by the winery or indirectly by a third party, such as but not limited to a caterer; and
 - d. Goods and services provided by a restaurant on a large winery open more than 25 days per calendar year are not included in the meaning of incidental.
6. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(~~KL~~) or Subsection 401.05(B)(1). The commercial activity shall be essential to the practice of agriculture.

7. Agri-tourism for up to 18 additional events or other commercial events or activities in a calendar year that occurs more frequently or for a longer period of time, on a minimum 80 acre tract, subject to ORS 215.239, 215.283(4)(d), (5), and (6) and the following:
 - a. Agri-tourism events shall not include any mass gatherings or other outdoor gatherings, and
 - b. "Incidental and subordinate", as related to agri-tourism, means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts; and
 - c. "Agri-tourism", means a commercial event or activity that is logically, physically and/or economically connected to and supports an existing on-site farm operation and promotes the practice of agriculture.
8. An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.
 - a. As part of the conditional use approval process, for the purpose of verifying the existence, continuity, and nature of the business, representatives of the business may apply to the County and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies. Alteration, restoration, or replacement of an aerial fireworks display business may be altered, restored, or replaced pursuant to Section 1206.
9. Dog training classes, which may be conducted outdoors or in preexisting farm buildings, when:
 - a. The number of dogs participating in training does not exceed 10 dogs per training class; and
 - b. The number of training classes to be held on-site does not exceed six per day.
10. Dog testing trials, which may be conducted outdoors or in preexisting farm buildings, when:
 - a. The number of dogs participating in a testing trial does not exceed 60; and
 - b. The number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

F. Mineral, Aggregate, Oil, and Gas Uses

1. Mineral, Aggregate, Oil and Gas Uses: Pursuant to ORS 215.298 a land use permit is required for mining more than 1000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A permit for mining of aggregate shall be issued only for a site included on an inventory acknowledged in the Comprehensive Plan for the following:
 - a. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources, subject to ORS 215.298.
 - b. Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement; and
 - i. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
 - c. Processing of other mineral resources and other subsurface resources.
 - d. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 401.

G. Transportation Uses

1. Roads, highways and other transportation facilities, and improvements not otherwise allowed under Section 401 may be established, subject to the adoption of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
2. A personal-use airport means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition

may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

H. Utility and Solid Waste Disposal Facility Uses

1. Wind energy power production systems as an accessory use, provided:
 - a. The system is not a commercial power generating facility;
 - b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;
 - c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;
 - d. The system is prohibited if tower lighting for aviation safety is required;
 - e. The system will be located outside an urban growth boundary on a minimum of one acre;
 - f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;
 - g. The system is set back a distance not less than the tower height plus one blade from all property lines; and
 - h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.
2. A utility facility necessary for public service may be established as provided in ORS 215.275. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided.
3. Composting operations and facilities allowed on high-value farmland, subject to OAR 660-033-130(29)(a) and the following:
 - a. Composting operations and facilities on high value farmland must:

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- i. Compost only on-farm produced compostable materials; or
 - ii. Compost only off-site materials and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract; or
 - iii. Compost any off-site materials with on-farm produced compostables and use all on site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract; and
 - iv. Be an accepted farming practice in conjunction with and auxiliary to farm use on the subject tract; meaning that if off-site materials are added to on-farm produced compostables, the total amount of compost generated by the operation or facility does not exceed the amount of compost reasonably anticipated to be used on the subject tract; and
 - v. Limit buildings and facilities used in conjunction with the composting operation to those required for the operation of the subject facility; and
 - vi. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060.
- b. Excess compost from operations and facilities on high value farmland may only be sold or transported if:
 - i. The operation or facility does not use off-site materials; and
 - ii. It is sold or transported to neighboring farm operations within two and one-half miles of the subject tract; and
 - iii. It is sold or transported in bulk loads of not less than one unit (7.5 cubic yards) in size that are transported in one vehicle.
4. Composting operations and facilities allowed on low-value farmland that constitute accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, subject to Subsection 401.05(H)(3)(a) through (b).
5. Composting operations and facilities allowed on low value farmland that do not constitute accepted farming practices and are not in conjunction with and auxiliary to an on-site farm use on the subject tract shall be subject to Section 834.

6. Commercial utility facilities for the purpose of generating power for public use by sale, but not including wind power or photovoltaic solar power generation. A power generation facility shall not preclude more than 12 acres on High Value Farmland, or more than 20 acres on Low Value Farmland, from use as a commercial agricultural enterprise unless an exception is taken pursuant to Oregon Administrative Rule 660, Division 4; and
 - a. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) (a private campground) or other statute or rule when the project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 401.05(A)(1) and shall have no effect on the original approval. Permanent features of a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

I. Parks, Public, and Quasi-public Uses

1. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under Subsection 401.05(I)(1). The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under Subsection 401.05(I)(1). An owner of property used for the purpose authorized in Subsection 401.05(I)(1) may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in Subsection 401.05(I)(1), "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.
2. Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable. A public park may be established consistent with the provisions of ORS 195.120.
3. Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A community center authorized under Subsection

401.05(I)(3) may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

4. "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in Subsection 401.05(I)(4), a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.
5. Firearms training facility that predated September 10, 1995 as provided in ORS 197.770. Firearms training facilities shall not be sited within three miles of an Urban Growth Boundary.
6. Private parks, playgrounds, hunting and fishing preserves, and campgrounds. Except on a lot of record contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized by Subsection 401.05(I)(6) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

- a. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by Subsection 401.05(I)(6)(b).
 - b. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if it is determined that the increase will comply with the standards described in Subsection 401.05(A)(1). As used in Subsection 401.05(I)(6), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
7. Golf courses, on land determined not to be high value farmland, as defined in ORS 195.300, subject to OAR 660-033-0130(20).

J. Outdoor Gatherings

1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period. Agri-tourism and other commercial events or activities may not be permitted as mass gatherings under ORS 215.283(4).
2. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month planning period is subject to review by the Planning Commission under the provisions of ORS 433.763. Outdoor gatherings may not include agri-tourism events or activities.

K. Nonconforming Uses

1. Existing facilities wholly within a farm use zone may be maintained, enhanced, or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection 401.05(A)(1) and OAR 660-033-0130(20), but shall not be expanded to contain more than 36 total holes.
2. In addition to and not in lieu of the authority in Section 1206 to continue, alter, restore, or replace a nonconforming use, a use formerly allowed pursuant to ORS 215.283(1)(a), as in effect before January 1, 2010, the

effective date of 2009 Oregon Laws, chapter 850, section 14, may be expanded subject to:

- a. The requirements of Subsection 401.05(K)(3); and
 - b. Conditional approval as provided in Subsection 401.05(A)(1).
3. A nonconforming use described in Subsection 401.05(K)(2) may be expanded if:
- a. The use was established on or before January 1, 2009; and
 - b. The expansion occurs on:
 - i. The lot of record on which the use was established on or before January 1, 2009; or
 - ii. A lot of record that is contiguous to the lot of record described in Subsection 401.05(K)(3)(b)(i) and that was owned by the applicant on January 1, 2009.

[Added by Ord. ZDO-234, 6/7/12]

401.06 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

[Amended by Ord. ZDO-224, 5/31/11; Repealed by Ord. ZDO-234, 6/7/12]

401.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

[Amended by Ord. ZDO-224, 5/31/11; Renumbered, amended, and title changed by Ord. ZDO-234, 6/7/12]

401.07 CONDITIONAL USES

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Repealed by Ord. ZDO-234, 6/7/12]

401.07 DIMENSIONAL STANDARDS

- A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 401.09 or as modified by Section 902. For the purpose of complying with the minimum lot size standard, lots of record that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.
- B. Minimum Front Yard Setback: 30 feet.
- C. Minimum Side Yard Setback: 10 feet.

- D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.
- E. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.
- F. Variances: The requirements of Subsections 401.07(B) through (D) may be modified pursuant to Section 1205.

[Added by Ord. ZDO-234, 6/7/12]

401.08 DEVELOPMENT STANDARDS

- A. Property Line Adjustments: Property line adjustments shall be subject to Section 1107.
- B. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Added by Ord. ZDO-234, 6/7/12]

401.09 CRITERIA FOR DWELLINGS

[Amended by Ord. ZDO-224, 5/31/11; Repealed by Ord. ZDO-234, 6/7/12]

401.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Oregon Revised Statutes (ORS) Chapter 92. Except in the case of a conditional use division under Subsection 401.09(B), a land division is subject to Planning Director review pursuant to Subsection 1305.02.

- A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved, if each new lot of record is a minimum of 80 acres in size, as established by Subsection 401.07(A).
- B. Nonfarm Use Land Divisions: A land division creating parcels less than 80 acres in size may be approved for a fire service facility and for nonfarm uses, except dwellings, set out in ORS 215.283(2), if the parcel for the fire service facility or nonfarm use is not larger than the minimum size necessary for the use.
- C. Nonfarm Dwelling Land Divisions: Lots of record less than 80 acres in size may be approved, subject to the following criteria:
 - 1. The originating lot of record is at least 80 acres, and is not stocked to the requirements under ORS 527.610 to 527.770;

2. The lot of record is composed of at least 95% Class VI through Class VIII agricultural soils, and composed of at least 95% soils not capable of producing 50 cubic feet per acre per year of wood fiber;
 3. The new lot of record for a dwelling will not be smaller than 20 acres; and
 4. No new lot of record may be created until the criteria in Subsection 401.05(D)(10)(a), (b), (f), (i), and (j) for a dwelling are satisfied.
- D. Parks/Open Space/Land Conservation Land Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.263(10).
- E. Historic Property Land Divisions: A land division may be approved to create a parcel with an existing dwelling to be used for historic property that meets the requirements of ORS 215.283(1)(L).

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Renumbered, amended, and title changed by Ord. ZDO-234, 6/7/12]

401.10 SUBMITTAL REQUIREMENTS

An application for any use requiring review by the Planning Director pursuant to Subsection 1305.02 shall include:

- A. A complete Land Use Application form;
- B. An accurate site plan drawn to scale on 8.5"x 11" or 8.5"x 14" paper, showing the property and proposal;
- C. An application fee;
- D. A Supplemental Application form addressing each of the applicable approval criteria for the proposed use; and
- E. Farm dwellings requiring a justification of income shall include tax forms, farm receipts, or other appropriate documentation demonstrating the income produced from the subject property.

[Amended by Ord. ZDO-230, 9/26/11; Renumbered and amended by Ord. ZDO-234, 6/7/12]

401.11 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval Period: Approval of an administrative action under Section 401 is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or
2. For all other administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the administrative action shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

- B. Time Extension: If the approval of an administrative action is not implemented within the initial approval period established by Subsection 401.11(A), a two-year time extension may be approved by the Planning Director pursuant to Subsection 1305.02, and subject to Subsection 1305.05.
- C. Subsections 401.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Renumbered and amended by Ord. ZDO-234, 6/7/12]

407 AG/FOREST DISTRICT (AG/F)

407.01 PURPOSE

Section 407 is adopted to implement the goals and policies of the Comprehensive Plan for Forest areas.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12]

407.02 AREA OF APPLICATION

Property may be zoned Ag/Forest District when the site has a Comprehensive Plan designation of Forest, consistency with Policy 11.0 of the Forest section of Chapter 4 of the Comprehensive Plan is demonstrated, and the criteria in Section 1202 are satisfied.

[Amended by Ord. ZDO-234, 6/7/12]

407.03 DEFINITIONS

The definitions set forth in Subsections 401.03 and 406.03 apply to Section 407. Unless specifically defined in Subsection 401.03, Subsection 406.03, or Section 202, words or phrases used in Section 407 shall be interpreted to give them the same meaning as they have in common usage and to give Section 407 its most reasonable application.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-234, 6/7/12]

407.04 PRIMARY USES

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Repealed by Ord. ZDO-234, 6/7/12]

407.04 USES AUTHORIZED

Table 407-1 identifies the uses authorized in the Ag/Forest District. As used in Table 407-1:

- A. "A" means the use is allowed.
- B. "PDR" means the use is subject to Planning Director Review pursuant to Subsection 1305.02.
- C. "CU" means the use is a Conditional Use, subject to Sections 1203 and 1300.
- D. The "Subject To" column identifies any specific provisions of Subsection 401.05 or 406.05 to which the use is subject.

Table 407-1: Uses Authorized in the Ag/Forest District

	Type	Use	Subject To
FARM AND FOREST USES	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.04 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for the purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in ORS 215.203.	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if the primary farm or forest use exists.	
	PDR	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	PDR	A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.	401.05(A)(1) & (B)(1)
	CU	Permanent facility for the primary processing of forest products.	406.05(A)(1) & (5)
	CU	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (5)
	CU	Log scaling and weigh stations.	406.05(A)(1) & (5)
NATURAL RESOURCE USES	Type	Use	Subject To
	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	A	Creation of, restoration of, or enhancement of wetlands.	
	PDR	The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission.	401.05(A)(1) & (C)(1)
	CU	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
RESIDENTIAL USES	Type	Use	Subject To
	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	

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	Type	Use	Subject To
RESIDENTIAL USES (cont.)	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)
	PDR	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a County inventory as historic property and listed on the National Register of Historic Places.	401.05(A)(3)
	PDR	Forest Lot of Record Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(2), (3), (4) & (D)(2)
	PDR	Agricultural Lot of Record Dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(2), (3), (4) & (D)(2), (3), or (4)
	PDR	Agricultural Dwelling in conjunction with a farm use on High Value Farmland on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (D)(5)
	PDR	Agricultural Dwelling in conjunction with a farm use on Low Value Farmland on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (D)(6)
	PDR	Agricultural Dwelling customarily provided in conjunction with a commercial dairy farm on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (D)(7)
	PDR	Agricultural 160 acre test <u>on low value farmland</u> for a dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3), (4) & (D)(8)
	PDR	Agricultural Capability test <u>on low value farmland</u> for a dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3), (4) & (D)(9)
	PDR	Agricultural Nonfarm dwelling on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3), (4) & (D)(10)
	PDR	Agricultural Accessory farm dwelling for a relative on land that was predominantly agriculture on January 1, 1993.	401.05(A)(3) & (D)(11)
	PDR	Agricultural Accessory farm dwelling for year-round and seasonal farm workers on land that was predominantly agriculture on January 1, 1993,	401.05(A)(3) & (D)(12)
	PDR	Forest Template Test Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(2), (3), (4) & (D)(3)
	PDR	160 Acre Forest Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(2), (3), (4) & (D)(4)
	PDR	200 Acre Noncontiguous Tract Forest Dwelling on land that was predominantly forest on January 1, 1993.	406.05(A)(2), (3), (4) & (D)(5)
	PDR	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (4)
	PDR	Temporary forest labor camp, subject to Subsection 1204.01, for a period not to exceed one year.	
	PDR	Temporary dwelling for care, subject to Subsection 1204.03.	406.05(A)(1), (2) & (D)(6)
	PDR	Room and board arrangements for a maximum of five unrelated persons in existing dwellings.	401.05(A)(1) & (3)
	PDR	Residential home or facility as defined in ORS 197.660, in existing dwellings.	401.05(A)(1) & (3)

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	Type	Use	Subject To
COMMERCIAL USES	A	Family daycare provider.	
	A	<u>Dog training classes.</u>	401.05(E)(9)
	A	<u>Dog testing trials.</u>	401.05(E)(10)
	PDR	Farm stands, subject to OAR 660-033-0130(23) and ORS 215.283(1)(o).	401.05(E)(1)
	PDR	Home occupation, subject to Section 822.	406.05(A)(1), (2), (4) & (E)(1)
	PDR	A landscape contracting business.	401.05(A)(1) & (E)(2)
	PDR	Agri-tourism single event.	401.05(A)(1) & (E)(3)
	PDR	Agri-tourism for up to 6 events or activities.	401.05(A)(1) & (E)(4)
	PDR	A winery as described in ORS 215.452 or 215.453 but not a restaurant open more than 25 days per calendar year, subject to ORS 215.452 or 215.453, whichever is applicable.	
	CU	A large winery with a restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year.	401.05(A)(1), (E)(5) & (6)
	CU	Home occupation to host events, subject to Section 806.	406.05(A)(1), (2), (4) & (E)(1)
	CU	Home occupation for canine skills training, subject to Section 836.	406.05(A)(1), (2), (4) & (E)(1)
	CU	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel that exceeds the standards of ORS 215.203(2)(b)(KL) or Subsection 401.05(B)(1).	401.05(A)(1) & (E)(6)
	CU	Agri-tourism additional events not to exceed 18 events on a minimum of 80 acres.	401.05(A)(1) & (E)(7)
	CU	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (4) & (E)(2)
	CU	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (4) & (E)(3)
CU	An aerial fireworks display business.	401.05(A)(1) & (E)(8)	
CU	Commercial dog boarding kennels on low value farmland.	401.05(A)(1)	
	CU	<u>Dog training classes or testing trials that cannot be established under Subsection 401.05(E)(9) or (10).</u>	401.05(A)(1)
	Type	Use	Subject To
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	A	Operations for the exploration for, and production of, geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to a wellhead. Any activities or construction relating to such operations shall not	

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

	Type	Use	Subject To
		be a basis for an exception under ORS 197.732(1)(a) or (b).	
MINERAL, AGGREGATE, OIL, AND GAS USES (cont.)	A	Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).	
	CU	Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	401.05(A)(1), (F)(1) & (F)(1)(a)
	CU	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.	401.05(A)(1), (F)(1) & (F)(1)(b)
	CU	Processing of other mineral resources and other subsurface resources.	401.05(A)(1), (F)(1) & (F)(1)(c)
	CU	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 407.	401.05(A)(1), (F)(1) & (F)(1)(d)
	CU	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (5) & (F)(1)
	CU	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (5) & (F)(2)
	Type	Use	Subject To
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5 of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	PDR	Parking of no more than seven log trucks, subject to ORS 215.311.	401.05(A)(1)
	PDR	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not	406.05(A)(1)

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	Type	Use	Subject To
		resulting in the creation of new land parcels.	
	PDR	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
TRANSPORTATION USES (cont.)	PDR	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	CU	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	CU	Aids to navigation and aviation.	406.05(A)(1) & (5)
	CU	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance, and service facilities.	401.05(A)(1) & (G)(2)
	CU	Expansion of existing airports.	406.05(A)(1)
	CU	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	CU	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	401.05(G)(1)
	Type	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	A	Collocation of antennas on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their non-paying guests.	
	A	Meteorological towers.	
	PDR	Wind energy power production systems as an accessory use.	406.05(H)(1)
	PDR	Wireless telecommunication facilities listed in Subsections 835.04(B) and (C) and 835.05(A)(2) and (3), subject to Section 835.	406.05(A)(1)
	PDR	Composting operations and facilities on high value farmland.	401.05(A)(1) & (H)(3)
	CU	Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835.	406.05(A)(1)

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

	Type	Use	Subject To
	CU	Composting facilities on low value farmland.	401.05(A)(1) & (H)(4)
	CU	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (5)
	CU	Reservoirs and water impoundments.	406.05(A)(1), (2) & (5)
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	CU	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation.	406.05(A)(1) & (5)
	CU	A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation.	406.05(A)(1) & (5)
	CU	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (5) & (H)(2)
	CU	New electric transmission lines.	406.05(A)(1) & (H)(3)
	CU	Television, microwave, and radio communication facilities.	406.05(A)(1), (5) & (H)(4)
	Type	Use	Subject To
PARKS, PUBLIC, AND QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	A	Land application of reclaimed water, agricultural process or industrial process water, or biosolids for agricultural, horticultural, or forest production, or for irrigation in connection with a use allowed in the EFU zoning district, subject to the issuance of a license, permit, or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053, or 468B.055, or in compliance with rules adopted under ORS 468(B).095.	
	A	Onsite filming and activities accessory to onsite filming for 45 days or less.	
	PDR	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.	401.05(A)(1) & (I)(1)
	PDR	Community centers.	401.05(A)(1), (5) & (I)(3)
	PDR	Living history museum.	401.05(A)(1), (5) & (I)(4)
	PDR	Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.	401.05(A)(1)
	PDR	A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.	401.05(A)(1)

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	Type	Use	Subject To
	PDR	Churches and cemeteries in conjunction with churches, consistent with ORS 215.441, which does not include private or parochial school education for prekindergarten through grade 12 or higher education.	401.05(A)(5)
PARKS, PUBLIC, AND QUASI-PUBLIC USES (cont.)	PDR	Fire service facilities providing rural fire protection services.	401.05(A)(1)
	CU	Operations for extraction and bottling of water.	401.05(A)(1)
	CU	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.	401.05(A)(1)
	CU	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.	401.05(A)(1) & (5)
	CU	Golf courses.	401.05(A)(1), (5) & (1)(7)
	CU	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (2)
	CU	Cemeteries.	406.05(A)(1) & (5)
	CU	Firearms training facility.	406.05(A)(1) & (5)
	CU	Private parks and campgrounds.	406.05(A)(1), (2), (5) & (1)(1)
	CU	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (5)
	Type	Use	Subject To
OUTDOOR GATHERINGS	A	An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period.	406.05(J)(1)
	CU	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.	406.05(A)(1) & (J)(2)

[Added by Ord. ZDO-234, 6/7/12]

407.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

[Amended by Ord. ZDO-224, 5/31/11; Repealed by Ord. ZDO-234, 6/7/12]

407.05 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

[Amended by Ord. ZDO-230, 9/26/11; Renumbered, amended, and title changed by Ord. ZDO-234, 6/7/12]

407.06 CONDITIONAL USES

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Repealed by Ord. ZDO-234, 6/7/12]

407.06 DIMENSIONAL STANDARDS

Subsection 406.07, which establishes dimensional standards in the Timber District, shall apply in the Ag/Forest District.

[Added by Ord. ZDO-234, 6/7/12]

407.07 TEMPORARY USES

[Amended by Ord. ZDO-224, 5/31/11; Repealed by Ord. ZDO-234, 6/7/12]

407.07 DEVELOPMENT STANDARDS

Subsection 406.08, which establishes development standards in the Timber District, shall apply in the Ag/Forest District.

[Added by Ord. ZDO-234, 6/7/12]

407.08 LAND DIVISIONS

Subsection 406.09, which establishes land division standards in the Timber District, shall apply in the Ag/Forest District.

[Amended by Ord. ZDO-224, 5/31/11; Renumbered, amended, and title changed by Ord. ZDO-234, 6/7/12]

407.09 SITING STANDARDS FOR DWELLINGS AND STRUCTURES IN THE AG/F DISTRICT

[Amended by Ord. ZDO-224, 5/31/11; Repealed by Ord. ZDO-234, 6/7/12]

407.09 SUBMITTAL REQUIREMENTS

Subsection 406.10, which establishes submittal requirements in the Timber District, shall apply in the Ag/Forest District.

[Amended by Ord. ZDO-230, 9/26/11; Renumbered and amended by Ord. ZDO-234, 6/7/12]

407.10 APPROVAL PERIOD AND TIME EXTENSION

Subsection 406.11, which establishes approval period and time extension standards in the Timber District, shall apply in the Ag/Forest District.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Renumbered and amended by Ord. ZDO-234, 6/7/12]



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December 13, 2012

Board of Commissioners
Clackamas County

Members of the Board:

Final Adoption of ZDO 237,
Z0527-11-CP, and Z0238-11-ZAP

On May 20, 2012 the Board held a public hearing on a package of the amendments to the Clackamas County Zoning and Development Ordinance and Comprehensive Plan. The amendments were requested by Veritas Investments which plans to build the Eagle Landing Mixed Use Development. The amendments create a new mixed use zoning designation, Planned Mixed Use 6 (PMU 6) and apply that designation to the site of the proposed development.

At that public hearing, the Board tentatively approved the amendments with a direction to staff to work with the applicant to make changes related to the sequencing of the residential and commercial development. Under the proposed amendment, up to 50% of the floor area of the nonresidential development approved in the master plan may be constructed prior to the residential development. After that threshold is reached, there must be at least an even ratio of residential to nonresidential development. The county may allow an exception to these requirements if it will further the orderly development of the property.

Recommendation

Staff recommends that the Board formally adopt ZDO 237, Z0527-11-CP and Z0238-11-ZAP.

Respectfully submitted,

Rhett C. Tatum
Assistant County Counsel

For Information on this issue please contact Anja Mundy at 503-655-8362

ORDINANCE NO. ZDO-237

An Ordinance amending Chapter 10 of the Clackamas County Comprehensive Plan and Section 1703 of the Clackamas County Zoning and Development Ordinance

WHEREAS, the Planning Director initiated an amendment to Chapter 10 of the Comprehensive Plan to require Planned Mixed Use sites to be master planned with a mixture of land uses and to support development of structured parking, and

WHEREAS in response to a request from Neil Nedelisky, on behalf of property owners New Hope Church and the Clackamas County Development Agency, the Planning Director initiated an amendment to Section 1703 of the Zoning and Development Ordinance to create a new PMU6 zone; and

WHEREAS, an on-going process of amendments to the Comprehensive Plan and Zoning and Development Ordinance is necessary to respond to changes in development, development demands, and public input; and

WHEREAS, it is a policy of the Board of County Commissioners to encourage innovation in urban development while maintaining sound land use and development standards, provide excellent public service to citizens and the development community, and improve the Comprehensive Plan and Zoning and Development Ordinance as necessary; and

WHEREAS, the proposed amendments are consistent with the Clackamas County Comprehensive Plan, the Statewide Planning Goals and Guidelines and the Metro Urban Growth Management Functional Plan and all other applicable state and federal laws and regulations; and

WHEREAS, after a duly-noticed public hearing, the Clackamas County Planning Commission recommended approval of ZDO-237 on May 14, 2012; and

WHEREAS, the Board of County Commissioners held a public hearing on May 20, 2012 at which it directed staff to make changes related to the sequencing of the residential and commercial development within the new zone;

WHEREAS, staff worked with the applicant and did develop language regarding that sequencing, now therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 10 of the Clackamas County Comprehensive Plan is hereby amended as shown in Exhibit A, hereto attached.

Section 2: Section 1703 of the Clackamas County Zoning and Development Ordinance is hereby amended as shown in Exhibit B, hereto attached.

Section 3: This ordinance shall be effective on January 1, 2013.

ADOPTED this 13th day of December, 2012

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Ordinance **ZDO-237**
Comprehensive Plan Amendment

Text to be added is underlined. Text to be deleted is ~~struck through~~.

CLACKAMAS REGIONAL CENTER AREA DESIGN PLAN

INTRODUCTION

Moving Towards a Preferred Future

The Clackamas Regional Center area, comprising about 2,100 acres, is a vital and growing part of the County. It is a major hub for the residential and business communities in the southeast Portland metropolitan area. The area has grown rapidly as urban services have been provided, and is poised for even more growth. Forecasts indicate that there will be 36,500 jobs within the study area and 7,600 housing units by the year 2017. This will about double the amounts present in 1994. As this change occurs over the next twenty years, the area is envisioned to transition to even more intensive uses, more mixes of land uses, better access for all modes of transportation and a more attractive visual character.

The Clackamas Regional Center Area Design Plan sets the framework for decision-making to meet the challenge of planning for growth and guiding the area to a preferred future identified by citizens, the business community, and public service providers.

The overall Clackamas County Comprehensive Plan is applicable to the Clackamas Regional Center Area. This chapter of the Comprehensive Plan describes the goals and policies that are specific to the Clackamas Regional Center Area. This chapter takes precedence where conflicts exist between it and the remainder of the Comprehensive Plan.

The area of application for the Clackamas Regional Center Area Design Plan is shown on Map X-CRC-1.

REGION 2040 GROWTH CONCEPT PLAN DESIGN TYPES

The Clackamas Regional Center Area Design Plan focuses on three design-types identified in the Region 2040 Growth Concept Plan and Urban Growth Management Functional Plan: a “regional center,” segments of three “corridors” and a “station community.”

Regional Center

An area with the Clackamas Town Center as its focus point is designated a “regional center”. The boundary is shown on Map X-CRC-1. The Clackamas Regional Center is intended to be the focus of the most intense development and highest densities of employment and housing in unincorporated, urban Clackamas County, with high quality transit service and a multi-modal street network.

Corridors

Corridors are less dense than ‘regional centers’ and are intended to feature a high quality pedestrian environment and convenient access to transit, while continuing to meet the needs of the automobile. The corridors in the Clackamas Regional Center Design Plan Area are designated “regional streets” in the Region 2040 Functional Plan, and as such are expected to continue to support high levels of through and local vehicular traffic. The corridor areas are expected to transition to higher densities through infill and redevelopment. Designated corridors are SE 82nd Avenue, Johnson Creek Boulevard, and Sunnyside Road.

Station Community

Station communities are areas of development centered on a light-rail or high capacity transit station that feature housing, offices and other employment, and a variety of shops and services that are easily accessible to pedestrians, bicyclists and transit users, as well as vehicles. There are two light rail transit stations in the I-205 MAX line in the Clackamas Regional Center Design Plan Area; adjacent to I-205 near SE Fuller Road, between SE Johnson Creek Boulevard and SE Otty Road, and adjacent to I-205, between SE Monterey Avenue and SE Sunnyside Road. A Station Community has been designated in the area around the Fuller Road station.

VISION AND GOALS

A Vision of how the area should look and function in 20 years was the first step in creating this plan. The Vision established the foundation upon which the plan was built. The Clackamas Regional Center Area Task Force developed and endorsed the following Vision for the Clackamas Regional Center Area in 1995:

Vision

Over the next 20 to 50 years the Clackamas Regional Center Area will be:

- The dominant commercial and business center for the east Portland metropolitan area;
- A cultural, civic and transportation center for the east Portland metropolitan area;
- An area of diverse residential neighborhoods, commercial districts, natural features, and public attractions and spaces that serve both the local community and the region.

Goals

To achieve this Vision, the Clackamas Regional Center Area Design Plan describes policies to guide decisions on land use, transportation, housing and urban design that:

- Allow and promote compact development as a means to encourage efficient use of land, promote non-auto trips, and protect air quality.
- Promote development patterns which use land efficiently and support transportation investments.
- Transition towards more intensive use of land through infill and redevelopment, and phased development of infrastructure and urban design improvements.
- Accommodate and encourage appropriate land uses in the Regional Center, along Corridors and in the Station Community.
- Balance growth with the preservation of existing neighborhoods and affordable housing.

- Create districts and neighborhoods.
- Provide a range of housing types and density.
- Provide for more efficient parking.
- Provide or enhance public amenities such as open space, neighborhood parks, and public gathering places.
- Preserve and enhance natural features.
- Increase community attractions.
- Provide attractive streetscapes.
- Create civic spaces.
- Create a safe and pleasant environment.
- Incorporate design standards and guidelines that promote urban character.
- Increase visual identity.
- Provide a transportation network that provides for all modes of transportation.
- Improve circulation and connections for all modes of transportation.
- Maintain excellent regional access.

CLACKAMAS REGIONAL CENTER AREA DESIGN PLAN POLICIES

The following policies shall be applied in the Clackamas Regional Center Design Plan Area.

LAND USE POLICIES

I. LAND USE POLICIES GENERALLY

Map X-CRC-2 illustrates the Land Use Plan designations for the Clackamas Regional Center Design Plan Area. The following uses are allowed:

1.0 Mixed Use

Mixed uses shall be allowed in the Clackamas Regional Center Design Plan Area in areas designated Commercial, High Density Residential and Regional Center High Density Residential. A mix of uses will be required to be master planned in Planned Mixed Use designated areas. A mix of uses will be allowed in Station Community Mixed Use designated areas, subject to transit-oriented-development building orientation and design requirements.

2.0 Commercial

The following primarily retail commercial designations shall be provided in the Clackamas Regional Center Design Plan Area: Regional Center Commercial, Retail Commercial and Corridor Commercial.

The following primarily office commercial designations shall be provided in the Clackamas Regional Center Design Plan Area: Regional Center Office and Office Commercial.

Commercial areas within the Clackamas Regional Center Design Plan Area shall:

2.1 Allow a mix of land uses on the development site.

2.2 Create a district accessible by all modes of transportation.

- 2.3 Create walkable districts by providing improvements and urban design features that encourage and support pedestrian use.
- 2.4 Allow land uses that generate pedestrian activity and transit ridership.
- 2.5 Require public or private street layouts that allow for future development of sites with redevelopment potential.
- 2.6 Maintain and improve pedestrian connections between commercial uses, transit corridors, recreation areas, open space and adjacent residential areas.
- 2.7 Locate all buildings to maximize access by emergency vehicles.
- 2.8 Require Design Review for all development.

3.0 Multifamily Residential

The following primarily multifamily residential designations shall be provided in the Clackamas Regional Center Design Plan area: Regional Center High Density Residential, High Density Residential, Medium High Density Residential, and Medium Density Residential. Multifamily areas within the Clackamas Regional Center Design Plan Area shall:

- 3.1 Establish minimum densities to help meet local and regional housing needs.
- 3.2 Provide for multifamily residential uses within walking distance of public transportation, parks, schools, employment areas and local shopping areas.
- 3.3 Create walkable districts by providing improvements and urban design features that encourage and support pedestrian use.
- 3.4 Locate all buildings to maximize access by emergency vehicles.
- 3.5 Require design review for all development.

4.0 Public and Community Use, Open Space

Public and Community use designations including open space shall be provided in the Clackamas Regional Center Design Plan Area.

5.0 Low Density Residential

Low density residential designations shall be provided in the Clackamas Regional Center Design Plan area.

6.0 Industrial

The following industrial designations shall be provided in the Clackamas Regional Center Design Plan Area: General Industrial, Light Industrial, and Business Park.

II. LAND USE POLICIES FOR THE CLACKAMAS REGIONAL CENTER DESIGN TYPE AREA

1.0 Within the Regional Center boundary shown on Map X-CRC-1, areas shall be planned to:

- 1.1 Provide for high intensity development to accommodate projected regional increases in housing and employment, including mixed use development.
- 1.2 Provide for and capitalize on high quality transit service.
- 1.3 Allow for a mix of land uses to support public transportation and bicycle and pedestrian usage.
- 1.4 Provide for the open space and recreation needs of residents and employees of the area.
- 1.5 Support a multi-modal street network.

2.0 Planned Mixed Use

The Planned Mixed Use designation ~~requires~~ allows for master planning and development on key opportunity sites in areas designated for mixed use on the Region 2040 Growth Concept map. Generally, because of size, location, good access, and proximity to supportive land uses and existing or planned transportation improvements, these sites can accommodate more growth than other areas and sites within the plan boundary.

- 2.1 Create an area with a mix of land uses, both within the site itself (mix of uses) and within buildings (mixed uses), which:
 - a. Provide for high employment and residential densities that support use of public transportation.

- b. Protect key natural features.
- c. Provide for essential public facilities and services, including parks and public spaces.
- d. Provide for structured parking.
- ed. Are accessible by all modes of transportation.

- 2.2 Establish through zoning required and allowed land uses, transportation improvements, and design standards that encourage and support pedestrian-oriented streets, buildings and public places. Apply specific requirements to specific Planned Mixed Use sites through zoning.
- 2.3 Apply the Planned Mixed Use designation within the Regional Center as shown on Map X-CRC-1.
- 2.4 Sites planned for Planned Mixed Use but zoned for other uses may be converted to Planned Mixed Use zoning when:
 - a. Adequate transit services are provided to the site; and,
 - b. Minimum site size requirements are satisfied.

3.0 Regional Center Office

- 3.1 Apply the *Regional Center Office* designation within the Regional Center boundary shown on Map X-CRC-1 to:
 - a. Areas with an historical commitment to office use.
 - b. Areas served by high capacity transit service.
 - c. Areas with high visibility from a freeway.
 - d. Areas generally within ½ mile of a freeway interchange.
- 3.2 Provide support services for office development.

- 3.3 Limit retail uses in order to maximize the land available for office uses and to provide for the highest employment density in the Regional Center.
- 3.4 Require a minimum density to help meet regional employment needs, support public transportation and use land more efficiently.
- 3.5 Create walkable districts within the regional center with improvements, urban design features, and urban design standards that encourage and support pedestrian use.
- 3.6 Require master plans of large sites to allow for future development of sites with redevelopment potential.

4.0 Regional Center High Density Residential

Within the adopted Regional Center boundary, designate areas suitable for the highest density multifamily uses as Regional Center High Density Residential.

- 4.1 Determine the density of development through zoning.
- 4.2 Provide for multifamily residential uses within walking distance of public transportation, parks, schools, employment areas and local shopping areas.
- 4.3 Allow for a mix of land uses provided the minimum residential density is achieved for the entire development site prior to or concurrent with establishment of other allowed uses.

5.0 Regional Center Commercial

Apply the Regional Center Commercial zone to areas with an historic commitment to commercial uses within the adopted Regional Center boundary as shown on Map X-CRC-1.

- 5.1 Provide areas for regional and local shopping.
- 5.2 Require a minimum floor area ratio to help meet regional employment needs, support public transportation and use land more efficiently.

- 5.3 Create walkable districts within the regional center with improvements, urban design features, and urban design standards that encourage and support pedestrian use.

6.0 Amendments to the Clackamas Regional Center Boundary

The Clackamas Regional Center boundary may be amended to include property within the Clackamas Regional Center when all of the following criteria are met:

- 6.1 The property is contiguous to the Clackamas Regional Center boundary.
- 6.2 The area is, or is planned to be, a focus of compact, high density development with a mix of uses.
- 6.3 The area has, or is planned to have, high quality transit service, and a multi-modal street network.
- 6.4 The area has, or is planned to have; a density of 60 persons per acre on lands developed or planned to be developed (not including open space, parks, plazas or natural areas).

III. LAND USE POLICIES FOR CORRIDOR DESIGN TYPE AREAS

1.0 Land uses in Corridors shall be planned to:

- 1.1 Provide for both employment and housing, including mixed use.
- 1.2 Emphasize providing for a high level of bus usage, with land uses and transportation facilities to support bus use.
- 1.3 Encourage and support pedestrian travel with supportive land uses, frequent street connections, and sidewalks and pedestrian-ways.
- 1.4 Provide for vehicular traffic and auto-oriented uses, while expanding the share of trips via transit and other modes.

2.0 Corridor Land Use Designations

A range of land use designations may be applied within a designated Corridor identified on Map X-CRC-1. Each corridor shall include within its area land use designations which provide primarily for employment and shopping, and land use designations that provide primarily for residences.

- 2.1 Commercial designations that may be applied include: Corridor Commercial, Retail Commercial, and Office Commercial. Any site designated for a commercial use shall be located adjacent to the corridor street.
- 2.2 Multifamily designations that may be applied include: High Density Residential and Medium High Density Residential. Multifamily designations should generally be located so as to form a buffer between commercial uses adjacent to the corridor street and low density residential areas located outside the corridor.
- 2.3 Industrial designations that may be applied in corridors include: Light Industrial and Business Park.
- 2.4 Existing single family neighborhoods and mobile home parks should be zoned to discourage redevelopment to other uses.

3.0 Corridor Commercial

- 3.1 The following areas may be designated Corridor Commercial when located within a transportation corridor as identified on Map X-CRC-1 and when all of the following criteria have been met:
 - a. The site has an historical commitment to commercial uses,
 - b. The designation will not cause a decrease in housing capacity in the county,
 - c. The designation will not cause a significant traffic increase on local streets serving residential areas,

- d. Adverse effects including but not limited to traffic and noise, will have a minimal effect on adjacent neighborhoods or can be minimized through on-site improvements, and
 - e. The designation will not substantially increase an existing commercial strip or create new strips.
- 3.2 Provide commercial areas located in transportation corridors to meet local and regional needs for a wide range of goods and services.
 - 3.3 Provide for the sale of large-scale items in areas with good transportation access and minimal conflict with other uses.
 - 3.4 Allow mixed uses in the same building(s) or in a separate building(s) in the development.
 - 3.5 Establish design and dimensional standards that encourage and support pedestrian use.

IV. LAND USE POLICIES FOR THE STATION COMMUNITY DESIGN TYPE AREA

- 1.0 The Regulating Plan Map, which will be incorporated in the Zoning and Development Ordinance, shall be the basis of the design and development standards for the Station Community and shall establish the requirements for street types, block pattern, existing and new streets, building frontage types, and landscaping types.
- 2.0 *Within the Station Community boundary shown on Map X-CRC-1, future development and redevelopment shall conform to the Regulating Plan Map, and areas shall be planned to:*
 - 2.1 Provide for development utilizing urban design elements that create and support a dynamic, safe and convenient public realm made up of inter-connected streets, parking areas, parks and plazas framed by buildings with facades and entrances facing the streets and meeting other requirements of transit oriented design.

- 2.2 Provide for a mix of retail, services, office and high intensity housing in buildings meeting the requirements of transit oriented design, located on a street network with excellent pedestrian connectivity and supportive of local services, bicycle and pedestrian usage, and high capacity transit ridership.
- 2.3 Support a multi-modal street network with shared, public on-street parking on all but the most heavily traveled streets, building facades and entrances oriented to the street, and parking located to the side and behind buildings.
- 2.4 Provide for the open space and recreation needs of residents and employees of the area.

3.0 Corridor Commercial

- 3.1 Apply the Corridor Commercial designation within the Station Community boundary shown on Map X-CRC-1 to:
 - a. Areas with an historical commitment to retail uses.
 - b. Areas with high visibility and access from a major arterial street.
 - c. Areas located within ½ mile of a high capacity transit station, and providing actual or potential pedestrian connections between high capacity and bus transit.
- 3.2 Create an area with a mix of land uses, both within the site itself (mix of uses) and within buildings (mixed uses), which:
 - a. Provide for high employment and residential densities that support use of public transportation.
 - b. Provide for essential public facilities and services, including shared public parking on public and private streets, accessible and attractive walkways between and through developments, and public spaces.
 - c. Are accessible by all modes of transportation.
 - d. Orient buildings and parking areas to support and encourage pedestrian trips and utilization of high capacity transit.

3.4 Establish through zoning required and allowed land uses, transportation improvements, and design standards that encourage and support pedestrian-oriented streets, buildings, and public places.

a. Require development and redevelopment to meet transit-oriented design requirements.

3.5 In designated sectors on the Regulating Plan Map, where substantial shopping center development exists, provide for a limited amount of redevelopment to occur without requiring full compliance with transit-oriented design and connectivity requirements.

a. Ensure that such redevelopment does not reduce multimodal connectivity or hinder future development of additional planned connections.

4.0 Station Community Mixed Use

4.1 Apply the Station Community Mixed Use designation within the Station Community boundary shown on Map X-CRC-1 to:

a. Areas with an historical commitment to residential, office and employment uses.

b. Areas in proximity to high capacity transit service.

c. Areas with access to major and minor arterial and collector streets.

4.2 Create an area with a mix of residential, office, service and service commercial uses within buildings and developments that meet transit oriented development standards, which:

a. Provide for high employment and residential densities that support use of public transportation.

b. Provide for essential public facilities and services, including shared public parking on public and private streets, accessible and attractive walkways between and through developments, and public spaces.

c. Orient buildings and parking areas to support and encourage pedestrian trips and utilization of high capacity transit.

4.3 Establish through zoning required and allowed land uses, transportation improvements, and design standards that encourage and support pedestrian-oriented streets, buildings, and public places.

a. Require development and redevelopment to meet transit-oriented design requirements.

5.0 Build public and private streets within the Station Community to the standards illustrated in the Street Type cross sections (Figures X-CRC-8 through X-CRC-11).

6.0 Study providing on-street parking on 82nd Avenue, if future conditions warrant it.

V. LAND USE POLICIES FOR OTHER AREAS WITHIN THE CLACKAMAS REGIONAL CENTER DESIGN PLAN AREA

1.0 A range of land use designations shall be provided in portions of the Clackamas Regional Center Design Plan Area located outside the Regional Center, Corridors, and Station Community.

1.1 Land use designations shall generally increase in level of intensity in areas close to the Regional Center and Corridors.

1.2 Land use designations shall maintain the character of existing neighborhoods by providing for uses and improvements that are consistent with the type and scale of existing development.

1.3 Employment uses shall be provided for in the Regional Center, Corridors, or Station Community, and/or in locations adjacent to streets that are at least minor arterials.

VI. LAND USE POLICIES: LAND USE DESIGNATIONS THAT MAY APPLY THROUGHOUT THE CLACKAMAS REGIONAL CENTER DESIGN PLAN AREA

1.0 High Density Residential

In the High Density Residential district, allow for a mix of land uses as a limited use.

2.0 Low Density Residential – 5,000 and 2,500 square foot lots

In the Low Density Residential district, include 5,000 square foot and 2,500 square foot lot size low density residential zones, subject to Policy 2.0 of the Land Use Chapter, Residential Section of the Comprehensive Plan.

3.0 Low Density Residential – Single Family Attached

- 3.1 In Low Density Residential areas, areas may be zoned for single family attached residences on lots that average 2,500 square feet when the area has access to a residential collector or higher functional class street.
- 3.2 The size of the site and adjoining properties zoned for 2,500 square foot lots should generally not exceed ten (10) acres. Sites greater than 10 acres must include a combination of attached and detached housing within the allowed Single Family Attached density.
- 3.3 Design dwellings to provide variation in architectural appearance.
- 3.4 Require Design Review for single family attached residences.

URBAN DESIGN, PUBLIC AMENITIES, AND OPEN SPACE POLICIES

Design and development standards and physical improvements tie together land use and transportation to create a more "livable" community. Urban Design elements have been identified that will improve access by all modes of transportation; provide public amenities such as parks and accessible trails for recreational use; create public gathering places, and protect key natural features such as stream corridors and forested hillsides.

VII. URBAN DESIGN ELEMENTS

- 1.0 Establish design and dimensional standards that provide pedestrian oriented streets, buildings and public spaces.
- 2.0 Provide for the most intense development around public transportation routes.
- 3.0 Provide multi-modal connections that link neighborhoods with commercial areas, schools, parks and greenways.
- 4.0 Increase the visual identity of the Regional Center Area through streetscape improvements including pedestrian zones, landscaped strips between streets and sidewalks, lighting, street trees, landscaped medians, and gateways.
- 5.0 Protect natural features by directing development away from these areas and using remaining land more efficiently.
- 6.0 Provide public or private street layouts that support future development and increase connectivity for all modes of transportation.
- 7.0 The Urban Design Elements shown on Map X -CRC-3 shall be provided in the Clackamas Regional Center Design Plan Area as development occurs and public improvements are provided.
 - 7.1 All new development or major modifications to existing approved development shall provide the design elements on Map X-CRC-3.
 - 7.2 For phased development, urban design requirements will generally be roughly proportional to the amount of development occurring in a phase.

7.3 Key urban design elements shown on Map X-CRC-3 are defined as follows:

- a. **Boulevards**: Streets characterized by landscaped medians and other pedestrian crossing improvements, a sidewalk separated from the street by planting strips and street trees, and bike lanes.
- b. **Main Streets**: Streets characterized by a pedestrian/furnishing zone that includes sidewalks, street trees, and space for street lights and other furnishings, on-street parking, more frequent pedestrian crossings, and buildings oriented to the street with storefronts close to the sidewalk.
- c. **Special Street Standards**: Streets that are characterized by a landscaped planting strip separating the sidewalk from the curb, pedestrian lighting, and pedestrian amenities.
- d. **Street Connections**: General locations for new or enhanced street connections to improve connectivity in the area have been identified on Map X-CRC-3. Street connections may be public or private streets and in some cases line up with important driveways to commercial areas.
- e. **Local Street Grid**: An interconnected public or private street system that provides multi-modal access to all activities and uses.
- f. **Off-street Pedestrian Linkages**: Street, bicycle and pedestrian paths, and greenway paths to link parks, civic spaces, retail centers, neighborhoods, and other points of interest.
- g. **Multi-Use Paths**: Off-street pedestrian and bicycle paths. These paths may be developed primarily as a transportation facility, as an amenity, or may serve multiple purposes.

- h. Parks and Open Space: The general locations of parks needed in the Clackamas Regional Center Design Plan area are shown on the Map X-CRC-3. Park locations are not site-specific.
- i. Greenway Trails: Off-street trails within designated greenways (e.g. Phillips Creek and Mt. Scott Creek) that provide opportunities for environmental restoration, recreation and education.
- j. Plazas: Public gathering places are typically one acre or less and may be publicly or privately owned. Plazas are intended as public gathering places and community focal points.
- k. Natural Features: Natural features to be protected include creeks, wetlands, steep slopes and wooded bluffs.
- l. Gateways: Key intersections to be reconstructed with special design and landscape treatments that are intended to provide a visual announcement that people are entering a special area.

8.0 Establish though zoning transit-oriented design standards to ensure that streets and buildings are supportive of pedestrian, bicycle, and transit trips.

VIII. STREETS AND GATEWAYS

1.0 Establish design and dimensional standards that provide pedestrian oriented streets and buildings.

2.0 Design and dimensional standards for streets and gateways are intended to:

- a. Improve pedestrian safety at crossings.
- b. Improve visual appeal of the streets.
- c. Improve the pedestrian environment along sidewalks.
- d. Provide on-street parking where appropriate to help provide a supply of public parking that supports reduced parking standards on private property, and separate pedestrians from auto traffic.

- e. Provide strong visual identity to distinguish the Regional Center from adjacent areas.
 - f. Create a local block pattern for new roads to improve circulation for motor vehicles and pedestrians by providing shorter and more direct connections between uses.
- 3.0 Boulevards, Main Streets, Gateways, and streets planned for Special Street Standards have been identified on Map X-CRC-3. Figures X-CRC-1 through X-CRC-11 illustrate the intended standards for improvement.
- 3.1 Exceptions to these standards may be allowed subject to topography, environmental constraints, available right of way, safety considerations, and as follows:
- a. General elements of a gateway intersection are illustrated in Figures X-CRC-1 and X-CRC-7. Establish specific requirements through design.
 - b. Elements of the Main Street cross section may be modified to accommodate Light Rail Transit alignment.
- 3.2 When developing Boulevard improvements, the County should develop and implement a strategy to minimize adverse impacts to adjacent businesses.
- 4.0 New public and private streets should be designed to accommodate future development.
- 5.0 Encourage retention and development of a local street network as shown on Map X-CRC-4, and as otherwise required in the Clackamas Regional Center Design Plan.
- 6.0 Require new streets to connect uses within a development and to adjacent property, when applicable.
- 7.0 Allow new buildings to be oriented to private streets when these streets include sidewalks or raised walking surfaces, curbs, pedestrian scale street lighting and street trees.

IX. PARKS, PLAZAS, CIVIC SPACES, OPEN SPACE, PATHS AND LINKAGES

1.0 Add parks and enhance open space to meet community needs in the general locations shown on Map X-CRC-3. Coordinate park and open space efforts with the North Clackamas Parks and Recreation District. Provide additional parks as follows:

- *Golf Course Area Park*
- *Windmill Area Park*
- *Northeast Area Park*
- *Fuller Area Park*
- *Springwater Area Park*
- *Overland Area Park*
- *Bell Area Park*
- *Causey Area Park*
- *Price-Fuller Area Park*

2.0 Provide plazas at the general locations shown on Map X-CRC-3, as well as at major transit stops and stations, in high intensity pedestrian areas, and near major employment facilities.

3.0 Provide off-street pedestrian linkages at key locations to connect residential areas, parks, and major employment areas and attractions.

4.0 Protect natural features such as wetlands, forested areas and riparian habitat.

5.0 Conduct a feasibility study of the need for a multipurpose community/cultural facility. The study should be coordinated with the County Tourism Development Council and area business groups.

X. PHILLIPS CREEK GREENWAY

1.0 Work with the North Clackamas Park District, public agencies, the private sector and the community to implement the Phillips Creek Greenway Framework Plan, adopted by reference.

XI. URBAN DESIGN STANDARDS

1.0 Urban design standards shall be implemented to meet the goals of the Clackamas Regional Center Design Plan through standards in the Zoning and Development Ordinance.

1.1 All new buildings in the Clackamas Regional Center shall be oriented to existing or new private or public streets.

1.2 Maximum front yard setbacks with pedestrian amenities are required in the Regional Center to further develop a high quality pedestrian environment.

- 1.3 Buildings on corner lots are encouraged to have entrances at the corner.
- 1.4 When feasible and practical, buildings shall be placed to allow future infill and intensification of the site.
- 1.5 Pedestrian amenities, as defined by the Zoning and Development Ordinance, may be used to satisfy specific percentages of landscape requirements.
- 1.6 Where appropriate, the County may allow developments to utilize regional storm water facilities and/or for multiple property owners to utilize joint facilities.
- 1.7 Drive-through facilities may be prohibited, limited or conditioned to support the goal of creating high quality pedestrian environments.
- 1.8 Architectural design shall support and promote urban character.

TRANSPORTATION POLICIES

XII. ROADS AND STREETS SYSTEM POLICIES

- 1.0 Construct all roadway improvements identified in Map X-CRC-4 to maintain regional accessibility to the Regional Center and provide a network for all transportation modes that interconnects neighborhoods and districts, the Station Community, commercial areas, community centers, parks, libraries, and employment places, other major activities, off-street pedestrian linkages, regional multi-use paths, and area Greenway trails.

- 2.0 Street Connectivity Policies
 - 2.1 Develop a block and grid street network that serves all transportation modes with short and direct public right-of-way routes.

 - 2.2 In all new developments adjacent to corridor arterial streets, require public or private street, or private driveway connections to provide traffic flow parallel to the arterial.

 - 2.3 On major arterial streets, encourage public or private street connections at intervals of no more than 660'. Encourage more frequent public or private connections on other streets, especially those in areas planned for mixed-use or dense development.

 - 2.4 To reduce the number of local trips using 82nd Avenue, require and develop local street and commercial driveway connections on the east side of 82nd Avenue from Causey Blvd. to Otty Road. These public or private connections shall be open to public access, and may be indirect if appropriate direct routes are not feasible. This policy applies to all land use, transportation and development permits.

- 3.0 Require public local streets, private streets, and driveway connections between developments to provide public access and circulation between land uses and reduce local trips on collectors and arterials. This policy applies to all land use, transportation and development permits.

4.0 In the Station Community, a network of public and private streets, including arterial, collector and local streets, will provide excellent connectivity and pedestrian access to support transit access and utilization. Generally blocks will be no more than 450 feet in length.

5.0 Congestion Performance Standards for portions of 82nd Avenue, Sunnyside Road, and Johnson Creek Boulevard located within the Regional Center boundary or Fuller Road Station Community boundary (consistent with Metro Regional Transportation Plan standards for Centers, such as Station Communities) shall be as follows:

CONGESTION PERFORMANCE STANDARDS (Level of Service)

	Preferred Operating Standard	Acceptable Operating Standard	Exceeds Deficiency Threshold
Mid-Day one-hour	C or better	E	F or worse
Peak two-hour	E first hour E second hour	F first hour E second hour	F first hour F second hour

6.0 Congestion Performance Standards for portions of 82nd Avenue, Sunnyside Road, and Johnson Creek Boulevard located within the Clackamas Regional Center Design Plan Area and outside the Regional Center boundary or the Fuller Road Station Community boundary shall be as follows:

CONGESTION PERFORMANCE STANDARDS (Level of Service)

	Preferred Operating Standard	Acceptable Operating Standard	Exceeds Deficiency Threshold
Mid-Day one-hour	C or better	D	E or worse
Peak two-hour	E first hour D second hour	E first hour E second hour	F first hour E second hour

7.0 Monitor transportation conditions in the SE 82nd Avenue Corridor to determine if Comprehensive Plan strategies are contributing to the attainment of congestion performance standards as identified in Policies 5.0 and 6.0 above.

8.0 Provide for roadway and infrastructure improvements sufficient to support minimum planned development intensity and density.

- 8.1 The Regional Center Plan includes transportation and infrastructure planning that identifies certain needed roadway and infrastructure improvements necessary to support future development in the Regional Center.
- 8.2 These improvements, in conjunction with frontage improvements normally and legally exacted concurrent with development, are sufficient to support the minimum planned development intensity and density within the Regional Center. Developers in the Regional Center are entitled to rely on the improvements that are listed as funded in the Five (5) Year Capital Improvement Plan, as if they are already in place when submitting a master plan at the minimum densities and for approval of each phase of a multi-phase development project.
- 8.3 Amendments to the Comprehensive Plan or Zoning and Development Ordinance or changes in the Comprehensive Plan Map or zoning designation for property within the Regional Center shall not be authorized unless it is demonstrated that the improvements described in Policies 8.1 and 8.2 will remain adequate to support planned development intensity and density for the Regional Center.

XIII. TRANSIT POLICIES

- 1.0 Coordinate with Tri-Met to implement Clackamas Regional Center Design Area transit service improvements planned in the Tri-Met Primary Transit Network and Tri-Met Choices for Livability, and implement additional transit improvements identified on Map X-CRC-6.
- 2.0 Coordinate with Tri-Met, Metro, ODOT, and other agencies in funding and implementing the planned Clackamas Regional Center Design Plan Area transportation improvements identified on Map X-CRC-6.
- 3.0 Coordinate with Tri-Met to implement Light Rail Transit (LRT) service to the Clackamas Regional Center area.
- 4.0 Coordinate with Tri-Met in evaluating a fareless square for the Clackamas Regional Center Design Plan Area.
- 5.0 Coordinate with a Transportation Management Association (TMA) to develop and operate a frequent, fareless or low fare Loop Shuttle Service. A conceptual alignment for the shuttle service is indicated on Map X-CRC-6; the actual alignment is to be determined by Tri-Met and the TMA.

- 6.0 Establish park and ride lots at the periphery of the Clackamas Regional Center. Future shuttle bus routes should include stops at potential park and ride sites and employer locations.
- 7.0 To improve transit speed and the capacity of 82nd Avenue, add bus queue by-pass lanes which allow busses to by-pass auto traffic at traffic signals.
- 8.0 Coordinate with Tri-Met to encourage and support development of structured park-and-ride lots at high capacity transit stations. When surface parking facilities are provided, encourage TriMet to re-use these sites for transit-oriented development.

XIV. PEDESTRIAN AND BIKEWAY NETWORK POLICIES

- 1.0 Construct all pedestrian and bikeway network improvements identified on Maps X-CRC-3, X-CRC-7, and X-CRC-7a, and in the Clackamas Regional Center Pedestrian/Bicycle Plan adopted by reference in Appendix A, in order to provide a network connecting Clackamas Regional Center Area Design Plan neighborhoods and districts with transit stops, commercial areas, community centers, parks, libraries, employment places, other major activities, off-street pedestrian linkages, regional multi-use paths, and area greenway trails. Other local pedestrian and bikeway network improvements may be identified and developed during land use review and as part of public improvements.
- 2.0 Collaborate with public agencies and private property owners, as appropriate, to implement the sign plan element of the Clackamas Regional Center Pedestrian/Bicycle Plan adopted by reference in Appendix A.
- 3.0 Consider the prioritized list of projects identified in the Clackamas Regional Center Pedestrian/Bicycle Plan adopted by reference in Appendix A, when allocating public funds for pedestrian and bicycle network improvements in the Clackamas Regional Center.
- 4.0 In the development review process, new residential and mixed use developments within the Station Community, Corridors, and Regional Center shall encourage pedestrian and bicycle travel by:
 - 4.1 Providing direct and convenient public right-of-way routes connecting residential uses with planned commercial uses, schools, parks, and other neighborhood facilities.

4.2 Providing bike and pedestrian connections on public easements or right-of-way when full street connections are not possible, with connection spacing no more than 330' except where topography, barriers such as freeways, railroads, or environmental constraints such as streams, rivers, slopes, or environmentally sensitive areas prevent street extension.

5.0 Sidewalks shall be constructed on all public and private streets in the Clackamas Regional Center Design Plan Area, subject to topography and environmental constraints.

XV. TRANSPORTATION DEMAND MANAGEMENT (TDM)

1.0 Work with Clackamas Regional Center Design Area employers and businesses to develop strategies that will reduce vehicle miles traveled to decrease congestion and improve air quality. Strategies to be considered include but are not limited to the following:

1.1 Employer strategies that increase vehicle occupancy, encourage work trips outside peak travel times, and promote telecommuting.

1.2 Facilities Improvements to encourage non-auto transportation modes which include building the area bike/pedestrian network, transit preference systems that give buses advantage over other vehicles, transit and pedestrian amenities such as covered bus stops and lighting, on-site shower and dressing areas.

1.3 Identify County resources and incentives needed to promote and develop TDM programs for 82nd Avenue employers, and monitor the performance of 82nd Avenue corridor TDM programs conducted by employers.

2.0 Develop a Transportation Management Association (TMA) with businesses within the Regional Center Design Plan Area and Tri-Met to manage TDM strategies and operate a Loop Shuttle Service.

3.0 Work with employers and businesses within the Regional Center Boundary and other targeted TDM areas to initiate a Transportation Management Association (TMA) to manage area TDM strategies and operate a Loop Shuttle Service.

XVI. ACCESS MANAGEMENT

- 1.0 Implement the following access management standards on 82nd Avenue within the Clackamas Regional Center Design Plan Area.
 - 1.1 Consolidate driveways/accesses to the targets shown on Map X-CRC-8.
 - 1.2 Reduce signal spacing requirements from 1,320' to 500', contingent on maintaining adequate signal progression.
 - 1.3 Coordinate with ODOT to reassess 82nd Ave. Access Management Standards if the balance of efficient traffic flow with local access needs change as adjacent land uses develop to the Corridor and Boulevard Designs.
- 2.0 Develop Clackamas Regional Center Design Area Access Management Standards for the other areas of the Clackamas Regional Center Design Plan Area that:
 - 2.1 Require driveway/access spacing to support the County functional classification of the road.
 - 2.2 Require new driveways/accesses to line up with driveways/accesses or public streets on the opposite side of the Corridor to promote safety and efficient access and egress.
 - 2.3 Encourage shared driveways/accesses with adjacent properties to meet minimum driveway access spacing standard that support the functional classification of the road.
 - 2.4 Encourage connecting driveways/accesses with adjacent properties.
 - 2.5 Require developments to provide rear access to public streets whenever feasible.
- 3.0 Other than the new public street access identified in Map X-CRC-8, do not allow additional access on Johnson Creek Boulevard between 82nd Avenue and I-205.

XVII. PARKING STANDARDS

- 1.0 Encourage more efficient land use, promote non-auto trips and improve air quality within the Clackamas Regional Center Design Plan Area by establishing, by zoning, minimum and maximum parking ratios.

2.0 Encourage parking on all local and collector street classifications to provide a buffer between pedestrians and vehicle traffic, and provide public shared parking.

HOUSING

XVIII. HOUSING POLICIES

In addition to the policies in Chapter 4, the following policies apply to the Clackamas Regional Center Design Plan Area:

- 1.0 Provide for a range and variety of housing types (size and density) and variety of ownership and rental opportunities, in a range of prices.
- 2.0 Encourage housing opportunities for employees in the Clackamas Regional Center Design Plan Area by investigating partnerships to develop housing for workers in the area.
- 3.0 Limit expansion of commercial zoning into residential neighborhoods along the 82nd Avenue corridor.
- 4.0 Preserve existing mobile home parks by requiring a relocation plan to be developed and implemented by the developer for residents of mobile home parks whenever the zone designation on a mobile home park is changed to a zone other than MR-1. The County must approve the relocation plan as part of the zone change application.
- 5.0 Replace housing capacity lost in the study area by future Comprehensive Plan or zone changes. Any application for a change in Comprehensive plan designation within the Clackamas Regional Center Design Plan Area will be accompanied by a demonstration of how an equal amount of housing capacity is replaced on another site, or constructed on the site as part of a mixed use development.
 - 5.1 The purpose of this policy is to maintain the potential for the amount of housing identified in the Clackamas Regional Center Area Plan.
 - 5.2 This policy would apply to plan or zone changes made subsequent to adoption of the Clackamas Regional Center Area Plan.
 - 5.3 This policy would apply to quasi-judicial changes from residential to a non-residential use.
 - 5.4 Replacement housing capacity could be located anywhere within unincorporated Clackamas County located within the Urban Growth Boundary.

- 5.5 Approval of a design review application and any other applicable land use permit for the required amount of replacement housing on a site in a commercial or office district, not including PMU sites, will meet the requirements of policy 5.0.
- 6.0 Form a County Housing Advisory Committee to counsel and advise the Board of County Commissioners on housing issues.
 - 6.1. Clackamas County shall review its policies and ordinances regarding affordable housing and develop an affordable housing strategy with a series of tools to provide for a mix of housing types and prices in the County.

**Ordinance ZDO-237
Zoning and Development Ordinance Amendments**

Text to be added is underlined. Text to be deleted is ~~strikethrough~~.

1703 PLANNED MIXED USE DISTRICT (PMU)

[The title of Section 1703 changed by Ord. ZDO-224, 5/31/11]

1703.01 PURPOSE

Section 1703 is adopted to implement the policies of the Comprehensive Plan for Planned Mixed Use areas.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

1703.02 AREA OF APPLICATION

Six sites have a Comprehensive Plan designation of PMU. These sites are designated PMU1 through PMU6 and are identified on Comprehensive Plan Map X-CRC-2, Clackamas Regional Center Area Design Plan, Land Use Plan Map. Property may be zoned Planned Mixed Use District with a site number corresponding to the number designated by the Comprehensive Plan when:

- A. The criteria in Section 1202 are satisfied;
- B. Adequate transit services are provided to the site; and
- C. Minimum site size requirements are satisfied, the site has a Comprehensive Plan designation of Planned Mixed Use and the criteria in Section 1202 are satisfied.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

1703.03 SPECIFIC REQUIREMENTS FOR PMU SITES

[Amended by Ord. ZDO-224, 5/31/11; Repealed by Ord. ZDO-230, 9/26/11]

1703.03 PRIMARY USES

Allowed and required primary uses for each Planned Mixed Use (PMU) site are listed in Table 1703-1. The following are primary uses in the PMU District:

- A. Office uses, including:

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1. Business and professional offices, including legal, financial, architectural, engineering, governmental, manufacturing representatives, property management, and corporate and administrative offices;
 2. Medical and dental services, clinics, counseling services, and associated pharmacies;
 3. Graphic arts, printing, blueprinting, photo processing or reproduction labs, publishing and bookbinding services;
 4. Research and development uses that have physical and operational requirements that are similar to other office uses allowed in the PMU District;
 5. Banks, credit unions, and savings and loan, brokerage, and other financial institutions ~~when located in buildings of at least two stories~~. Drive-thru window services are allowed subject to Sections 827 and Subsection 1700.04(C);
 6. Business services such as duplicating, photocopying, mailing and stenographic services, fax and computer facilities;
 7. Employment agencies, business management services, notary public, office and communications equipment and service, and real estate offices;
 8. Colleges, educational institutes, and trade schools; art, music, or dance studios; radio and television studios, excluding transmission towers; and
 9. Galleries and museums; small-scale (seating capacity up to 500) assembly or convention facilities, and theaters for performing arts; exhibition halls, libraries, senior centers, and fraternal organizations; and
- B. Retail uses, including:
1. ~~Any retail uses listed in Section 1702, except those requiring outside storage or display; and~~
 2. Service commercial uses; and
 3. Mobile vending units, subject to Section 837;
- C. Residential uses, including:
1. Multifamily dwellings;
 2. Condominiums, subject to Section 803;
 3. Congregate housing facilities; and

4. Nursing homes, subject to Section 810;
- D. Open space uses, including:
1. Open space uses as ~~defined~~listed in Subsection 702.03;
 2. ~~Public and private p~~Plazas;
 3. Greenways as shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*; and
 4. Natural areas, including tree stands, wetlands, waterways, and riparian habitat;
- E. Hospitality and entertainment uses, including:
1. Hotels, including associated convention facilities, gift shops, restaurants, and newsstands located within the same building as the hotel;
 2. Civic facilities, including: ~~small to mid-size~~ convention and exposition facilities, theaters, auditoriums, libraries, business and fraternal organization facilities, visitor centers;
 3. Health and exercise facilities and clubs;
 4. Ice rinks; ~~and~~
 5. Movie theaters; and
 6. In PMU6, churches;
- F. Freestanding transit facilities, including transit stations or stops, transfer areas, and park-and-ride facilities; and
- G. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.

[Amended by Ord. ZDO-224, 5/31/11; Renumbered and amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-231, 1/31/12; Amended by Ord. ZDO-235, 5/14/12]

1703.04 ACCESSORY USES

The following are accessory uses in the Planned Mixed Use District:

- A. Bike racks, pedestrian amenities, and transit amenities;
- B. Temporary signs identifying the developer, contractor, or real estate agency responsible for leasing or selling land or buildings within the site area, which signs shall be removed upon sale or lease of the premises advertised;

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- C. Parking structures;
- D. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work;
- E. Utility carrier cabinets, subject to the Section 830;
- F. Signs, subject to Section 1010;
- G. Solar energy systems;
- H. Cogeneration facilities;
- I. Radio and television earth stations and dishes;
- J. Daycare facilities for employees or residents of a primary use;
- K. Cafeterias, delicatessens, and other such facilities provided for employees of a primary use;
- L. Recycling collection containers provided all materials are presorted, no processing occurs on-site, and all materials are stored within an enclosed structure or area between pickup days;
- M. Accessory uses listed in Subsection 1706.04, provided they are accessory to a residential use listed in Subsection 1703.03(C);
- N. Helistops;
- O. Private recreational facilities for employees or residents of a primary use;
- P. Electric vehicle charging stations; and
- Q. Rainwater collection systems.

[Amended by Ord. ZDO-224, 5/31/11; Renumbered and amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-235, 5/14/12]

1703.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

The following use may be approved by the Planning Director pursuant to Subsection 1305.02:

- A. Wireless telecommunication facilities listed in Subsection 835.05, subject to Section 835.

[Renumbered by Ord. ZDO-230, 9/26/11]

1703.06 PROHIBITED USES

The following uses are prohibited in the Planned Mix Use District:

- A. Uses of structures and land not specifically permitted;
- B. Sales lots and repair services for automobiles, trucks, boats, motorcycles, recreational vehicles, residential trailers, manufactured dwellings, farm or construction equipment and other heavy machinery;
- C. Lumber yards, fuel yards, mini-storage, moving equipment rental, and service stations;
- D. Permanent outdoor storage of materials or products, outdoor sales except temporary sidewalk sales and sidewalk cafes and food vendors; and
- ~~E. Drive thru window service on Main Streets identified on Comprehensive Plan Map X-CRC 3, Clackamas Regional Center Area Design Plan, Urban Design Elements; and~~
- E. Industrial uses.

[Amended by Ord. ZDO-224, 5/31/11; Renumbered and amended by Ord. ZDO-230, 9/26/11]

1703.07 DIMENSIONAL STANDARDS

The following dimensional standards shall apply to development in the Planned Mixed Use (PMU) District:

- A. Purpose: The dimensional standards are intended to:
 - 1. Ensure coordinated master planning and development, and the most efficient use of PMU sites;
 - 2. Encourage the consolidation of larger sites and greater compatibility between new developments and existing uses in an area;
 - 3. Ensure that the minimum operational requirements of the development are provided onsite; and
 - 4. Provide for adequate structure separation to ensure adequate light and air access, fire safety, and protection for all developments and structures within the PMU District and adjoining districts.

- B. Minimum Site Size:

~~Site size requirements for each PMU site are listed in Table 1703-1.~~

 - 1. PMU1: None

2. PMU2: two acres
3. PMU3: three acres
4. PMU4: one-half acre
5. PMU5: 10 acres
6. PMU6: Five acres

C. Maximum Front Yard Setback:

1. 20 feet from all streets, including private streets as defined in Subsection 1700.03(I)(1), except from Main Streets identified on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*. However, the 20-foot maximum setback may be exceeded to accommodate plazas identified on Comprehensive Plan Map X-CRC-3, and freestanding parking structures are exempt.
2. 10 feet from Main Streets identified on Comprehensive Plan Map X-CRC-3, except the 10-foot maximum setback may be exceeded to accommodate plazas identified on Comprehensive Plan Map X-CRC-3.
3. There shall be no ~~on-site~~ vehicular parking or circulation within the front yard setback.

D. Minimum Rear Yard Setback: None, except when the rear lot line abuts a residential or Open Space Management (OSM) District, in which case the minimum shall be 15 feet.

E. Minimum Side Yard Setback: None, except when the side lot line abuts a residential or OSM zoning district, in which case the minimum shall be 15 feet.

F. In lieu of complying with Subsections 1703.07(C) through (E), an applicant for master plan or design review approval on a site of 25 acres or larger may submit for approval alternate setback requirements which will be reviewed as part of the application. The alternative standards, or any part thereof, shall be approved if they are found to be equally effective as Subsections 1703.07(C) through (E) in establishing a visual image, sense of place, and quality pedestrian environment for the area, ~~and if they comply with the specific purpose statements for the applicable site listed in Table 1703-1.~~

G. Minimum Landscaping Area: 10 percent of the lot.

[Amended by Ord. ZDO-224, 5/31/11; Renumbered and amended by Ord. ZDO-230, 9/26/11]

1703.08 DEVELOPMENT STANDARDS

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- A. General: Development shall be subject to the applicable provisions of Sections 1000, 1100, and 1700.
- B. Community and Design Plans: Development within a Community or Design Plan area identified in Chapter 10 of the Comprehensive Plan shall comply with the specific policies and standards for the adopted Community or Design Plan
- C. Site-Specific Requirements: A PMU site shall comply with the specific standards for that site identified in Table 1703-1.
- ~~C. Each Planned Mixed Use site shall comply with the specific requirements for that site identified in Table 1703-1.~~

Table 1703-1: Site-Specific Requirements

<u>Land Uses & Areas Required</u>	<u>PMU1</u>
<u>Office use, minimum square feet</u>	<u>525,000 square feet</u>
<u>Retail, theater, entertainment, hotel or equivalent, minimum square feet</u>	<u>500,000 square feet</u>
<u>Dwelling units, minimum number</u>	<u>200 dwelling units. Demonstrate ability to accommodate 600 dwelling units</u>
<u>Public plaza</u>	<u>0.5 to 1.0 acre plaza</u>
<u>Entertainment /recreational facility</u>	
<u>Transit facilities</u>	
<u>Land Uses & Areas Required</u>	<u>PMU 2, 3, 4, and 5</u>
<u>Residential or office use, minimum site area</u>	<u>50 percent</u>
<u>Office uses, minimum Floor Area Ratio (FAR)</u>	<u>Subject to Subsections 1701.05 (A)(2) and (C)(1) and Subsection 1701.09(D)</u>
<u>Retail, minimum FAR</u>	<u>Subject to Subsection 1702.09(D)</u>
<u>Residential density</u>	<u>Subject to Subsection 1706.10(C)</u>
<u>Land Uses & Areas Required</u>	<u>PMU6</u>
<u>Phase One, minimum FAR</u>	<u>0.3, calculated pursuant to Subsections 1701.09(D) (1) through (3)</u>
<u>Subsequent phases, minimum FAR</u>	<u>0.6, calculated pursuant to Subsections 1701.09(D) (1) through (3)</u>
<u>Dwelling units, minimum number</u>	<u>395</u>

- D. PMU1 shall comply with the following additional specific requirements:

1. May expand the existing mall with retail or other uses;
2. Preserve Phillips Creek and enhance Phillips Creek Greenway;
3. Accommodate and provide proportionate share of streetscape improvements on Monterey Avenue, 82nd Avenue, Sunnyside Road, and the internal circulation network; and
4. Coordinate internal circulation network with the street and transit system.

E. PMU6 shall comply with the following additional specific requirements:

1. Exclusively retail uses larger than 40,000 square feet of gross leasable ground floor area per building or business shall be prohibited, unless it can be otherwise demonstrated through the master planning process that desired levels of transportation connectivity shall be provided.
2. The master plan shall contain a minimum of 10 percent useable open space. Open space shall be integral to the master plan. Plans shall emphasize public gathering places such as plazas, neighborhood parks, trails, and other publicly accessible spaces that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the following standards apply:
 - a. The open space area shall be shown on the master plan and recorded by final plat or separate instrument; and
 - b. If approved by the County, the open space shall be conveyed in accordance with one of the following methods:
 - i. By dedication to the County as publicly owned and maintained open space. Open space proposed for dedication to the County must be acceptable to the County with regard to the size, shape, location, improvement, and environmental condition; or
 - ii. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners association, or other legal entity, with the County retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the County.
3. Monterey Avenue shall be constructed between SE Stevens Road and SE Bob Schumacher Road at the functional road classification of Collector, with a median planted with street trees and ground cover.

FD. Access and Circulation: Onsite circulation shall meet the minimum requirements shown on Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan, Urban Design Elements*, and in addition:

1. An internal circulation system shall include a network of public, private, and internal streets subject to Subsection 1700.03(I). Private streets shall function like local streets, with curbs, sidewalks, or raised walking surfaces on both sides, street trees, pedestrian scale lighting, and connections to state, county, or public streets. This internal street network shall create developable sites defined by streets.

In addition, the internal circulation system may include a range of secondary facilities, including service roads, driveways, drive aisles, and other similar facilities. The overall intent is to provide a pattern of access and circulation that provides a clear and logical network of primary streets that have pedestrian orientation and amenities. A secondary network of pedestrian ways and vehicular circulation will supplement this system.

2. Internal driveways shall not be located between buildings and the streets to which building entrances are oriented.

GE. Building Siting and Design:

1. New buildings shall have at least one public entrance oriented to a state, county, public, or private street.
2. Buildings shall have first floor windows with views of internal activity or display cases, and the major entrance on the building façade facing the street the building is oriented to. Entrances and windows on the street-side facade shall not be blocked, or entrances locked during operation hours. Additional major entrances may also be allowed facing minor streets and parking areas.
3. Buildings on street corners shall have corner entrances or other architectural features to enhance the pedestrian environment at the intersection.
4. First floor windows or display cases are required on building facades facing and adjacent to public and private streets, plazas, walkways, and pedestrian areas. Windows and doorways shall not be blocked or entrances locked during operation hours.
5. Parking structures located within 20 feet of pedestrian facilities including public or private streets, pedestrian ways, greenways, a transit station or shelter, or plaza, shall provide a quality pedestrian environment on the façade facing the pedestrian facility. Techniques to use include, but are not limited to:

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- a. Provide retail, office or similar uses on the ground floor of the parking structure with windows and activity facing the pedestrian facility; or,
- b. Provide architectural features that enhance the first floor of the parking structure adjacent to the pedestrian facility, such as building articulation, awnings, canopies, building ornamentation, and art; or,
- c. Provide pedestrian amenities in the transition area between the parking structure and the pedestrian facility, including landscaping, trellises, trees, seating areas, kiosks, water features with a sitting area, plazas, outdoor eating areas, and drinking fountains.
- d. The above listed techniques and features, and others of similar nature, must be used so that blank walls are not created.

HF. Buffering: When existing residential uses are located adjacent to a PMU site, such uses shall be buffered from the PMU site with landscaped buffers or by the location of streets, parks, plazas, greenways, or low density residential uses in the PMU District.

IG. Public Facilities: The County may require the provision of, or participation in, the development of public facility improvements to implement the Clackamas Regional Center Area Plan. Such improvements include, but are not limited to, the following:

- ~~1. Road dedications and improvements;~~
- ~~2.1. Traffic signals;~~
- ~~3.2. Transit facilities;~~
- ~~4.3. Sidewalks, crosswalks, bump-outs and other pedestrian improvements;~~
- ~~5. Storm drainage facilities;~~
- ~~6. Sewer and water service lines and improvements;~~
- ~~7. Underground utilities;~~
- ~~8. Street lights;~~
- ~~9.4. Street trees, and landscaping; and~~
- ~~10.5. Open space, greenways, plazas, and parks.~~

JH. Maintenance Mechanisms: The County may require the formation of a maintenance agreement or other suitable mechanism to assure that the following maintenance responsibilities are adequately addressed:

1. To improve, operate, and maintain common facilities, including open space, landscaping, parking and service areas, streets, recreation areas, signing, and lighting; and
2. To maintain landscaping, street furniture, storm drainage, and similar streetscape improvements developed in the public right-of-way.

KI. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Renumbered and amended by Ord. ZDO-230, 9/26/11]

1703.09 PROCEDURE FOR REVIEW

All developments in the Planned Mixed Use (PMU) District are subject to the procedures listed below:

- A. PMU Permit: Development ~~in this district~~ requires approval of a PMU permit, which consists of two distinct elements—a master plan and design review.
 1. A master plan is subject to Hearings Officer review pursuant to Section 1300.
 2. Design review is subject to Section 1102; however, at the applicant's discretion, the design review application may be reviewed by the Hearings Officer along with the master plan.
- B. Preapplication Conference: A preapplication conference is required, pursuant to Subsection 1301.04, prior to the filing of a master plan or design review application.
- C. Submittal Requirements: An application for a PMU permit shall include:
 1. Master Plan: A master plan is required for the entire property for which the PMU permit is requested and shall address the standards and requirements of Sections 1000, 1700, and 1703. The master plan shall include:
 - ~~a. General location of all proposed uses and improvements;~~
 - ab. Estimated square feet or number of units of required uses, and density (floor area ratio or units per acre);
 - be. General location of buildings, density (floor area ratio or units per acre), number of stories;

- ~~cd.~~ Proposed area phasing of the development. Each phase must demonstrate compliance with the requirements of this zoning district;
- ~~de.~~ A traffic impact study;
- ~~ef.~~ Proposed transportation improvements consistent with the Clackamas Regional Center Area Design Plan, including:
 - ~~i.~~ ~~Internal circulation, including auto, transit, pedestrian, and freight service;~~
 - i. Transportation connections to the external street system, including off-site circulation, site access, and ~~t~~ Traffic impacts of development on the overall street system based on the traffic impact study;
 - ii. Private streets, as defined in Subsection 1700.03(I)(1), to be used to meet building orientation requirements; and
 - iii. Phasing of streets in coordination with phased development;
- ~~fg.~~ Parking ratios for surface parking, total number of parking spaces, type; if structured, location and feasibility (dimensions);
- ~~gh.~~ Open space and significant natural features to be protected, including designated greenways, wetlands, creeks and streams, riparian habitat, and wooded areas;
- ~~hi.~~ Existing or proposed parks;
- ~~j.~~ ~~Urban Design Elements shown on Comprehensive Plan Map X-CRC-3, Clackamas Regional Center Area Design Plan, Urban Design Elements;~~
- ~~k.~~ ~~Public facilities and private utilities, including storm detention facilities and water treatment facilities, and general locations; and~~
- ~~l.~~ A development narrative that demonstrates compliance with the requirements of the PMU District and with the traffic impact study; and
- j. In PMU6, a construction phasing plan shall demonstrate that the order in which buildings identified in the master plan will be constructed complies with the following:
 - i. Nonresidential buildings may be constructed prior to construction of dwelling units provided that the total floor area of nonresidential buildings constructed (excluding parking structures) does not

exceed 50 percent of the total nonresidential floor area approved in the master plan (excluding parking structures).

- ii. The remaining nonresidential buildings may only be constructed after construction of dwelling units is underway. The ratio of constructed dwelling units to the minimum number of dwelling units required shall equal or exceed the ratio of constructed nonresidential floor area (excluding parking structures) to the total nonresidential floor area approved in the master plan (excluding parking structures). For the purposes of Subsection 1703.09 (C)(1)(j), "constructed dwelling units" shall mean that, at a minimum, building permits have been issued and the framing inspection by the County building codes division has been approved.
 - iii. The County may approve a construction phasing plan that does not meet the standards in Subsection 1703.09 (C)(1)(j)(i) and (ii) where the applicant demonstrates that the orderly development of the property would be furthered by allowing construction of a greater percentage of nonresidential floor area.
2. Design Review: A detailed site plan is required for each phase of development. The detailed site plan shall meet the requirements under Subsections 1102.05(A)(7) through (12). In addition to the requirements in these subsections, the site plan shall include:
- a. The specific location (footprints) of buildings, orientation, setbacks; and pedestrian amenities provided with buildings;
 - b. Specific square feet or number of units for each use, floor area ratios or site coverage, as required in Table 1703-1;
 - c. Transportation improvements necessary to meet the conditions of the approved master plan;
 - d. Parking areas, parking ratios, number of spaces, dimensions, and circulation for structure parking;
 - e. Location of public amenities, including the urban design elements required on Comprehensive Plan Map X-CRC-3;
 - f. Specific internal traffic circulation improvements for all modes of transportation to accommodate projected traffic needs based on the traffic impact study;
 - g. Public facilities and private utilities needs and location; and

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- h. A development narrative that demonstrates compliance with the requirements of the PMU District and with the traffic impact study.
- D. Master Plan Approval Period: Approval of a master plan is valid for 10 years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this ten-year period, the approval shall be implemented, or the approval will become void. “Implemented” means all necessary County development permits shall be obtained and maintained for the development contemplated by the approved master plan.
- E. Master Plan Approval Period Time Extension: If the approval of a master plan is not implemented within the initial approval period established by Subsection 1703.09(D), a five-year time extension may be approved by the Planning Director, pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

[Renumbered and amended by Ord. ZDO-230, 9/26/11]

**TABLE 1703-1
SPECIFIC REQUIREMENTS FOR PLANNED MIXED USE (PMU) SITES**

PMU Site	Purpose	Master Plan Requirements	Uses Allowed but Not Required	Other Requirements
Clackamas Town Center (PMU-site 1)	<ul style="list-style-type: none"> • Achieve the highest employment densities in the Clackamas Regional Center area • Provide for development of structured parking • Create a mix of uses, while expanding the site’s role as a major retail center • Complement the planned LRT facilities • Create a district accessible by all modes of transportation 	<ul style="list-style-type: none"> • Conceptual master plan for the entire site, detailed site plan for any area to be developed • Master plan for a minimum of 525,000 sf of office • Master plan for at least 200 housing units, demonstrate the ability to build a minimum of 600 units • Master plan for a minimum of 500,000 sf of retail, theater, entertainment, hotel or the equivalent • Public plaza of 0.5 to 1.0 acres—may be adjacent to transit facilities • Transit facilities • Entertainment/recreational facility • Preserve Phillips Creek 	<ul style="list-style-type: none"> • Expand the mall with retail or other uses • Office: freestanding or mixed-use • Housing: freestanding or mixed-use • Retail in built-in a mixed-use facility, or accessory to structure parking • Hotels • Parking structures and surface parking lots • Freestanding retail if integrated either structurally or through the use of a quality pedestrian 	

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

	<ul style="list-style-type: none"> Assure that the district is pedestrian accessible and a quality pedestrian environment is created Protect key natural features Provide necessary infrastructure for development Provide for housing opportunities 	<p>and enhance Phillips Creek Greenway</p> <ul style="list-style-type: none"> Accommodate and provide proportionate share of streetscape improvements on Monterey, 82nd, Sunnyside and the internal circulation network Coordinate internal circulation network with the street and transit system 	<p>environment with the mall</p>	
Clackamas Corner (PMU site 2)	<ul style="list-style-type: none"> Create a mixed use area with high employment and housing densities, structured parking, and high amenities in urban design Complement the light rail transit facilities planned adjacent to the site Create a district accessible by all modes of transportation Create a walkable district Provide for essential public facilities and services 	<ul style="list-style-type: none"> Conceptual master plan for the entire site, detailed site plan for entire site. Minimum site size: two acres 50% of the site area must be developed in housing or office Comply with Urban Design Elements map 	<ul style="list-style-type: none"> 50% of the site area may be developed in freestanding or mixed use retail (RCC retail uses) 	<ul style="list-style-type: none"> Retail FAR same as RCC Office FAR same as RCO Residential densities same as RCHD
Toys R Us ODOT (PMU site 3)	<ul style="list-style-type: none"> Create a mixed use area with high employment and housing densities, structured parking and high amenities in urban design Complement the light rail transit facilities planned adjacent to the site Create a district accessible by all modes of transportation Create a walkable district Provide for essential public facilities and services 	<ul style="list-style-type: none"> Conceptual master plan for the entire site, detailed site plan for any area to be developed. Minimum site size: three acres 50% of the site area must be developed in housing or office Comply with Urban Design Elements map 	<ul style="list-style-type: none"> 50% of the site area may be developed in freestanding or mixed use retail 	<ul style="list-style-type: none"> Retail FAR same as RCC Office FAR same as RCO Residential densities same as RCHD

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

<p>Southwest side of 82nd Avenue (PMU site 4)</p>	<ul style="list-style-type: none"> • Create a mixed use area with high employment and housing densities, structured parking, and high amenities in urban design • Complement the Light Rail Transit facilities planned adjacent to the site • Create a district accessible by all modes of transportation • Assure that the district is pedestrian accessible and a quality pedestrian environment is created • Provide for essential public facilities and services 	<ul style="list-style-type: none"> • Conceptual master plan for the entire site, detailed site plan for any area to be developed. Minimum site size: one half acre • 50% of the site area must be developed in housing or office • Comply with Urban Design Elements map 	<ul style="list-style-type: none"> • 50% of the site area may be developed in freestanding or mixed use retail (RCC retail uses) 	<ul style="list-style-type: none"> • Retail FAR same as RCC • Office FAR same as RCO • Residential densities same as RCHD
<p>Southgate (PMU site 5)</p>	<ul style="list-style-type: none"> • Create a mixed use area with high employment and housing densities, structured parking and high amenities in urban design • Complement the LRT facilities planned adjacent to the site • Create a district accessible by all modes of transportation • Create a walkable district • Provide for essential public facilities and services 	<ul style="list-style-type: none"> • Conceptual master plan for entire site • Detailed site plan for any area to be developed. Minimum site size: 10 acres • 50% of the site area must be developed in housing or office. If a mixed use building, must be the equivalent of 50% of the site • Develop local streets, parks and plaza as per Urban Design Elements map of the site 	<ul style="list-style-type: none"> • 50% of the site area may be developed in freestanding or mixed use retail (RCC retail uses) 	<ul style="list-style-type: none"> • Retail FAR same as RCC • Office FAR same as RCO • Residential densities same as RCHD

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11]

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

In the Matter of Comprehensive Plan Amendments and Zone Change for Veritas Investments, Inc., on property described as: T1S, R2E, Section 33 DB, Tax Lots 00104, 00106, 00200, 00400, 00500, 00602, 00603; and T1S, R2E, Section 33 DC, Tax Lots 00100, 00200 (partial)



ORDER NO. _____
(page 1 of 2)

File No.: Z0527-11-CP / Z0528-11-ZAP

This matter coming regularly before the Board of County Commissioners, and it appearing that Veritas Investments, Inc., made application for Comprehensive Plan amendments and zone change on property described as T1S, R2E, Section 33 DB, Tax Lots 00104, 00106, 00200, 00400, 00500, 00602, 00603; and T1S, R2E, Section 33 DC, Tax Lots 00100, 00200 (partial), located on the west side of SE Stevens Road and northwest of its intersection with SE Bob Schumacher Road, as shown on Exhibit A.

It further appearing that the planning staff, by its report dated July 16, 2012, recommended approval of the application; and

It further appearing that the Planning Commission, at its July 23, 2012, meeting, recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on August 1, 2012, at which testimony and evidence were presented, and that a preliminary decision was made by the Board to approve the application;

Based on the evidence and testimony presented, this Board makes the following findings and conclusions.

1. The applicant requests approval of Comprehensive Plan map amendments to expand the Clackamas Regional Center to include the entire subject site on Comprehensive Plan Maps IV-8, X-CRC-1, and X-CRC-2.
2. The applicant requests to change the Comprehensive Plan designation from Regional Center High Density Residential, High Density Residential and Planned Community Use to Planned Mixed Use 6 on Comprehensive Plan Maps IV-6 and X-CRC-2.
3. The applicant requests a corresponding zone change from Regional Center High Density Residential (RCHDR), High Density Residential (HDR) and Open Space Management (OSM) to Planned Mixed Use 6 (PMU6) on official zoning map 1-5.

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

In the Matter of Comprehensive Plan Amendments and Zone Change for Veritas Investments, Inc., on property described as: T1S, R2E, Section 33 DB, Tax Lots 00104, 00106, 00200, 00400, 00500, 00602, 00603; and T1S, R2E, Section 33 DC, Tax Lots 00100, 00200 (partial)



ORDER NO. _____
(page 2 of 2)

File No.: Z0527-11-CP / Z0528-11-ZAP

4. The applicant requests to amend Comprehensive Plan Map X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*, to apply the Local Street Grid designation to the subject site.
5. The Clackamas County Traffic Engineer determines that an essential segment of Monterey Avenue needs to be constructed as a Collector Street with Bikeway on the subject site in order to provide needed transportation access, resulting in amendments to Comprehensive Plan Maps X-CRC-4, X-CRC-5 and X-CRC-7.
6. This request complies with the applicable provisions of the Statewide Goals, the Clackamas County Comprehensive Plan and Zoning and Development Ordinance, and all other state and federal laws and regulations.
7. This Board adopts as its findings and conclusions the Findings and Conditions of Approval, hereto attached as Exhibit B.

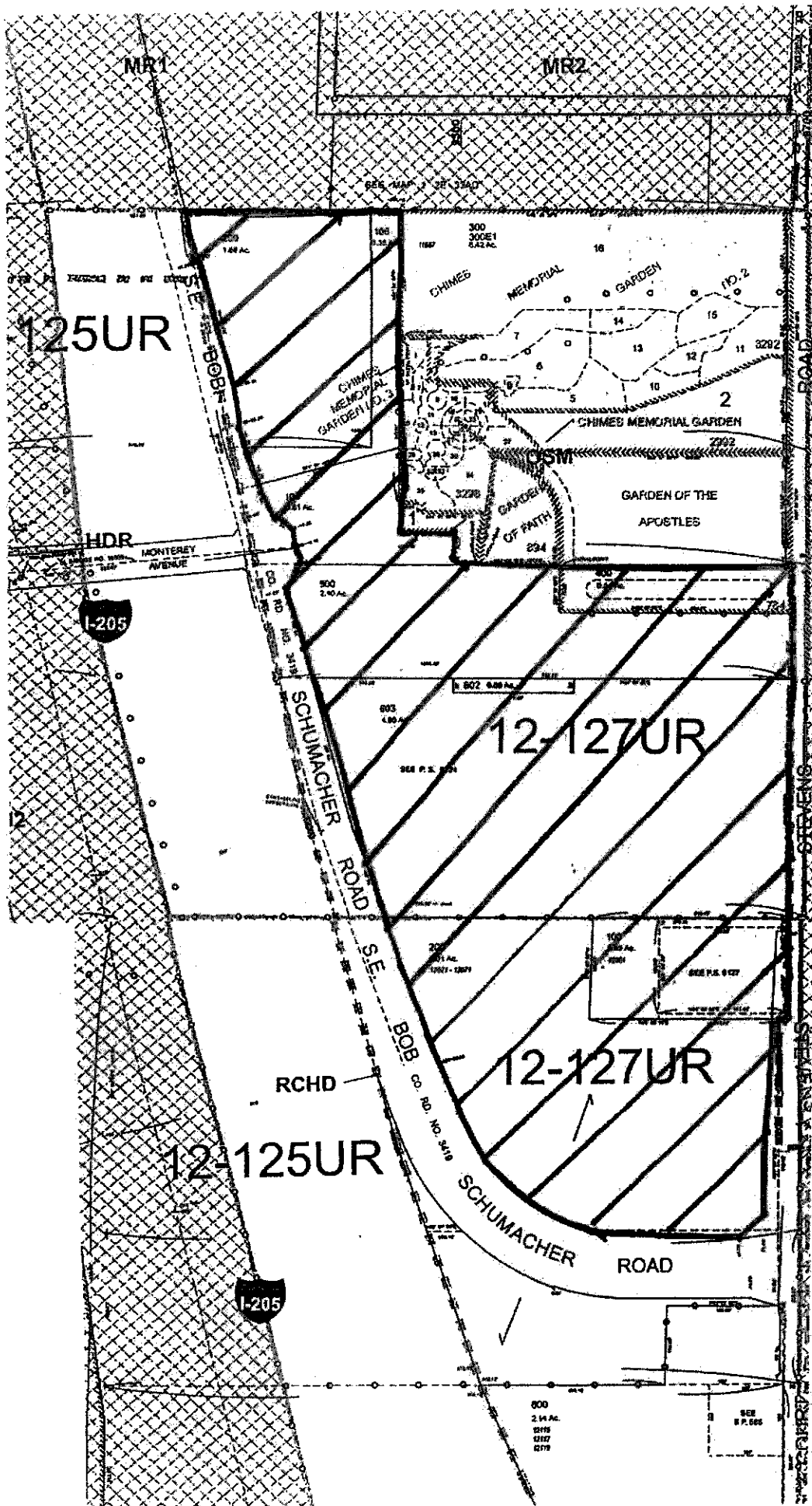
NOW, THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive Plan amendments and zone change are approved, official zoning map 1-5 and Comprehensive Plan Map IV-6 are amended accordingly, and Comprehensive Plan Maps IV-8, X-CRC-1, X-CRC-2, X-CRC-3, X-CRC-4, X-CRC-5, and X-CRC-7 are amended, as shown in Exhibits C, D, E, F, G, H and I. These amendments shall become effective on February 11, 2013.

DATED this 13th day of December, 2012.

BOARD OF COUNTY COMMISSIONERS

Chair, Board of County Commissioners

Recording Secretary



12E33DB

12E33DC

Z0527-11-CP &
Z0528-11-ZAP, Exhibit A

Exhibit B

Findings and Conditions of Approval Z0527-11-CP; Z0528-11-ZAP

December 13, 2012

GENERAL INFORMATION

Applicant: Neil Nedelisky, Veritas Investments Co. LLC

Location: North and east of Bob Schumacher Road, west of Stevens Road, a portion extending approximately 500 feet north of Monterey Avenue.

Legal Description: T1S, R2E, Section 33 DB, Tax Lots 00104, 00106, 00200, 00400, 00500, 00602, 00603; T1S, R2E, Section 33 DC, Tax Lots 00100, 00200 (partial)

Owners: New Hope Community Church, Inc., 11731 SE Stevens Road, Happy Valley, OR 97086: T1S, R2E, Section 33 DB, Tax Lots 00104, 00106, 00200, 00400, 00500, 00602, 00603

Clackamas County Development Agency, 150 Beaver Creek Road, Oregon City, OR 97045: T1S, R2E, Section 33 DC, Tax Lots 00100, 00200

Comprehensive Plan Designation: High Density Residential (HDR), Regional Center High Density Residential (RCHDR), and Public and Community Use (PCU)

Zoning Designation: High Density Residential (HDR), Regional Center High Density Residential (RCHDR), and Open Space Management (OSM).

Service Providers:

1. Sewer: Clackamas County Service District #1
2. Water: Sunrise Water Authority District
3. Surface Water: Clackamas County Service District #1
4. Fire Protection: Clackamas County Rural Fire District #1

Total Area Involved: Approximately 14.63 Acres

Proposal: Expand the Clackamas Regional Center boundary to include the entire site; change the High Density Residential (HDR), Regional Center High Density Residential (RCHDR), and Public and Community Use (PCU) Comprehensive Plan designations to Planned Mixed Use (PMU) with a corresponding zone change from HDR, RCHDR and OSM to PMU6.

PMU zone uses: The primary uses allowed within the proposed PMU6 zoning district are listed in Section 1703.03 of the Clackamas County Zoning and Development

Ordinance (ZDO) and include office, retail and service commercial uses, multifamily residential uses, institutional uses, open space, hospitality and entertainment uses and certain wireless telecommunication facilities.

Background Information on Subject Property and Surrounding Area:

The subject site is part of the greater Eagle Landing Master Plan area, an existing plan that was approved by Clackamas County in 1998, which encompasses lands that are located both within Happy Valley and unincorporated Clackamas County. The Eagle Landing Master Plan includes single-family residential, multifamily residential, office/commercial, and supportive retail uses. The Eagle Landing project was a multiphase project, with Phase I having been annexed into Happy Valley in 2005.

To date, the specific developments located within the Eagle Landing Master Plan area that have been constructed or are under construction include: a 72-lot detached single-family residential development; a 115-lot townhome development; a 85-unit condominium development (under construction); and a 128-unit condominium development, (under construction).

Eagle Landing Mixed Use (MU) Development is a proposed mixed use development on approximately 32 acres located east of Clackamas Town Center and I-205. The western portion of the Eagle Landing MU Development is located in unincorporated Clackamas County and the eastern portion is within the City of Happy Valley. On April 3, 2012, Happy Valley adopted a new Regional Center Mixed Use (RCMU) zone, amended the Clackamas Regional Center boundary to include the Happy Valley portion of the Eagle Landing Mixed Use development site, applied the new RCMU zone to approximately 17.7 acres of the Eagle Landing Mixed Use project within the City (east of Stevens). This action will enable development of approximately 14.63 acres of the project that is within Clackamas County, between Stevens Road and Bob Schumacher Road.

Site Description: The site is bounded on the west by Bob Schumacher Road, I-205, and Clackamas Town Center; on the east by Stevens Road, Happy Valley, the other portion of the proposed Eagle Landing MU development site; and on the north by multi-family development and a cemetery. See tax assessor/zoning map (Exhibit A). The entire subject site is within the Clackamas Regional Center Design Area boundary; however, only the southern portion (RCHDR) of the site is currently within the Clackamas Regional Center design type boundary; a 37 unit multi-family complex is on the southern RCHDR-zoned portion. New Hope Church is developed on the northern HDR-zoned portion of the site.

Surrounding Conditions: Monterey Avenue, a major east-west road, is constructed as a collector road to the east of the Stevens Road intersection, and as a minor arterial to the west of the Bob Schumacher Road intersection; west of the site Monterey Avenue crosses I-205. Clackamas Regional Center and the MAX light rail Green

Line Station are located west of the site across I-205. Sunnyside Road is approximately .2 miles south of the intersection of Stevens Road and Bob Schumacher Road.

The site is partially bordered on the north by a multifamily development zoned MR-1. The adjacent 26.62 acres to the north and east are occupied by cemeteries and zoned Open Space Management (OSM). The property is bordered on the east by SE Stevens Road. The property across SE Stevens Road is in Happy Valley, zoned OSM and RCMU. Kaiser Permanente is a major regional employer with a 1.1 million-square-foot facility south of the site, between Sunnyside Road and SE Sunnybrook Boulevard.

FINDINGS:

Section 1. Comprehensive Plan Map Amendment. This application is subject to the Statewide Planning Goals, Metro Functional Plan, County Comprehensive Plan (CP) policies and Oregon Administrative Rules (OARs).

Part 1 – Evaluation of Statewide Planning Goals..... Page 4
Part 2 – Evaluation of Metro Functional Plan..... Page 13
Part 3 – Evaluation of General County Comprehensive Plan Policies.....Page 16
Part 4 – Evaluation of High Density Residential, Public and Community Use,
Regional Center High Density Residential and Planned Mixed Use
Plan Designation Policies.....Page 34
Part 5 – Summary of Findings for the Comprehensive Plan Amendment.....Page 37

Section 2. Zone Change Amendment. The zone change application is subject to the criteria in Section 1202 of the Clackamas County Zoning and Development Ordinance

Part 1 – Evaluation of criteria in Section 1202.....Page 39
Part 2 – Summary of Zone Change Criteria.....Page 41

Section 3. Conditions of Approval......Page 42

Section 1

Approval of Comprehensive Plan Map Amendment from High Density Residential (HDR), Regional Center High Density Residential (RCHDR), and Public and Community Use (PCU) Comprehensive Plan Designations to Planned Mixed Use (PMU6)

PART 1. Compliance with Statewide Planning Goals:

- A. Goal 1: Citizen Involvement: *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1300 of the ZDO contain adopted and acknowledged procedures for citizen involvement and public notification. This application has been processed consistent with the notification requirements in Section 1300 including notice to individual adjacent and surrounding property owners within 300 feet of the subject property, notice in the local newspapers, and notice to affected agencies, dual interest parties and to the Community Planning Organization in the area. Advertised public hearings were conducted before the Clackamas County Planning Commission and Board of County Commissioners, which provided opportunity for additional citizen input.

The proposal is consistent with Goal 1.

- B. Goal 2: Land Use Planning: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.
1. Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following agencies and governments for comments: City of Happy Valley, Clackamas County Development Agency, North Clackamas School District #12, Clackamas County Service District #1, Sunrise Water Authority, North Clackamas Park District #3, Clackamas County Fire District #1, DTD Traffic Engineering, Sunnyside CPO, Department of Land Conservation and Development, and Metro.
 3. Goal 2 requires that all land use actions be consistent with the acknowledged Comprehensive Plan. The background information and findings provided by the applicant and within this report, and comments received from agencies and interested parties provide an adequate factual base for rendering an appropriate decision consistent with the County Comprehensive Plan.

This proposal is consistent with Goal 2.

- C. Goal 3; Agricultural Land: To preserve and maintain agricultural lands.

The subject property is located within the Metro Urban Growth Boundary. This proposal does not include any land planned or zoned for Agricultural uses.

Goal 3 is not applicable.

- D. Goal 4; Forest Land: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The subject property is located within the Metro Urban Growth Boundary. This proposal does not include any land planned or zoned for Forest uses.

Goal 4 is not applicable.

- E. Goal 5; Open Spaces, Scenic and Historic Areas, and Natural Resources: To conserve open space and protect natural and scenic resources.
1. Goal 5 resources include open space areas, scenic and historic resources and other natural features. Chapters 3 and 9 of the Clackamas County Comprehensive Plan identify significant Goal 5 resources within the County.
 2. No outstanding scenic views/sites, wilderness areas, wetlands, historic sites or structures, cultural areas, potential or approved Oregon recreation trails are located on the subject property.

Parcel Numbers 12E33DB, Tax Lots 00104, 00106 and 00200 are mapped as a Low Habitat Conservation Area (HCA) and thus located with the Habitat Conservation Area District (HCAD). The HCA is a Goal 5 as well as a Title 13 resource, and is also potentially subject to WES Title 3 Water Quality Buffers. The County Comprehensive Plan (Chapter 3) and the ZDO (Section 706) and Water Environment Services stream buffer requirements contain adopted implementing regulations to address these resources. These regulations will be applied to future development proposals on the property and will assure compliance with Goal 5.

Clackamas County Water Environment Services (WES) staff reviewed the application and submitted comments and recommendations on this proposal. WES staff reported that Metro Title 13 maps show Low Value Habitat protection on tax lots 12E33DB00, Tax Lots 00104, 00106 and 00200 that will have to be addressed in future development review.

The proposal is consistent with Goal 5.

- F. Goal 6; Air, Water and Land Resources Quality: To maintain and improve the quality of the air, water and land resources of the state.

The County Comprehensive Plan and ZDO contain adopted implementing regulations to protect the air, water and land resources. The County also has adopted public facilities and service plans to accommodate all waste and process discharges in order to protect watersheds, airsheds and land resources. These regulations will be applied to any future development proposals on the property and will protect the affected air, water and land resources.

This application is consistent with Goal 6.

- G. Goal 7; Areas Subject to Natural Disasters and Hazards: To protect life and property from natural disasters.

The subject property is not located within a designated floodplain area. It is located at the bottom of the southwest slope of Mt. Scott. According to the State of Oregon Department of Geology & Mineral Industries, Geologic Hazards Map of the Lake Oswego and Gladstone Quadrangles, the subject property is not located in an area subject to natural disasters or hazards.

This application is consistent with Goal 7.

- H. Goal 8; Recreational Needs: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate to provide for the siting of necessary recreational facilities including destination resorts.

This proposal does not involve any designated recreational or open space lands, affect access to any significant recreational uses in the area, or involve the siting of a destination resort. This project will have no impact on the recreational needs of the County or State.

Goal 8 is not applicable.

- I. Goal 9; Economic Development: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens.

1. This Goal is intended to ensure Comprehensive Plans contribute to a stable and healthy economy in all regions of the state. Goal 9 also requires the County to provide for an adequate supply of sites of suitable sizes, types, locations, and services for a variety of industrial and commercial uses consistent with plan policies.

2. The Clackamas County Comprehensive Plan has been acknowledged in

compliance with Goal 9. OAR 660-009 (Industrial and Commercial Development) outlines the standards and criteria to comply with Goal 9. OAR 660-009-0010(4) outlines the standards and criteria to address any changes to acknowledged commercial, industrial and other employment areas. This Section of the OAR requires any jurisdiction which changes its plan designations of lands in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or any other employment use designation to any other use designation to address all applicable planning requirements and;

- a. Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or
 - b. Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or
 - c. Adopt a combination of the above, consistent with the requirements of this division.
3. The proposed plan amendment is to change the Comprehensive Plan land use designation from High Density Residential (HDR), Regional Center High Density Residential (RCHDR), and Public and Community Use (PCU) Comprehensive Plan designations to a Planned Mixed Use PMU designation. The proposed amendment does not involve a change from an industrial use designation to a non-industrial use designation or an employment use designation to any other designation. Therefore OAR 660-009-0010(4) is not applicable.
4. Generally, because the PMU designation allows more latitude in siting commercial, service commercial, and office uses, this proposal will increase the amount of commercial land for employment opportunities.

This proposal is consistent with Goal 9.

J. Goal 10; Housing: To provide for the housing needs of citizens of the state.

1. This goal requires local jurisdictions to provide for an adequate number of needed housing units and to encourage the efficient use of buildable land within urban growth boundaries. OAR 660-007 and 660-008 defines the standards for determining compliance with Goal 10. OAR 660-008 addresses the general housing standards. OAR 660-007 addresses the housing standards inside the Portland Metropolitan Urban Growth Boundary. OAR 660-007 takes precedence over any conflicts between the two rules.
2. "Needed housing" as used in these rules means housing types determined to meet the need shown for housing within an urban growth boundary at particular price

ranges and rent levels, including attached and detached single family housing and multiple family housing for both owner and renter occupancy, government assisted housing, mobile home or manufactured dwelling parks and manufactured homes on individual lots.

3. "Buildable land" means residentially designated vacant and redevelopable land within the Metro urban growth boundary that is not severely constrained by natural hazards.
4. The current HDR plan designation and implementing HDR zoning district allows for a minimum of approximately 22.5 dwelling units per acre. The current RCHDR plan designation and implementing RCHDR zoning district allows for a minimum of 30 dwelling units per acre. The current PCU plan designation and implementing OSM zoning district is not a residential zone. Under the current HDR and RCHDR plan designation a minimum of 395 dwelling units will be required on the subject property.

Policy 5.0 in Section XVII of the Clackamas Regional Center Design Plan Area in Chapter 10 of the Comprehensive Plan requires any Comprehensive plan map amendment from a residential to a non-residential plan designation to replace the lost housing capacity either on-site or on another site within the urban growth boundary.

Pursuant to Policy 5.0 the PMU6 zone was drafted and approved with a requirement for 395 dwelling units to be constructed. Compliance with that requirement will ensure that there is no net reduction in the buildable land inventory and housing capacity in the County.

This proposal is consistent with Goal 10.

- K. Goal 11; Public Facilities and Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.
1. This Goal provides guidelines for cities and counties in planning for the timely, orderly and efficient arrangement of public facilities and services, such as sewer, water, solid waste and storm drainage. The Goal requires these public facilities and services to be provided at levels necessary and suitable for urban and rural uses, as appropriate. This proposal involves the conversion of urban residential land to urban mixed use land.
 2. The subject property is located within Clackamas County Service District #1 which provides sewer and storm drainage facilities in the area. The property is located within Sunrise Water Authority District which provides public water in the area. The sewer, storm drainage and water services and facilities have been established in this area consistent with adopted service plans.

3. The final design and improvements to the systems will be determined during review of future development proposals. This will ensure the facilities are designed according to adopted facility plans and appropriate to serve urban uses. This will also ensure the public facilities and services are orderly and efficient.
4. The property is also appropriately located within the service boundaries of Clackamas County Fire District #1, North Clackamas School District #12, Sunset Garbage Collection District, Clackamas County Sheriff's District and North Clackamas Parks District #3.
5. The subject property is located within the urban growth boundary in an area which can be provided with an orderly and efficient arrangement of public facilities and services to serve a mixed use development.

This application is consistent with Goal 11.

L. Goal 12; Transportation: To provide and encourage a safe, convenient and economic transportation system.

1. The Transportation Planning Rule OAR 660-012 implements Statewide Planning Goal 12.
2. OAR 660-012-0060 applies to any plan map amendment which significantly affects a transportation facility. OAR 660-012-0060(1) states, *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
 - (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

- (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
- (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
- (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.

- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
- (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
- (c) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
- (d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.*
- (e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if the provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant*

effect, even though the improvements would not result in consistency for all performance standards.

The applicant has submitted a Traffic Impact Analysis (TIA), Technical Appendix, and addendum dated August 2011, prepared by David Evans and Associates, Inc. The TIA includes the proposed level of development for the total build out scenario for *all* Eagle Landing developments. The traffic analysis evaluation area is bounded by SE Causey Avenue/ SE William Otty Road to the north, Sunnybrook Boulevard to the south, SE 82nd Avenue to the west, and SE Valley View Terrace to the east. For this study, DEA focused its analysis along the Sunnyside Road corridor between SE 93rd Avenue and SE Valley View Terrace and included the State facilities (I-205).

Clackamas County DTD Traffic Engineers (TE) reviewed the traffic impact analysis letters and submitted comments on this proposal. The DTD TE determined that with the proposed improvements or required conditions, the proposed Comprehensive Plan and zoning map amendments satisfy the requirements of the Transportation Planning Rule of OAR 660-12-0060 and the requirements of ZDO 1202 and the Comprehensive Plan, as it relates to the Comprehensive Plan Amendments.

ODOT also evaluate the TIA and coordinated with DTD TE before submitting comments and conditions. ODOT staff identified the impacted state facilities as being I-205, especially the I-205 and Sunnyside Road interchange, and OR213 (82nd Avenue). ODOT has no objection to the proposed land use actions with the recommended conditions of approval outlined in their memo.

DTD TE comments and conditions and ODOT comments and conditions are incorporated into this report by reference therein. The TIA comments from DTD TE and ODOT conclude that the proposed Comprehensive Plan amendment can be mitigated so that it will not significantly affect the transportation facility as described in OAR 660-012-0060(1).

With mitigating measures applied as laid out in DTD TE and ODOT conditions, the application can be consistent with Goal 12.

M. Goal 13; Energy Conservation: To conserve energy.

This proposal will have no impact on any known or inventoried energy sites or resources. There are no planning or implementation measures under this Goal applicable to this application.

Goal 13 is not applicable.

N. Goal 14; Urbanization: To provide for an orderly and efficient transition from rural to urban land uses.

The subject property is located within the UGB and currently designated for urban uses. This proposal does not involve a change in the location of the UGB, a conversion of rural land to urban land, or urbanizable land to urban land. There are no planning or implementation measures under this Goal applicable to this application.

Goal 14 is not applicable.

- O. Goal 15: Willamette River Greenway: To protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The subject property is not located within the Willamette River Greenway.

Goal 15 is not applicable.

- P. Goal 16: Estuarine Resources; Goal 17 Coastal Shorelands; Goal 18 Beaches and Dunes; and Goal 19 Ocean Resources.

Goals 16, 17, 18 and 19 are not applicable in Clackamas County.

PART 2. Compliance with Metro Functional Plan:

The subject property is located within the Metro Urban Growth Boundary (UGB) and subject to the requirements of the Metro Functional Plan (MFP). The northern portion of the subject property is designated as a "Neighborhood" and the southern portion of the property is within the Clackamas "Regional Center" design type designation on the County Comprehensive Plan in compliance with the Metro Functional Plan. See Map IV-8 of the Comprehensive Plan (Exhibit C)

- A. *Neighborhoods* are defined as primarily residential areas which are accessible to jobs and neighborhood businesses. This broad category includes areas set aside for homes, parks and open space, schools, public services, and neighborhood business uses. The intent is to facilitate the Region 2040 *Inner Neighborhood* design type. *Inner Neighborhoods* are defined in the Urban Growth Management Functional Plan (UGMFP) as *Residential areas accessible to jobs and neighborhood businesses with smaller lot sizes....*
- B. *Regional Center* is defined as an area that is the focus of compact development, redevelopment, high quality transit service and multi-modal street networks. The intent of the Regional Center is to provide an area for the most intense development and highest densities of employment and housing.

Title 1: Housing Capacity

- C. Title 1 of the Urban Growth Management Functional Plan (UGMFP) is applicable to this proposal. Title 1 of the UGMFP outlines the requirements for maintaining or increasing housing capacity.

The findings under Goal 10 of the Statewide Planning Goals and Chapter 10 of the Comprehensive Plan demonstrate this proposal will not reduce the housing capacity in the County because replacement housing will be required on site through application of the Planned Mixed Use plan designation and the PMU6 zone. Therefore this proposal will not reduce the housing capacity in the County.

Title 3: Water Quality and Flood Management

Title 3 of the Urban Growth Management Functional Plan (UGMFP) is applicable to this proposal. Title 3 outlines the requirements for protecting the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

A Low Habitat Conservation Area (HCA) is mapped within the northern portions of the subject site. The HCA is a Goal 5 resource; it is also potentially subject to WES Title 3 Water Quality Buffers. The County Comprehensive Plan (Chapter 3), sections 706 and

709 of the ZDO and Clackamas County Water Environment Services stream buffer requirements contain adopted implementing regulations to protect these resources. These regulations will be applied to future development proposals on the property and will assure compliance with Title 3.

Title 6: Centers, Corridors, Station Communities and Main Streets

The Regional Framework Plan identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. The following excerpts outline the structure and process of the designations.

3.07.620 Actions and Investments in Centers, Corridors, Station Communities and Main Streets

A ...County may seek recognition of a Center when the following requirements are completed.

- *A boundary consistent with the Regional Functional Plan is established.*

The Clackamas Regional Center was adopted in 1998 and recognized by Metro. Currently the Regional Center boundary includes the Regional Center High Density Residential parcels in the southern portion of the subject site. This application proposes to amend the acknowledged Regional Center Boundary to include the entire subject site.

- *An assessment of the following, as they apply to mixed use, pedestrian friendly and transit-supportive development in the area: physical and market conditions, the physical and regulatory barriers, how the code applies to or might be revised to encourage, and existing and potential incentives to encourage.*

The application of the PMU Comprehensive Plan designation and the PMU6 zone designation will assure that, at the time of development review, appropriate standards and criteria to achieve high quality “*mixed use, pedestrian friendly and transit-supportive development in the area*” will be applied.

3.07.640 Activity Levels for Centers, Corridors, Station Communities and Main Streets

A. Centers, Corridors, Station Communities and Main Streets need a critical number of residents and workers to be vibrant and successful. The following average number of residents and workers per acre is recommended for each:

- *Regional Centers - 60 persons, a mix of uses and a mix of housing types*

As analyzed below under Planned Mixed Use Policy 6.4, the application of the PMU Plan designation to this site would achieve 60 persons per acre or greater, as well as assuring a mix of uses.

3.07.650 Centers, Corridors, Station Communities and Main Streets Map

- *The map shows the boundaries established pursuant to this title.*
- *Process for expanding the boundary of a Center, including notifying Metro*

Metro was timely notified of this application; no comments were received from Metro. If the application is approved, Metro will be notified and the Clackamas Regional Center boundary will be modified on Metro maps.

Title 13: Nature in Neighborhoods

The purposes of the Nature in Neighborhoods program are to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region. The program inventoried and designated Habitat Conservation Areas (HCA) and required Metro jurisdictions to adopt and protect the areas. Clackamas County complies with Metro HCA requirements through Chapter 3 of the Comprehensive Plan and Section 706 of the ZDO.

A Low Habitat Conservation Area is mapped in the northern portions of the subject site. The HCA is a Title 13 resource. The County Comprehensive Plan (Chapter 3) and Section 706 of the ZDO and Clackamas County Water Environment Services stream buffer requirements contain adopted implementing regulations to protect these resources. These regulations will be applied to future development proposals on the property and will assure compliance with Title 13.

This proposal is consistent with the Metro Functional Plan.

PART 3. Compliance with Clackamas County Comprehensive Plan Policies:

- A. **Chapter 1; Introduction:** This Chapter identifies the purpose of the Comprehensive Plan and how to use the Plan.

This Chapter of the Plan includes a general introduction to the plan and describes how to use the plan. This Chapter does not include any Goals or Policies applicable to a quasi-judicial land use application.

Chapter 1 is not applicable.

- B. **Chapter 2; Citizen Involvement:** The purpose of this Chapter is to promote citizen involvement in the governmental process and in all phases of the planning process.

Policy 1.0 is the only policy in Chapter 2 that applies to this review: *Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representations, not only of property owners and Countywide special interests, but also of those persons within the neighborhood or areas in question.*

The Clackamas County Comprehensive Plan and ZDO have adopted and acknowledged procedures for citizen involvement. This application has been processed consistent with those procedures. Specifically, the County has provided notice to the Citizen's Planning Organization in the area (Sunnyside CPO), to property owners within 300 feet of the subject property, and published public notices in the newspaper consistent with State law and Section 1302 of the ZDO. The Planning Commission and Board of County Commissioners will also hold one or more public hearings, as necessary, consistent with Section 1303 of the ZDO. These public mailings, notices and hearings will ensure an opportunity for citizens to participate in the land use process.

This application is consistent with Chapter 2.

- C. **Chapter 3; Natural Resources and Energy:** The purpose of this Chapter is to provide for the planning, protection and appropriate use of the County's land, water and air resources, mineral and aggregate resources, wildlife habitats, natural hazard areas and energy sources.

This Chapter contains eight distinct Sections addressing; 1) Water Resources; 2) Agriculture; 3) Forests; 4) Mineral and Aggregate Resources; 5) Wildlife Habitats and Distinctive Resource Areas; 6) Natural Hazards; 7) Energy Sources and Conservation and; 8) Noise and Air Quality. Each of these Sections is addressed below.

1. Water Resources: This Section of the Chapter identifies policies applicable to River and Stream Corridors, Principal River Conservation Areas, Stream Conservation Areas, Habitat Conservation Areas, Water Quality Resource Areas, Wetlands and Groundwater.

a. River and Stream Corridors and Principal River and Stream Conservation Area Policies:

No river, stream or principal river is identified on the site. However, parcel Numbers 12E33DB, Tax Lots 00104, 00106 and 00200 are mapped as a Low Habitat Conservation Area (HCA) and thus also potentially subject to WES Title 3 Water Quality Buffers as reported under the Goal 5 findings above.

b. Habitat Conservation Areas:

19.0 For areas that are inside the Metropolitan Service District (Metro) Boundary or the Portland Metropolitan Urban Growth Boundary (UGB), designate Habitat Conservation Areas as required by Title 13 of the Metro Urban Growth Management Functional Plan, a Statewide Planning Goal 5 program for riparian corridors, wetlands, and wildlife habitat.

20.0 Regulate development in Habitat Conservation Areas (HCA), and on parcels that contain HCAs, in a manner consistent with Metro's acknowledged Goal 5 inventory, significance determination, and Economic, Social, Environmental, and Energy analysis.

Part of the site is overlaid with a Low Habitat Conservation Area (HCA). At the time of development, this value will be reviewed and appropriately protected pursuant to ZDO Section 706.

a. Wetlands: There are no wetlands identified on the North Urban Wetland Inventory or on the National Wetland Inventory on the subject property.

b. Groundwater: The subject property is not located in any Limited or Critical Groundwater Area identified by the Oregon Department of Water Resources.

2. Agriculture: This application does not involve any land planned or zoned for Agricultural uses. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

3. Forests: This application does not involve any land planned or zoned for Forest uses. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

4. Mineral and Aggregate Resources: The subject property is not identified on the *Inventory of Mineral and Aggregate Resource Sites* in Table III-2 of the Comprehensive Plan. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
5. Wildlife Habitats and Distinctive Resource Areas: There are no significant wildlife habitats or scenic areas identified on Map III-2 or III-3 of the Comprehensive Plan located on or near the subject property. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
6. Natural Hazards: This Section of the Chapter identifies policies applicable to floodplains, natural and geologic hazards, steep hillsides and areas with limiting soil characteristics such as shrink-swell soils, compressed soils, etc.

The subject property is not located within a designated floodplain. According to the Department of Geology & Mineral Industries (DOGAMI), Geologic Hazards Map of the Lake Oswego and Gladstone Quadrangles maps there are no natural or geologic hazards, steep slopes or shrink-swell soils located on the property; the site is classified as having wet soils and high water table. The site is located at the bottom of the southwest slope of Mt. Scott. Wildfire hazard and earthquake hazard are both ranked low. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

7. Energy Sources and Conservation: There are no policies in this Section applicable to this application.
8. Noise and Air Quality. There are no policies in this Section applicable to this application.

This application is consistent with Chapter 3.

- D. **Chapter 4; Land Use**: The Land Use section of the Plan includes the definitions for urban and rural land use categories, and outlines policies for determining the appropriate Comprehensive Plan land use designation for all lands within the County.

This Chapter contains three distinct Sections addressing; 1) Urbanization; 2) Urban Growth Concepts; and 3) Land Use Policies for the following Land Use Plan designations; Residential, Commercial, Industrial, Open Space and Floodplains, Rural Communities, Rural, Agriculture and Forest. Each of these Sections is addressed below.

1. Urbanization Section. This Section of the Plan outlines policies guiding land use in Immediate Urban Areas, Future Urban Areas, Future Urban Study Areas and Urban Reserve Areas.

The property satisfies the definition of *Immediate Urban Area* which includes

lands within the Metro Urban Growth Boundary (UGB) and meeting one of the following conditions:

- i. *Served by public services (including sewer, water, stormwater facilities, and transportation facilities);*
- ii. *Included within boundaries of cities or within special districts capable of providing public services and planned to be served in the near future; or*
- iii. *Substantially developed or surrounded by development at urban densities.*

Immediate urban areas are planned and zoned for urban uses. The subject property is located within the UGB and within the Clackamas County Service District and Sunrise Water Authority District, which are capable of providing sewer, water and stormwater facilities to the property and area. The property is substantially surrounded by development at urban densities. The subject property is located adjacent to land within the City of Happy Valley and has frontage on minor arterial and collector urban roads. The subject property clearly satisfies the definition of Immediate Urban land. The proposed PMU designation is an urban plan designation.

3.0 Land use planning for urban areas shall integrate all applicable policies found throughout the Plan including the following:

- a. Locate land uses of higher density or intensity to increase the effectiveness of transportation and other public facility investments.

The subject proposal would increase densities immediately adjacent to the current Regional Center by expanding the Center and applying the PMU designation. Such an amendment is additionally appropriate because Happy Valley has expanded the Regional Center boundary and applied a similar mixed use designation to the property immediately to the east of the subject site.

- b. Encourage infilling of Immediate Urban Areas with a minimum of disruption of existing neighborhoods.

The subject proposal would infill the subject site without disrupting existing neighborhoods. Some property to the north and east is a cemetery. The remaining property to the north is occupied by a multifamily development. The property to the east is yet to be developed, but has been designated mixed use by Happy Valley.

- c. Enhance energy conservation and transportation system efficiency by locating opportunities for housing near work and shopping areas.

The proposal would amend the current multifamily dwelling designation to a mixed use plan designation, which requires master planning for a

mixture of uses, higher floor area ratio and densities, pedestrian amenities and some open space. A mixture of uses provides the opportunity for housing near work and services.

- d. Integrate developments combining retailing, office, and medium and high density housing at places with frequent transit service and pedestrian facilities.

The proposed Planned Mixed Use site is served by frequent bus service and the MAX Light Rail Green Line station is immediately across I-205.

This proposal is consistent with the Urbanization policies of this Chapter.

2. Urban Growth Concept Section: This section of the Land Use Chapter is intended to implement the Region 2040 Growth Concept as it applies to Clackamas County. It provides for design type areas that are consistent with the general locations shown on the Region 2040 Growth Concept Map.

The subject property is located within the boundaries of the Region 2040 Concept Plan identified on Map IV-8, and designated partially with a "Regional Center," and partially as a "Neighborhood" design area. The Regional Center and Neighborhood design types are described above under Compliance with Metro Functional Plan. The goals and policies applicable to the Clackamas Regional Center are located in Chapter 10: Clackamas Regional Center Area Design Plan.

Regional Center

1.0 The Regional Center design type designation is applied to the Clackamas Regional Center, as identified on Map IV-8. The goals and policies applicable to the Clackamas Regional Center are located in Chapter 10: Clackamas Regional Center Area Design Plan.

The application proposes to modify Map IV-8 and X-CRC-1 by expanding the Regional Center Boundary. The PMU land use designation is consistent with goals and policies in Chapter 10.

The policies pertaining to Future Urban areas, Future Urban Study areas and Urban Reserve areas are not applicable to this application because the subject property is located within the UGB and is considered an Immediate Urban Area.

This application is consistent with the Urban Growth Concept policies of this Chapter.

4. Land Use Plan Designations: The subject property is currently designated High Density Residential, Regional Center High Density Residential, and Public and

Community Use on the Comprehensive Plan map. The proposed amendment is to change the plan designation to Planned Mixed Use.

The High Density Residential policies in the Residential Section of Chapter 4, and the Public and Community Use policies in the Open Space and Floodplains Section of Chapter 4 are applicable to this proposal. The remaining policies for the Low Density Residential, Medium Density Residential, Medium High Density Residential, Special High Density Residential, Commercial, Industrial, Unincorporated Communities, Rural, Agriculture and Forest plan designations in this section of the plan are not applicable. The Regional Center High Density Residential and the Planned Mixed Use plan policies located in Chapter 10 are also applicable.

The policies for High Density Residential, Regional Center High Density, Public and Community Use, and Planned Mixed Use are evaluated in Part 4 of this report. Based on the findings in Part 4 the subject property satisfies both the High Density Residential, Regional Center High Density Residential and PMU plan policies.

This application is consistent with the Land Use Designation policies in this Chapter.

- E. **Chapter 5; Transportation:** This Chapter outlines policies addressing all modes of transportation.

This Chapter contains six distinct Sections addressing; 1) Roadways; 2) Transportation Demand Management; 3) Parking; 4) Transit; 5) Pedestrian and Bicycle Facilities and; 6) Freight, Rail, Air, Pipelines and Water Transportation. Each of these Sections is addressed below.

1. **Roadways:** The purpose of this Section is to create and maintain a safe, continuous County-wide road system that accommodates movement by all modes. The adopted County Roadway Standards are also used to ensure a safe and adequate road system. The following policies apply to this application:

- a. **Functional Classifications and Roadway Standards:**

- 11.0 *Limit zone change approvals to those that will not require a roadway as planned in the Capital Improvement Plan to be redesigned or increased to a higher functional classification in order to maintain the minimum acceptable performance evaluation Level-of-Service standard. State transportation facilities shall be evaluated according to the Oregon Highway Plan.*

The findings under Goal 12 state that, with mitigation by the applicant, the required level of service can be maintained.

- b. **Access Standards:**

14.0 *Plan and control access onto roads within the County, as shown on Table V-5, for urban areas....*

Table V-5 directs access for developments with frontage on both an arterial street and other lower classification streets to be located on the street with the lower functional classification. Because the subject property will have frontage on Bob Schumacher Road, classified as a Minor Arterial, Stevens Road, classified as a Collector, and Monterey Avenue, to be classified as a Collector, access to this site should be restricted to Stevens Road or Monterey Avenue. A condition of approval is warranted to that affect.

c. Operating Standards

33.0 *Limit zone change approvals to those that will not reduce the Level of Service of a roadway as planned in the Capital Improvement Plan below the minimum acceptable performance evaluation Level-of-Service standard. State facilities shall be evaluated according to the Oregon Highway Plan*

DTD TE reviewed the Traffic Impact Analysis of this proposed Comprehensive Plan amendment and zone change and has confirmed that, with appropriate mitigation, the required Level of Service can be achieved. ODOT TE and planners have also concurred with conditions of approval developed by DTD TE.

This policy is met.

2. Transportation Demand Management. This Section outlines strategies to achieve efficiency in the transportation system by reducing demand and vehicle miles traveled.

There are no policies in this Section of the Chapter applicable to this application.

3. Parking. This Section of the Chapter outlines policies for parking standards to meet the Region 2040 Growth Concept Plan, Transportation Planning Rule and DEQ's Air Quality Maintenance Plan.

There are no policies in this Section of the Chapter applicable to this application.

4. Transit. This Section of the Chapter outlines policies for accommodating transit services and facilities.

There are no policies in this Section of the Chapter applicable to this application.

5. Pedestrian and Bicycle Facilities. This Section of the Chapter outlines policies for providing pedestrian and bicycle facilities. The V-7a, Essential Pedestrian

necessary to support the land use designations in the Comprehensive Plan, and to provide those facilities and services at the proper time to serve the development in the most cost effective way.

1. Policies 12.0, 18.0 and 26.0 require a coordinated review of development applications with the appropriate sewer, storm water and water service providers to ensure that approval is not granted in absence of these facilities or concurrently with the development. Although this application is not a development application, this goal requires a finding that there are adequate public facilities and services to support the Comprehensive Plan land use designation.
2. The property has adequate fire protection and law enforcement services. The property is located within Clackamas Rural Fire Protection District #1. The Clackamas County Sheriff Department provides law enforcement services in the area.
3. This proposal will have no impact on the school district because the minimum number of dwelling units is not changed.
4. The subject property is located in Clackamas County Service District # 1 which provides sewer and storm drainage facilities and services in the area. CCSD # 1 submitted comments demonstrating that the public sewer and storm drainage facilities are adequate or can be made adequate to support uses allowed under the proposed Planned Mixed Use plan designation.
5. The subject property is located in the Sunrise Water Authority District. The Sunrise Water Authority District submitted comments that water service is available and adequate capacity is or can be made available to serve the development.
6. The subject property is located in an area with an appropriate level of public facilities and services necessary to support the PMU plan designation.

This application is consistent with Chapter 7.

H. **Chapter 8; Economics:** The goal of the Economics Chapter is to *Establish a broad-based, stable and growing economy to provide employment opportunities to meet the needs of the County residents.* This Chapter contains 4 Sections related to; 1) Existing Industry and Business; 2) New Industry and Business; 3) Coordination; and 4) Target Industries.

1. Policy 2.5 under the New Industry and Business Section is applicable to this application: *Encourage the location of business and industry in areas that minimize the journey to work and/or facilitate mass transit usage for the journey to work.*

This proposal will create a new Planned Mixed Use plan designation in the Clackamas Regional Center. A Planned Mixed Use area combines residential and employment opportunities. The property is also located in proximity to a mixed use area in the City of Happy Valley, to other multifamily development to the north, and a few hundred feet south is Kaiser Permanente, a major regional employer. The property is located immediately across I-205 from the Clackamas Town Center and the MAX Light Rail Green Line Station. The property is also located on a Tri-met bus line. The proximity of this property to high quality transportation and employment opportunities provides an employment area that will minimize journey to work and facilitate mass transit usage in the area.

This policy is met.

This application is consistent with Chapter 8.

- I. **Chapter 9: Open Space, Parks, and Historic Sites:** The purpose of this Chapter is to protect the open space resources of the County, to provide land, facilities and programs which meet the recreation needs of County residents and visitors, and to preserve the historical, archaeological, and cultural resources of the County.

The subject property does not include any lands designated as open space or park land. There are no Historic Landmarks, Historic Districts or Historic Corridors on or adjacent to the subject property.

Chapter 9 is not applicable.

- J. **Chapter 10: Community Plan and Design Plans:** This Chapter of the Comprehensive Plan includes the Mt. Hood Community Design Plan, Kruse Way Design Plan, Sunnyside Village Plan, Clackamas Industrial Area and North Bank of the Clackamas River Design Plan, Clackamas Regional Center Area Design Plan, Sunnyside Corridor Community Plan, and McLoughlin Corridor Design Plan.

The subject property is located within the Clackamas Regional Center (CRC) Area Design Plan boundary. Chapter 10 includes the land use, transportation, housing and urban design goals and policies that are specific to the Clackamas Regional Center Area. The goals and policies in Chapter 10 take precedence where conflicts exist between other parts of the Comprehensive Plan.

The southern portion of the subject property is located within a subarea identified as a Regional Center, which is a Metro Region 2040 Growth Concept Design Type, described as follows: *An area with the Clackamas Town Center as its focus point is designated a "regional center." The boundary is shown on Map X-CRC-1. The Clackamas Regional Center is intended to be the focus of the most intense development and highest densities of employment and housing in unincorporated, urban Clackamas County, with high quality transit service and a multi-modal street network.*

The following policies from the CRC Plan are applicable to this application.
(Numbering used below is the same as in Chapter 10; *italics denote quoted text.*)

LAND USE POLICIES:

I. Land Use Policies Generally

1.0 *Mixed Use*

A mix of uses will be required to be master planned and developed in Planned Mixed Use designated areas.

The Planned Mixed Use (PMU) section of the ZDO (Section 1703) implements the PMU Plan designation and requires the site to be master planned and developed with a mix of uses. The proposal is to apply the PMU6 zone to the subject property.

This policy is met.

3.0 Multifamily Residential

The following primarily multifamily residential designations shall be provided in the Clackamas Regional Center Design Plan area: Regional Center High Density Residential, High Density Residential, Medium High Density Residential, and Medium Density Residential.

Multifamily areas within the Clackamas Regional Center Design Plan Area shall:

The northern portion of the subject site is designated High Density Residential, and the southern portion of the site is designated Regional Center High Density. These designations are consistent with the CRC Plan.

II. Land Use Policies for the Clackamas Regional Center Design Type Area

1.0 *Within the Regional Center boundary shown on Map X-CRC-1, areas shall be planned to:*

1.1 *Provide for high intensity development to accommodate projected regional increases in housing and employment, including mixed use development.*

1.2 *Provide for and capitalize on high quality transit service.*

1.3 *Allow for a mix of land uses to support public transportation and bicycle and pedestrian usage.*

- 1.4 *Provide for the open space and recreation needs of residents and employees of the area.*
- 1.5 *Support a multi-modal street network.*

The approval of this application would expand the Regional Center boundary to include the entire subject site and apply the PMU Plan and PMU6 zone designations. Approval would result in the requirement for master planning and developing a mixed use development and would support high quality transit service. Development standards would include: higher densities and floor area ratios, high urban design amenities, good bicycle and pedestrian access to nearby jobs and services; and provide 10 percent open space in the development.

This policy is met.

2.0 *Planned Mixed Use*

These policies are evaluated under Part 4.

4.0 *Regional Center High Density Residential*

These policies are evaluated under Part 4.

6.0 *Amendments to the Clackamas Regional Center Boundary*

The Clackamas Regional Center boundary may be amended to include property within the Clackamas Regional Center when all of the following criteria are met:

6.1 *The property is contiguous to the Clackamas Regional Center boundary.*

The subject site is immediately adjacent to the Clackamas Regional Center boundary; the southern part of the site is currently within the Regional Center boundary

6.2 *The area is, or is planned to be, a focus of compact, high density development with a mix of uses.*

The PMU designation requires compact development, high densities and a mixture of uses.

6.3 *The area has, or is planned to have, high quality transit service, and a multi-modal street network.*

Existing Tri-Met service includes two bus lines with the following locations for access and frequency:

- Route 155: Operates along Sunnyside Road to Clackamas Town Center with 40 minute frequency. There are two bus stops located at: Bob Schumacher Road and Monterey Avenue; 1000 block SE of Stevens Road.
- Route 156: Operates along Mather Rd to 147th and Oregon Trail Drive with ~1.5 hour frequency.
- There are two bus stops located at: Bob Schumacher Road and Monterey Avenue; 1000 block SE of Stevens Road.

Most of the existing street network is developed with multi-modal amenities, and multi-modal street design will required within the Regional Center design type.

6.4 *The area has, or is planned to have; a density of 60 persons per acre on lands developed or planned to be developed (not including open space, parks, plazas or natural areas).*

The subject site is 14.63 acres. Sixty persons per acre yield a total of 877 persons. The current and proposed minimum required number of dwelling units on the site is 395. If 2.5 persons per unit are calculated, the yield is 869 residents. Even if that number of persons per unit is an overestimation, other office, commercial, hospitality and institutional uses on the site should easily generate a number of persons to meet the minimum 60 persons per acre requirement.

URBAN DESIGN, PUBLIC AMENITIES, AND OPEN SPACE POLICIES

IX. Parks, Plazas, Civic Spaces, Open Space, Paths and Linkages

1.0 *Add parks and enhance open space to meet community needs in the general locations shown on Map X-CRC-3. Coordinate park and open space efforts with the North Clackamas Parks and Recreation District. Provide additional parks as follows:*

Golf Course Area Park	Causey Area Park
Overland Area Park	Fuller Area Park
Windmill Area Park	Price-Fuller Area Park
Bell Area Park	Springwater Area Park
Northeast Area Park	

DTD North Clackamas Parks and Recreation responded to an inquiry about park needs in the Windmill Area and responded that given the proximity, Ella V. Osterman Park meets the park needs in the Windmill Area circle.

TRANSPORTATION POLICIES

XII. Roads And Streets System Policies

1.0 Construct all roadway improvements identified in Map X-CRC-4 to maintain regional accessibility to the Regional Center and provide a network for all transportation modes that interconnects neighborhoods and districts, the Station Community, commercial areas, community centers, parks, libraries, and employment places, other major activities, off-street pedestrian linkages, regional multi-use paths, and area Greenway trails.

Map X-CRC-4 is being amended as part of this recommendation by adding the Monterey Avenue segment between Bob Schumacher Road and Stevens Road.

This policy will be met

2.0 *Street Connectivity Policies*

2.1 *Develop a block and grid street network that serves all transportation modes with short and direct public right-of-way routes.*

Map X-CRC-3 is being amended as part of this recommendation by expanding the local street grid designation.

This policy will be met.

5.0 *Congestion Performance Standards for portions of 82nd Avenue, Sunnyside Road, and Johnson Creek Boulevard located within the Regional Center boundary or Fuller Road Station Community boundary (consistent with Metro Regional Transportation Plan standards for Centers, such as Station Communities) shall be as follows:*

**CONGESTION PERFORMANCE STANDARDS
(Level of Service)**

	Preferred Operating Standard	Acceptable Operating Standard	Exceeds Deficiency Threshold
Mid-Day one-hour	C or better	E	F or worse
Peak two-hour	E first hour E second hour	F first hour E second hour	F first hour F second hour

Analysis of the performance of the transportation system is located in the zone change application portion of this report. DTD TE and ODOT have evaluated the Traffic Impact Analysis and determined that, with mitigation, the system can perform adequately. Conditions are warranted and attached that will implement necessary mitigation measures.

This policy will be met.

8.0 *Provide for roadway and infrastructure improvements sufficient to support minimum planned development intensity and density.*

8.1 *The Regional Center Plan includes transportation and infrastructure planning that identifies certain needed roadway and infrastructure improvements necessary to support future development in the Regional Center.*

8.2 *These improvements, in conjunction with frontage improvements normally and legally exacted concurrent with development, are sufficient to support the minimum planned development intensity and density within the Regional Center. Developers in the Regional Center are entitled to rely on the improvements that are listed as funded in the Five (5) Year Capital Improvement Plan, as if they are already in place when submitting a master plan at the minimum densities and for approval of each phase of a multi-phase development project.*

These provisions are reflected in the DTD TE conditions of approval.

8.3 *Amendments to the Comprehensive Plan or Zoning and Development Ordinance or changes in the Comprehensive Plan Map or zoning designation for property within the Regional Center shall not be authorized unless it is demonstrated that the improvements described in Policies 8.1 and 8.2 will remain adequate to support planned development intensity and density for the Regional Center.*

The applicant has submitted a Traffic Impact Analysis that has been evaluated by Clackamas County and ODOT Traffic Engineers. The Engineers have determined that with the proposed improvements or conditions below the proposed Comprehensive Plan and zoning map amendments satisfy the requirements of the Transportation Planning Rule of OAR 660-12-0060 and the requirements of ZDO1202 and the Comprehensive Plan, as it relates to the Comprehensive Plan Amendments.

This policy can be met.

XIV Pedestrian and Bikeway Network Policies

- 1.0 *Construct all walkway and bikeway improvements identified in Maps X-CRC-3 and X-CRC-7 to provide a network connecting Clackamas Regional Center Design Plan area neighborhoods and districts with transit stops, commercial areas, community centers, parks, libraries, and employment places, other major activities, off-street pedestrian linkages, regional multi-use paths, and area greenway trails. Other local sidewalks, walkways and bikeways may be identified and developed during land use review and as part of public improvements.*

Map X-CRC-7 is being amended as part of this Board Order, identifying the new Monterey Avenue segment as a Planned Bikeway. Construction will be required at the time of development review.

HOUSING

XVIII Housing Policies

- 5.0 *Replace housing capacity lost in the study area by future Comprehensive Plan or zone changes. Any application for a change in Comprehensive plan designation within the Clackamas Regional Center Design Plan Area will be accompanied by a demonstration of how an equal amount of housing capacity is replaced on another site, or constructed on the site as part of a mixed use development.*

The recently adopted PMU6 zone that will be applied to the subject site assures no dwelling units will be lost.

This policy does not apply.

This proposal is consistent with Chapter 10.

- K. **Chapter 11; The Planning Process:** The purpose of this Chapter is to establish a framework for land use decisions that will meet the needs of Clackamas County residents, recognize the County's interrelationships with its cities, surrounding counties, the region, and the state, and insure that changing priorities and circumstances can be met.

The subject property is located within Metro's jurisdiction. In the *City, Special District and Agency Coordination* section of this Chapter, Policy 1.0, is applicable. In the *Amendments and Implementation* section of this Chapter, Policy 1.0 and 3.0 are applicable.

1. City, Special District and Agency Coordination Section

- 1.0 *Participate in interagency coordination efforts with federal, state, Metro, special purpose districts and cities. The County will maintain an updated list of federal, state and regional agencies, cities and special districts and will invite their participation in plan revisions, ordinance adoptions, and land use actions which affect their jurisdiction or policies.*

Notice of this application has been provided to the following agencies and governments for comments; City of Happy Valley, Clackamas County Development Agency, North Clackamas School District, Clackamas County Service District #1, Sunrise Water Authority District, Clackamas County Fire District #1, North Clackamas Parks District #3, Metro and DLCDC. This notice and advertised public hearings before the Planning Commission and Board of County Commissioners provide an adequate opportunity for interagency coordination efforts of this plan amendment and demonstrates substantial compliance with this policy.

This policy is met.

2. Amendments and Implementation Section

- 1.0 *Assure that the Comprehensive Plan and County ordinances meet the goals of LCDC, the Region 2040 Urban Growth Management Functional Plan and the Metro Framework Plan.”*

Based on the findings in Part 1 of this report this proposal is consistent with the Statewide Planning Goals. Based on the findings in Part 2 this proposal is consistent with the Metro Framework Plan and Urban Growth Management Functional Plan. Those findings are adopted to address this policy by reference therein.

This policy is met.

- 3.0 *Amend the Comprehensive Plan pursuant to the following procedures and guidelines (listed in subpolicies 3.1 through 3.6). This is a quasi-judicial Comprehensive Plan map amendment and is subject to subpolicies 3.1, 3.3 and 3.4.*

3.1 *A map amendment may be initiated only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.*

The application was submitted by Neil Nedelisky, Veritas Investments Co. LLC, authorized by New Hope Community Church, Inc., and the Clackamas County Development Agency.

This policy is met.

3.3 All proposed Comprehensive Plan amendments are to be considered at advertised public hearings before the Planning Commission, in accordance with state law and County requirements.

Both the Planning Commission and Board of County Commissioners reviewed this application at public hearings. Notice of the hearings was published in the local newspaper and advertised consistent with or exceeding all ZDO notice requirements.

This policy is met.

3.4 If the proposed amendment is quasi-judicial, property owners will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first hearing.

The property owners within 300 feet of the subject property were notified as required in Section 1303 of the ZDO. The Sunnyside Community Planning Organization was notified of the application on May 29, 2008, over 35 days prior to the first hearing before the Planning Commission.

This policy is met.

This application has been processed consistent with Chapter 11.

PART 4. Compliance with High Density Residential And Public and Community Use Policies in Chapter 4 and Regional Center High Density and Planned Mixed Use 6 Policies in Chapter 10.

The Comprehensive Plan contains specific policies for determining the appropriate Comprehensive Plan land use designation for property. It is feasible and very common for a particular property to meet the policies and criteria for more than one land use Plan designation. In order to determine the most appropriate Plan designation, this section of the report includes an evaluation of the existing and proposed Plan designation policies (High Density Residential, Regional Center High Density Residential, Public and Community Use and Planned Mixed Use). This analysis will assist in weighing and balancing the policies to determine the most appropriate Plan designation.

High Density Residential Policies (Chapter 4)

Policies 44.0 through 57.0 in Chapter 4 of the Residential Section of the Land Use Chapter of the Plan contain the criteria that must be satisfied in order for the High Density Residential Plan designation to be applied to an area. One policy applies to this proposal:

44.0 The following areas may be designated High Density Residential when at least the first three criteria are met:

- a. Areas located either adjacent to or within proximity to major shopping centers, employment concentrations and/or major transit centers.*

The subject site is located across I-205 from Clackamas Town Center and the MAX Light Rail Green Line station. Numerous employment opportunities are located along Sunnyside Road, Sunnybrook Boulevard, and 82nd Avenue.

This policy is met

- b. Areas with access to a street designated as a major or minor arterial or collector. Siting should not result in significant traffic increase on local streets serving low density residential areas.*

Stevens Road is a Collector road. Frequent bus service runs on Bob Schumacher Road, a minor arterial. Primary access to this site does not travel through local streets serving low density residential areas.

This policy is met

- c. Areas free from known geologic hazards, flooding, or soils subject to slippage.*

The site is free from known geologic hazards, flooding or soils subject to slippage.

This policy is met

- d. *Areas adjacent to permanently protected open space or bodies of water as long as the above criteria apply.*

The site is adjacent to a cemetery.

This policy is met

Public and Community Use Policies (Chapter 4)

2.3 The purpose of Public and Community Use Open Space is to preserve community open space and its associated benefits, such as recreation. Public and Community Use Open Space is land in any of the following categories:

- a. Parks and other recreation facilities
- b. Cemeteries
- c. Other publicly or commonly owned lands which function as open space

The portion of the subject site that is designated PCU is paved for a parking lot.

This policy is not met

Regional Center High Density Residential (Chapter 10)

4.0 *Regional Center High Density Residential*

Within the adopted Regional Center boundary, designate areas suitable for the highest density multifamily uses as Regional Center High Density Residential.

- 4.2 *Provide for multifamily residential uses within walking distance of public transportation, parks, schools, employment areas and local shopping areas.*

The RCHDR plan designation is applied within the Regional Center on a site between a Collector street and a Minor Arterial street with frequent bus service. Adjacent or very near to the designated site are various employment and shopping opportunities at the Clackamas Town Center, on Sunnyside Road, on 82nd Avenue. There is a school at SE Causey Avenue and SE Stevens Road.

This policy is met.

Planned Mixed Use Policies (Chapter 10)

2.0 *Planned Mixed Use*

The Planned Mixed Use designation allows for master planning and development on key opportunity sites in areas designated for mixed use on the Region 2040 Growth Concept map. Generally, because of size, location, good access, and proximity to supportive land uses and existing or planned transportation improvements, these sites can accommodate more growth than other areas and sites within the plan boundary.

Expansion of the Clackamas Regional Center area would enable the opportunity for application of the Planned Mixed Use plan policy to the subject site. The PMU plan designation would provide opportunity for all of the elements listed above. It requires a mix of uses to be master planned and developed with high pedestrian and bicycle amenities to support walking and transit use; the floor area ratios and residential densities are high; 10 percent of the site in the PMU6 zone is required to be open space. Adjacent or very near to the designated site are various employment and shopping opportunities at the Clackamas Town Center, along Sunnyside Road, on Sunnybrook Boulevard, and on 82nd Avenue. There is a school at SE Causey Avenue and SE Stevens Road. The PMU6 zone specifically includes the Monterey Road segment as a required transportation improvement.

This policy is met.

2.3 *Apply the Planned Mixed Use designation within the Regional Center as shown on Map X-CRC-1.*

The proposal includes amendment of Map X-CRC-1 to expand the Regional Center Boundary, enabling the PMU to be applied to the entire site.

This policy is met.

2.4 *Sites planned for Planned Mixed Use but zoned for other uses may be converted to Planned Mixed Use zoning when:*

- a. Adequate transit services are provided to the site; and,*
- b. Minimum site size requirements are satisfied.*

This application proposes to apply the PMU plan designation and the PMU6 zone designation under the same approval. Frequent bus service runs on Bob Schumacher Road, and the MAX Light Rail Green line is across I-205 at the Clackamas Town Center.

The amended Section 1703 defines a minimum site size for development in the PMU6 zone.

This policy is met.

PART 5. Summary of Findings and Conclusions on Comprehensive Plan Amendment

Parts 1-4 of Section 1 of this report outlines and addresses all the policies, standards and criteria found to be applicable to this proposal. These policies and standards range from being very general (e.g. Statewide Planning Goals) to more specific in nature (e.g. Plan Designation Policies). These policies and standards must be weighed and balanced against each other and this specific land use proposal to determine whether the existing High Density Residential, Public and Community Use, and Regional Center High Density Residential or the proposed Planned Mixed Use Plan designation is the most appropriate plan designation.

A. Summary findings on the subject property from Part 4 of this report:

- All four of the High Density Residential Plan policies are met; only the first three are required.
- The Public and Community Use policy is not met.
- The Regional Center High Density Residential Plan policy is met.
- The applicable Planned Mixed Use policies are met.

Therefore, except for the PCU plan designation, all plan designations are appropriate on the property.

B. In balancing all the applicable goals and policies and findings in Part 1-4 of this report, the PMU Plan designation is the most appropriate Plan designation for the following reasons:

1. The PMU Plan designation is consistent with the Statewide Planning Goals, including Goal 12 – Transportation and the Transportation Planning Rule.
2. The PMU Plan designation is consistent with the Metro Functional Plan.
3. The PMU Plan designation better meets the Urbanization and Urban Growth Concept policies of Chapter 4; it is in closer compliance with the goals of the Regional Center for greater density, greater intensity closer to Regional Centers, a mix of uses to support alternative modes of transportation.
4. The PMU Plan designation increases effectiveness of transportation and other public facilities. The PMU Plan designation guarantees higher minimum densities and floor area ratios will be developed, resulting in greater density to support an area that has had high amount of public investment in urban transportation services.
5. PMU is more consistent with adjacent Happy Valley plan and zone designation of Regional Center Mixed Use.

6. PMU requires the needed Monterey Road Collector segment at to proved better connectivity
 7. PMU results in better urban design amenities being required at the time of development.
 8. PMU could offer greater incentive for redevelopment of the site.
- C. Based on the Housing and Employment Study completed in 2000, there is a need for additional housing and employment uses in the CRC Design Plan Area. Pursuant to Policy 5.0 in the Housing Section of the CRC Design Plan, replacement housing must be provided on this site. Therefore, a PMU designation would require a mixed use development and provide both needed housing units and employment uses.
- D. The PMU Plan designation will provide additional employment land on a Tri-Met bus line and near a residential area consistent with Policy 2.5 in the *New Industry and Business* section of the Economic Chapter. This will minimize distances to work and facilitate mass transit usage.
- E. The sewer, water and storm drainage facilities and services are adequate to support the PMU Plan designation.
- F. The PMU Plan designation does not conflict with the City of Happy Valley Comprehensive Plan.

Section 2
Zone Change from HDR, RCHDR and OSM to PMU6

PART 1: Compliance with Section 1202 of the ZDO

A. The zone change criteria are listed in Section 1202 of the Clackamas County ZDO). Section 1202.01 states that the Hearings Officer shall allow a zone change, after a hearing conducted pursuant to Section 1300, if the applicant provides evidence substantiating the following criteria:

1. Section 1202.01A: *Approval of the zone change is consistent with the Comprehensive Plan.*

The proposed PMU6 zoning district (Section 1703 of the ZDO) implements the PMU6 Plan designation. If the Comprehensive Plan amendment to PMU is approved, then PMU6 would be consistent with the Plan designation.

This criterion can be met.

2. Section 1202.01B: If development has a need for public sanitary sewer, surface water management and/or water service, a zone change may be approved if development under the new zoning designation can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.

The subject property is located within the UGB and in an immediate urban area. All development proposed on this property requires public sanitary sewer, surface water management and water service.

The subject property is located within Clackamas County Service District No. 1 which provides public sanitary sewer and storm drainage services in the area. The record of the application includes comments from CCSD # 1, dated June 28, 2012, which indicates sewer and surface water facilities are adequate or can be made adequate to support uses allowed in the proposed PMU6 zoning district.

The subject property is located in the Sunrise Water Authority District. The Sunrise Water Authority District submitted comments that water service is available and adequate capacity is or can be made available to serve the development.

This criterion has been met.

3. Section 1202.01C: The transportation system is adequate, as defined in Subsection 1022.07(B) and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are

exempt from this subsection. For the purpose of this criterion:

- a. Section 1202.01C(1): *The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a twenty-year period beginning with the year that a complete land use application is submitted.*
- b. Section 1202.01C(2): *It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.*
- c. Section 1202.01C(3): *It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.*
- d. Section 1202.01C(4): *Transportation facility capacity shall be calculated pursuant to Subsection 1007.09(D),*
- e. Section 1202.01C(5): *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

The capacity of the transportation system has been evaluated in Part 1 of this report in the discussion of Statewide Planning Goal 12 and the Transportation Planning Rule. Those findings demonstrate all County intersections studied will operate adequately per the County Transportation System Plan, will be mitigated appropriately per the TPR, or the facilities are not significantly affected. Seven conditions of approval are recommended by the DTD Traffic Engineer. Those findings and conditions of approval are adopted to address these criteria by reference therein.

This criterion is met.

- f. Section 1202.01D: The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.

ODOT staff has reviewed the proposal, including the two Traffic Impact Analysis reports dated August, 2011 and January 2012, for the application to expand the Clackamas Regional Center boundary; change the High Density Residential (HDR), Regional Center High Density Residential (RCHDR) and Planned Community Use (PCU) Comprehensive Plan designations to PMU6, and the corresponding zone change from HDR, RCHDR and OSM to PMU6. The impacted state facilities are I-205 and OR213 (82nd Avenue). ODOT has no

objection to the proposed land use actions with the recommended conditions of approval outlined below.

This criterion is met.

- g. Section 1202.01E: *Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.*

DTD TE Staff concurs that with the proposed improvements and/or conditions below, the proposed Comprehensive Plan and Zoning Text and Map Amendments satisfy the requirements of the Transportation Planning Rule (TPR) of OAR 660-012-0060 and the requirements of ZDO 1202 and the Comprehensive Plan as it relates to Comprehensive Plan Amendments. All County intersections studied will operate adequately per the County Transportation System Plan, will be mitigated appropriately per the TPR, or the facilities are not significantly affected.

Based on the above findings the safety of the County transportation system is adequate to accommodate the level of development anticipated by the proposed PMU6 zoning district.

This criterion is met.

PART 2. Summary of Zone Change Criteria: The application satisfies all the criteria in Section 1202.01 of the ZDO.

Section 3 Conditions of Approval

The following conditions of approval shall be met:

Prior to occupancy of the first phase of development on the subject property, conditions 1 through 8 shall be met.

Alternatively, if a phasing plan is submitted as part of a PMU master plan application, satisfaction of conditions 1 through 8 may be phased, provided that the traffic impact study required by ZDO Subsection 1703.09(C)(1)(d) demonstrates the improvements satisfy the Transportation Planning Rule at each phase of development. Prior to occupancy of each phase of development, improvements required for that phase shall be completed. Phasing of the improvements required in conditions 1 through 8 shall be determined based upon the Transportation Planning Rule and Regional Transportation Model assumptions in place at the time of this zone change and Comprehensive Plan amendment decision.

1. The applicant shall design and cause to be constructed improvements or provide the County with funds in the amount equal to the estimated cost of improvements to design and construct improvements to the south leg of the intersection of Sunnyside Road/Stevens Road as listed below. All improvements shall be compliant with the Clackamas County Roadway Standards. The applicant may choose from Option A, B, or C below to satisfy this condition.
 - A. The applicant shall cause to be constructed an additional travel lane on the south leg of the intersection which creates a lane configuration consisting of dual northbound left turn lanes, and a northbound through-right shared lane. Obtain the construction rights to construct such improvements. Travel lanes shall be a minimum of 11 feet in width. Cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping and signal improvements to facilitate this improvement. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed through the County's Capital Improvement Plan prior to the first phase of development, the applicant will be released from the requirement to construct that portion or all of those improvements.
- OR
- B. The applicant shall convert the south leg of the intersection from two southbound lanes, a northbound left turn lane and a northbound left-through-right shared lane to one southbound lane, dual northbound left turn lanes, and a northbound through-right shared lane subject to traffic analysis establishing acceptable

queuing and level of service. Obtain the construction rights to construct such improvements. Cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping and signal improvements to facilitate this improvement. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed through the County's Capital Improvement Plan prior to the first phase of development, the applicant will be released from the requirement to construct that portion or all of those improvements.

OR

- C. The applicant shall provide the County with funds in the amount equal to the estimated cost of improvements at the intersection of Sunnyside Road/Stevens Road to construct the improvements as described above in A or B as approved by Clackamas County. The estimate and funds shall include the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, signing, striping, signal improvements, right-of-way, private property, state BOLI wages, 20% engineering and 30% contingency, to facilitate this improvement. The applicant shall provide an appraisal estimating the value of loss of private property that would be displaced on the property at tax lot 22E04A 00200 and/or taxlot 22E04A 00190. These funds will be for the purpose of satisfying OAR 660-012-0060 through the construction of the improvements described in A, B, or transportation system management measures, minor transportation measures and/or improvements that would benefit other than motor vehicular travel modes. The cost estimate is subject to approval of the County. All improvements shall be compliant with the Clackamas County Roadway Standards.
2. The applicant shall design and cause to be constructed improvements or provide the County with funds in the amount equal to the estimated cost of improvements to the east leg of the intersection of Sunnyside Road/Stevens Road and Sunnyside Road/10100 block intersection as listed below. All improvements shall be compliant with the Clackamas County Roadway Standards. Improvements to sidewalk, travel lanes and bicycle lanes shall match or exceed that of the existing width. The applicant may choose from Option A or B below to satisfy this condition.
 - A. At the intersection of Sunnyside Road/Stevens Road, the applicant shall extend the existing northernmost westbound through lane to a total length of 700 feet to the east. Acquire the land area necessary for public right of way to construct improvements. Right-of-way shall be dedicated to the County. Cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping and signal improvements to facilitate this improvement. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed through the County's Capital Improvement Plan prior to the first phase of development, the applicant

will be released from the requirement to construct that portion or all of those improvements.

OR

- B. At the intersection of Sunnyside Road/Stevens Road extend the existing northernmost westbound through lane as far as feasible to a maximum total length of 700 feet without requiring the applicant to acquire additional public right-of-way. Cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping and signal improvements to facilitate this improvement. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed through the County's Capital Improvement Plan prior to the first phase of development, the applicant will be released from the requirement to construct that portion or all of those improvements.

For any distance less than the maximum distance of 700 feet from the intersection of Sunnyside Road/Stevens Road, the applicant shall provide the County with funds in the amount equal to the estimated cost of improvements including the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping, signal improvements, right-of-way, state BOLI wages, 20% engineering and 30% contingency, to facilitate this improvement. The applicant shall provide an appraisal estimating the value of the right-of-way. These funds will be for the purpose of satisfying OAR 660-012-0060 through the construction of the improvements described in A, or transportation system management measures, minor transportation measures and/or improvements that would benefit other than motor vehicular travel modes. The cost estimate is subject to approval of the County. All improvements shall be compliant with the Clackamas County Roadway Standards.

3. The applicant shall design and cause to be constructed improvements or provide the County with funds in the amount equal to the estimated cost of improvements to design and construct improvements on the east leg of the intersection of Sunnyside Road/Stevens Road. Improvements to sidewalk, travel lanes and bicycle lanes shall match or exceed that of the existing width. The applicant may choose from Option A or B below to satisfy this condition.
- A. The applicant shall cause to be constructed a westbound right turn lane with a width of 12 feet, length of 100 feet and appropriate tapers. Acquire the land area necessary for public right of way to construct improvements. Right-of-way shall be dedicated to the County. Cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping and signal improvements to facilitate this improvement. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed

through the County's Capital Improvement Plan prior to the first phase of development, the applicant will be released from the requirement to construct that portion or all of those improvements.

OR

- B. The applicant shall provide the County with funds in the amount equal to the estimated cost of improvements to construct the improvements as described above in A. The estimate and funds shall include the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, signing, striping, signal improvements, land area needed for right-of-way, displaced parking stalls, state BOLI wages, 20% engineering and 30% contingency, to facilitate this improvement. The applicant shall provide an appraisal estimating the value of the necessary land area for public right-of-way and parking stalls that would be displaced at tax lot 12E33DD01302. These funds will be for the purpose of satisfying OAR 660-012-0060 through the construction of the improvements described in A, or transportation system management measures, minor transportation measures and/or improvements that would benefit other than motor vehicular travel modes. The cost estimate is subject to approval of the County. All improvements shall be compliant with the Clackamas County Roadway Standards.
4. The applicant shall design and cause to be constructed improvements or provide the County with funds in the amount equal to the estimated cost of improvements to the intersection of Sunnyside Road/Stevens Road. The applicant may choose from Option A or B below to satisfy this condition.
- A. The applicant shall design and construct improvements to convert the existing northbound/southbound traffic signal phasing from "split" to "protected" left turn phasing. The applicant shall acquire the necessary construction rights and/or land area for right-of-way as needed. Right-of-way shall be dedicated to the County. The applicant shall provide the necessary improvements to ensure adequate truck turning movements for northbound and southbound left turns. The applicant shall cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping and signal improvements to facilitate this improvement. All improvements shall be compliant with the Clackamas County Roadway Standards. Improvements to sidewalk, travel lanes and bicycle lanes shall match or exceed that of the existing width. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed through the County's Capital Improvement Plan prior to the first phase of development, the applicant will be released from the requirement to construct that portion or all of those improvements.

OR

- B. The applicant shall provide the County with funds in the amount equal to the estimated cost of improvements to construct the improvements as described above in A. The estimate and funds shall include the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, signing, striping, signal improvements, land area needed for right-of-way, construction rights, displaced parking stalls, state BOLI wages, 20% engineering and 30% contingency, to facilitate this improvement. The applicant shall provide an appraisal estimating the value of the necessary land area for public right-of-way and/or construction rights. These funds will be for the purpose of satisfying OAR 660-012-0060 through the construction of the improvements described in A, or transportation system management measures, minor transportation measures and/or improvements that would benefit other than motor vehicular travel modes. The cost estimate is subject to approval of the County. All improvements shall be compliant with the Clackamas County Roadway Standards.
5. The applicant shall design and cause to be constructed improvements or provide the County with funds in the amount equal to the estimated cost of improvements to the north leg of the intersection of Sunnyside Road/Stevens Road as listed below. All improvements shall be compliant with the Clackamas County Roadway Standards. Improvements to sidewalk, travel lanes and bicycle lanes shall match or exceed that of the existing width. The applicant may choose from Option A or B below to satisfy this condition.
- A. At the intersection of Sunnyside Road/Stevens Road, the applicant shall cause to be constructed a southbound right turn lane with a minimum width of 12 feet, minimum length of 140 feet and appropriate tapers. Cause to be constructed a southbound bike lane with a minimum width of 6 feet, minimum length of 140 feet and appropriate tapers. Cause to be constructed a northbound bike lane with a minimum width of 6 feet and a length of 150 feet. Convert the existing southbound right turn lane to a southbound through lane. Convert the existing southbound left turn lane/through lane to a southbound left turn lane. The southbound right turn lane shall be controlled with a "right turn overlap." Cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping and signal improvements to facilitate this improvement. The applicant shall acquire the necessary rights and/or land area and design and construct those improvements. Right-of-way shall be dedicated to the County. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed through the County's Capital Improvement Plan prior to the first phase of development, the applicant will be released from the requirement to construct that portion or all of those improvements.

OR

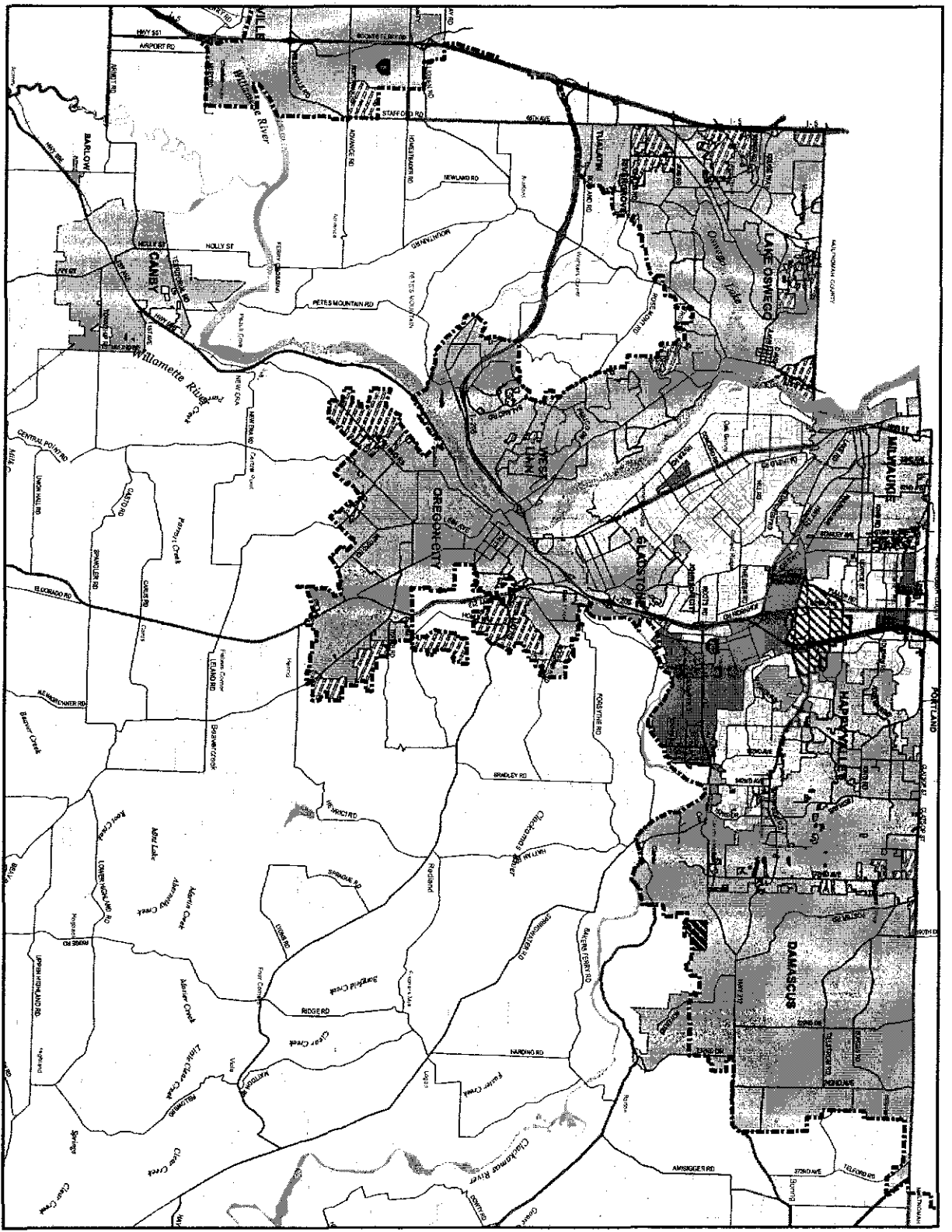
- B. The applicant shall provide the County with funds in the amount equal to the estimated cost of improvements at the intersection of Sunnyside Road/Stevens

Road to construct the improvements as described above in A. The estimate and funds shall include the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, signing, striping, signal improvements, right-of-way, private property drive aisle, state BOLI wages, 20% engineering and 30% contingency, to facilitate this improvement. The applicant shall provide an appraisal estimating the value of the land area for public right-of-way and loss of private property drive aisle that would be displaced on the property at 12E33DD00400. These funds will be for the purpose of satisfying OAR 660-012-0060 through the construction of the improvements described in A, or transportation system management measures, minor transportation measures and/or improvements that would benefit other than motor vehicular travel modes. The cost estimate is subject to approval of the County. All improvements shall be compliant with the Clackamas County Roadway Standards.

6. The applicant shall design and cause to be constructed improvements to the north leg of the intersection of Bob Schumacher Road/Stevens Road. The improvements shall include converting the southbound approach from its existing southbound left, through, and right turn lane configuration to a southbound left, left/through and right turn lane configuration. Cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping and signal improvements to facilitate this improvement. The improvement shall include a southbound left turn queue storage of 425 feet or greater. Improvements to sidewalk, travel lanes and bicycle lanes shall match or exceed that of the existing width. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed through the County's Capital Improvement Plan prior to the first phase of development, the applicant will be released from the requirement to construct that portion or all of those improvements.
7. The applicant shall design and cause to be constructed Monterey Avenue as a collector roadway between Bob Schumacher Road and Stevens Road to meet the Clackamas County Roadway Standards and in compliance with Maps X-CRC-4, X-CRC-5, and X-CRC-7 of the Clackamas County Comprehensive Plan and ZDO 237. The applicant shall dedicate the necessary right-of-way and permanent easements to Clackamas County. Unlike illustrated in Figure 1 of the application, Monterey Avenue shall be designed and constructed as a continuous, uninterrupted facility from the intersection of Bob Schumacher Road/Monterey Avenue to the intersection of Stevens Road/Monterey Avenue. The improvement shall include two travel lanes, a landscaped median, bike lanes, sidewalks and landscape strips in compliance with the Roadway Standards. The applicant shall design and cause to be constructed all necessary improvements at the intersection of Bob Schumacher Road/Monterey Avenue and Stevens Road/Monterey Avenue in order to incorporate this improvement. Improvements at the intersection of Stevens Road/Monterey Avenue shall be in compliance with the requirements of the City of Happy Valley. Cause to be constructed the necessary pavement, tapers, curbing, sidewalk, landscaping, drainage, utilities, signing, striping, and signal improvements to facilitate this











improvement. In the event a portion or all of the improvements outlined above are adopted into the County's Transportation System Plan and those improvements are reasonably likely to be constructed through the County's Capital Improvement Plan prior to the first phase of development, the applicant will be released from the requirement to construct that portion or all of those improvements.

8. The applicant shall design and cause to be constructed dual right-turn lanes at the I-205/Sunnyside Road northbound interchange off-ramp located at the I-205 and Sunnyside Road Interchange intersection in accordance with ODOT's Roadway Standards. The required dual right-turn lanes shall include a curbed, pedestrian island (also known as a "pork-chop") and pedestrian signal.
9. Cumulative development of the Eagle Landing site, including properties both within the boundaries of Clackamas County and the City of Happy Valley as illustrated as the "Eagle Landing Plan Area" on Figure 2 of the application, shall be allowed to equate to, but not exceed, a weekday trip generation of 1700 weekday AM peak hour trips, 1900 weekday midday peak hour trips and 2600 weekday PM peak hour trips without the written approval of Clackamas County, ODOT and City of Happy Valley. Compliance with this requirement shall be demonstrated with the approval of future Master Plan and Design Review applications.
10. Any changes in mitigation under Conditions 2A, 3A or 4A shall require written approval by ODOT that the system-wide benefits to balance "significant effect" as defined by OAR 660-012-0060(2)(e) are satisfied.



Z0527-1-CP, Z0528-1-ZAP, Exhibit C

Urban Growth Concept

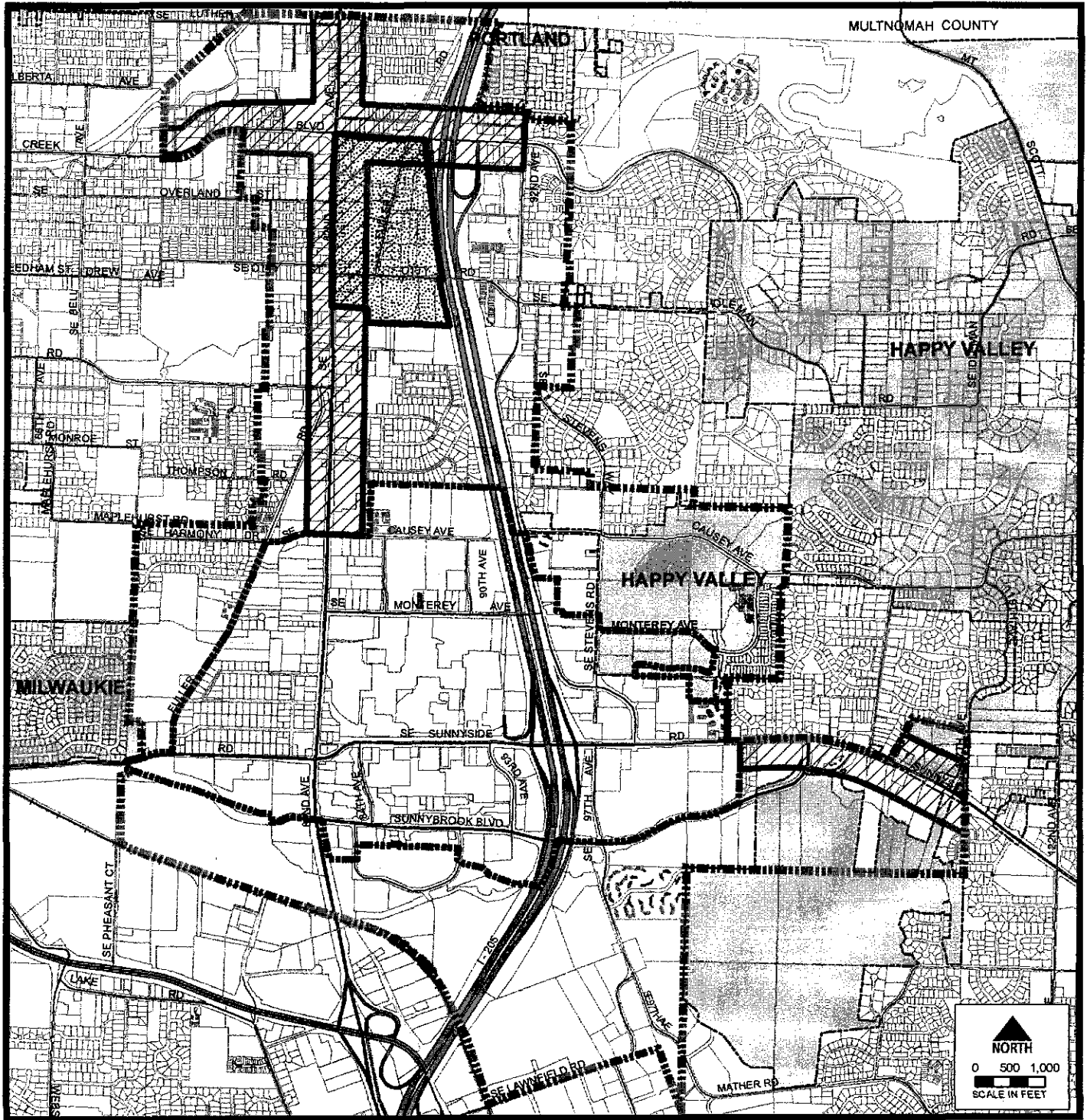
-  Clackamas Regional Center (CRC)
-  Station Community
-  Employment Area
-  Industrial Area
-  Corridor Street
-  Neighborhood
-  See Adjacent City for Design Type
-  Future Urban Study Area
-  Portland Metropolitan Urban Growth Boundary (UGB)
-  Incorporated City

Last Amended Month XX, 2012




CLACKAMAS COUNTY
Department of Transportation & Development
150 Beaver Creek Rd Oregon City, OR 97045

Clackamas County
Comprehensive Plan
MAP IV-8



Clackamas Regional Center Area Design Plan

Regional Center, Corridors, and Station Community

Clackamas County Comprehensive Plan

MAP X-CRC-1

Last Amended Month XX, 2012

2040 DESIGN TYPES



Regional Center



Clackamas Regional Center Area



Station Community



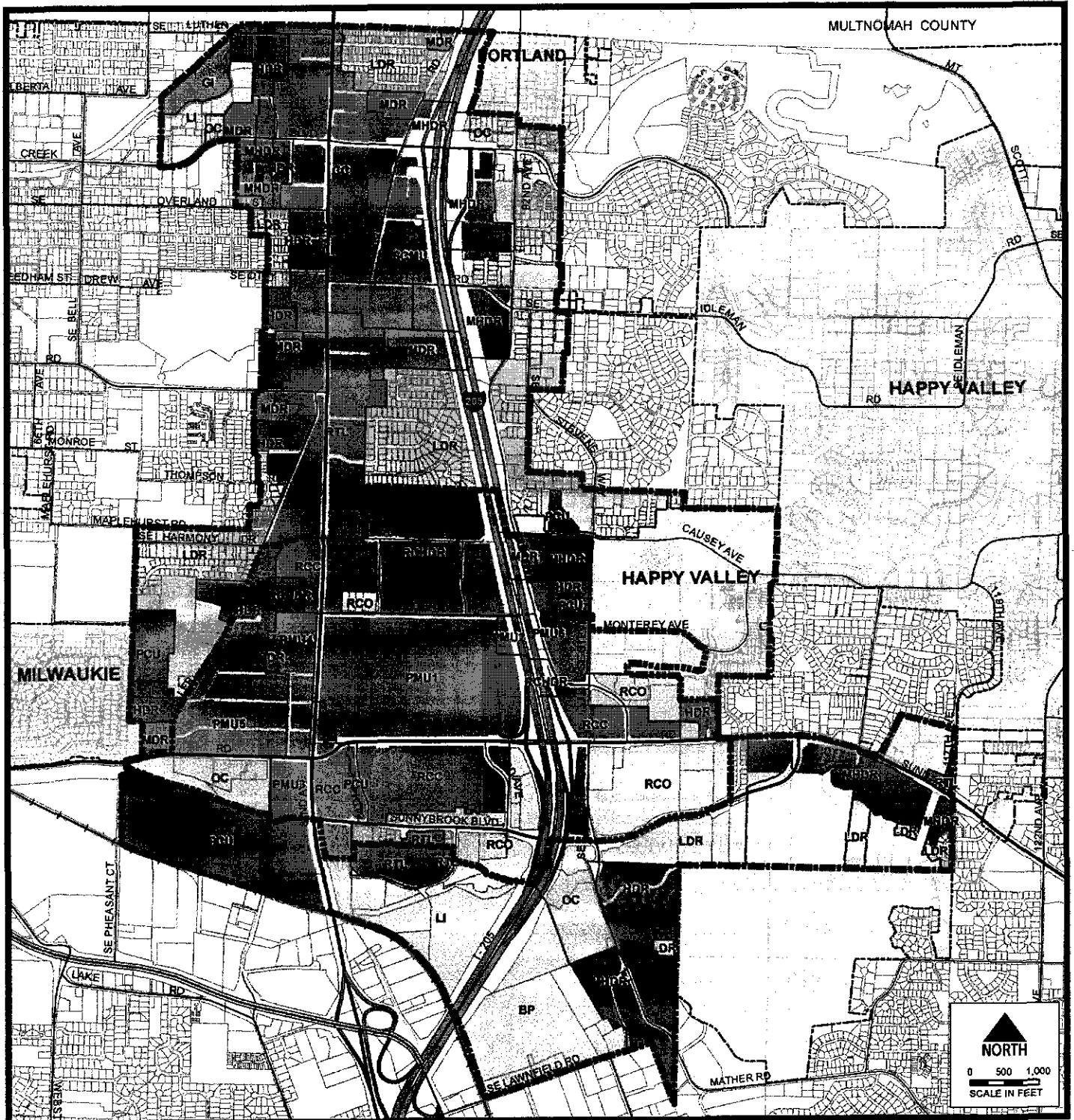
Corridor



Incorporated City



Department of Transportation & Development
150 Beaver Creek Rd, Oregon City, OR 97045



Clackamas Regional Center Area Design Plan
Land Use Plan

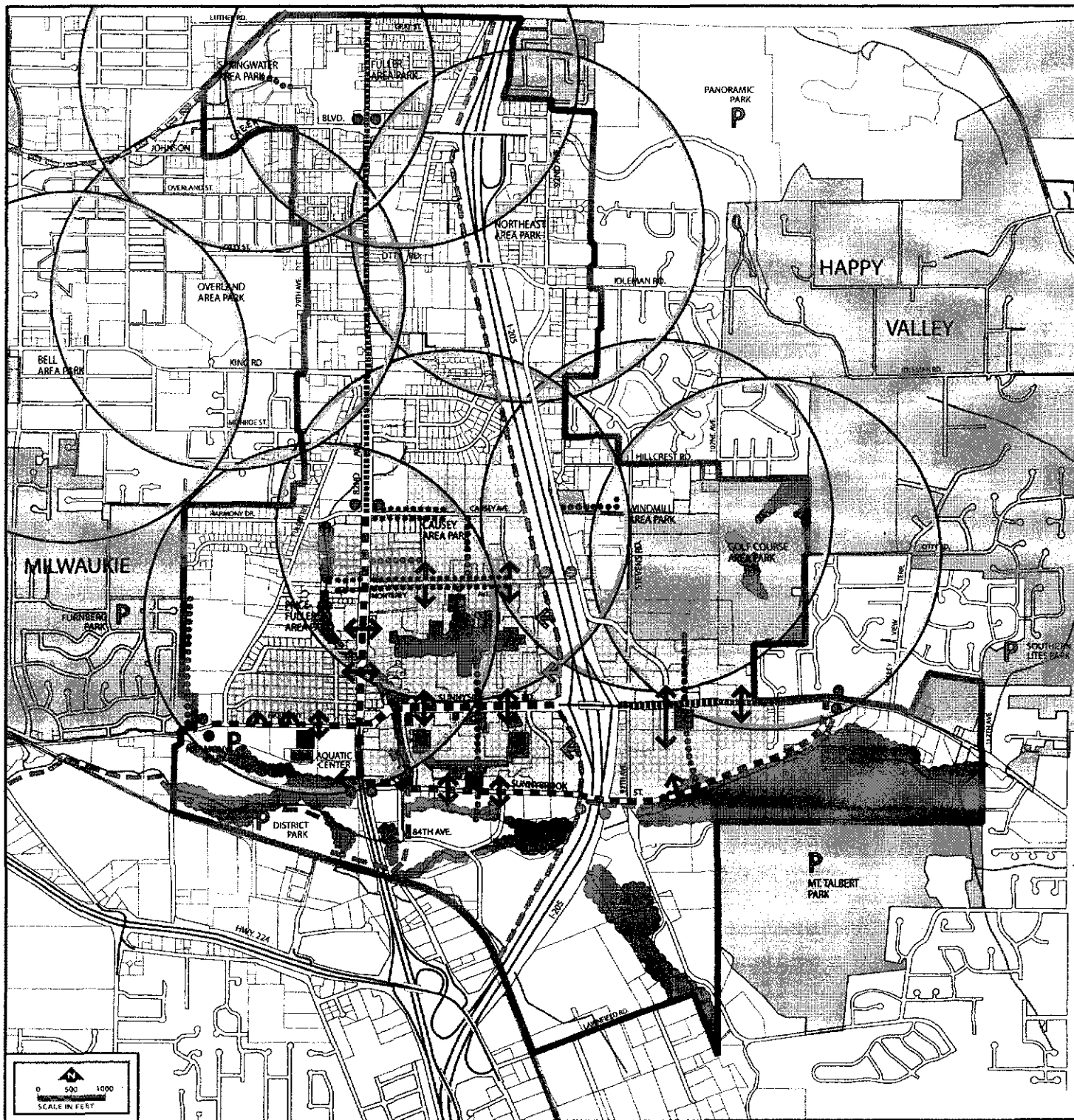
Clackamas County Comprehensive Plan
MAP X-CRC-2
 Last Amended Month XX, 2012

- | | |
|--|---|
| Low Density Residential (LDR) | Office Commercial (OC) |
| Medium Density Residential (MDR) | Regional Center Office (RCO) |
| High Density Residential (HDR) | Planned Mixed Use (PMU) |
| Medium High Density Residential (MHDR) | General Industrial (GI) |
| Regional Center High Density Residential (RCHDR) | Business Park (BP) |
| Community Commercial (CC) | Light Industrial (LI) |
| Retail Commercial (RTL) | Public & Community Use Open Space (PCU) |

- Clackamas Regional Center Area
- Regional Center
- Incorporated City



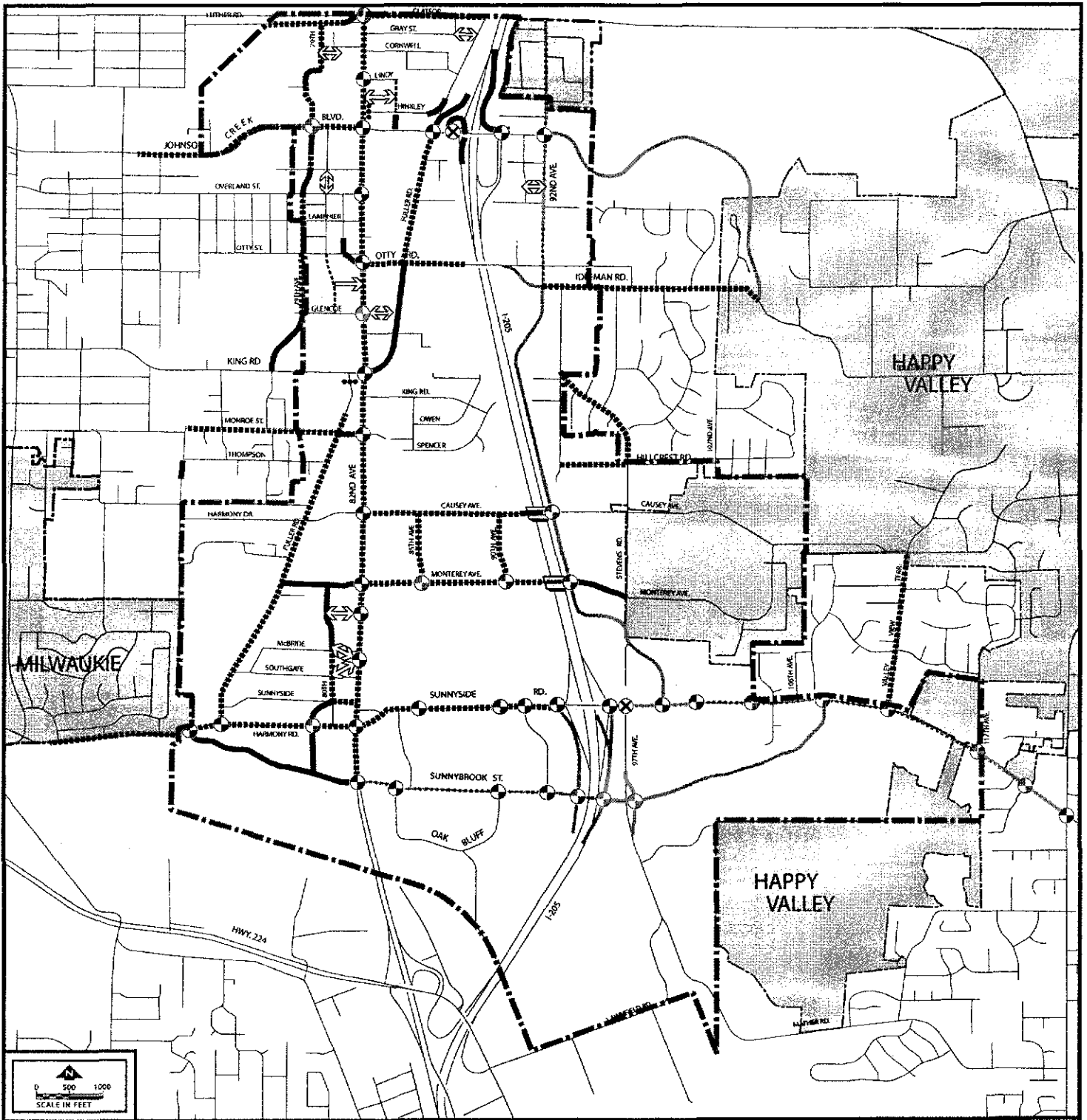
Department of Transportation & Development
 150 Beavercreek Rd. Oregon City, OR 97045



Clackamas Regional Center Area Design Plan
Urban Design Elements

Clackamas County Comprehensive Plan
Map X-CRC-3
 Last Amended Month XX, 2012

- | | | |
|--------------------------------|----------------------------------|-------------------|
| CLACKAMAS REGIONAL CENTER AREA | LOCAL STREET GRID | PARK - OPEN SPACE |
| MAIN STREET | OFF-STREET PEDESTRIAN LINKAGE | GREENWAY TRAIL |
| BOULEVARD | MULTI-USE PATH | PLAZA |
| SPECIAL STREET STANDARD | POTENTIAL COMMUNITY CENTER | NATURAL FEATURES |
| STREET CONNECTION | GENERAL LOCATION OF NEEDED PARKS | PRIMARY GATEWAY |
| | | FREEWAY GATEWAY |



Clackamas Regional Center Area Design Plan
Transportation Network (Public and Private)

Clackamas County Comprehensive Plan

Map X-CRC-4

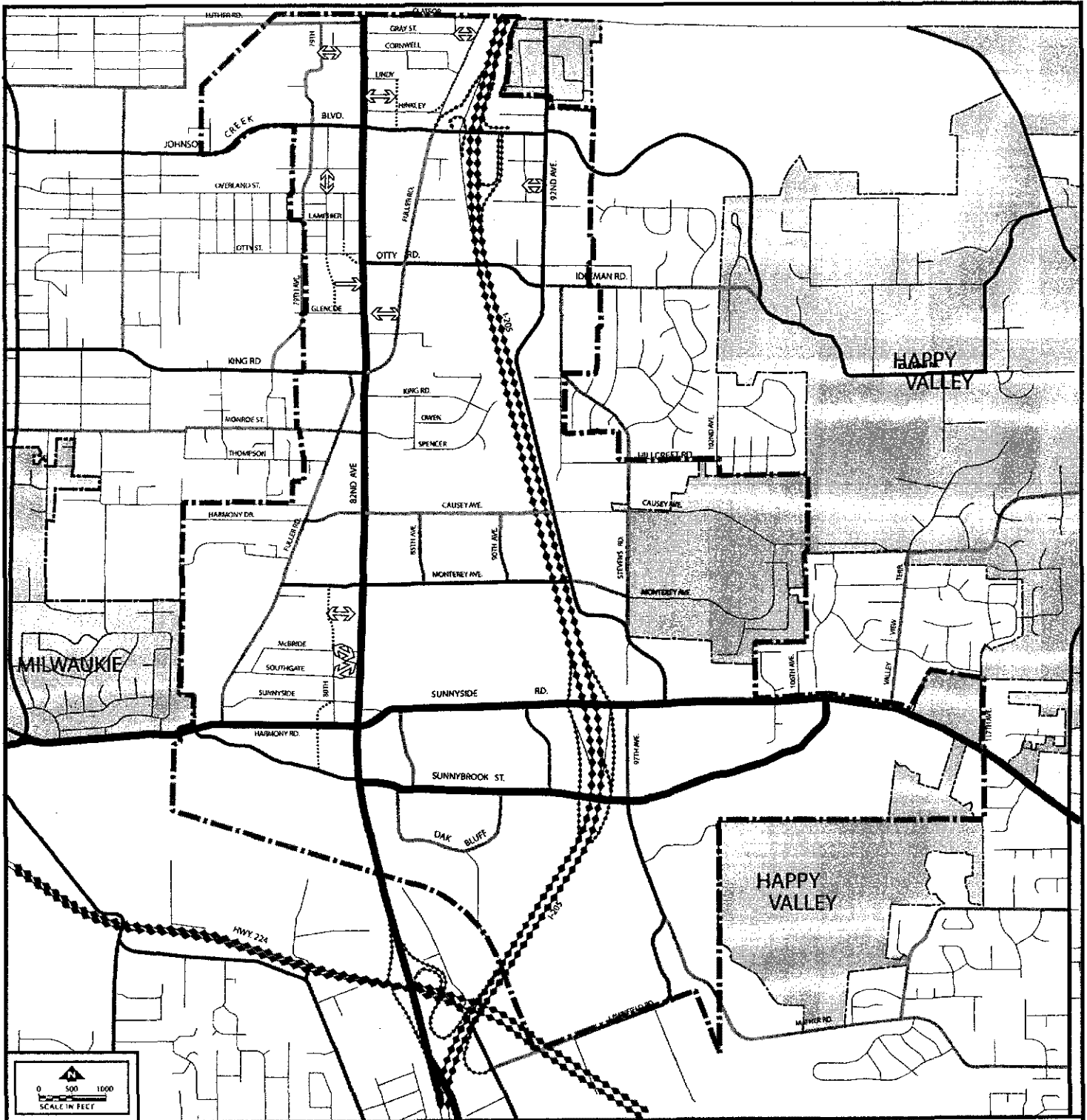
Last Amended Month XX, 2012

CLACKAMAS
 REGIONAL
 CENTER AREA

- PROPOSED ROADS/IMPROVEMENTS
- NEW ROAD (PUBLIC)
 - ⋯ ROAD IMPROVEMENT
 - ↔ NEW LOCAL STREET LOCATION TO BE DETERMINED (PUBLIC OR PRIVATE)
 - ⋯ NEW LOCAL STREET (PUBLIC OR PRIVATE)
 - ⋯ ROAD CLOSURE

- COMMITTED ROAD PROJECTS
- NEW CONSTRUCTION
 - ⋯ ROAD IMPROVEMENT
 - ▭ NEW FREEWAY OVERPASS

- SIGNALIZED INTERSECTIONS
- ⊙ EXISTING
 - ⊙ NEW
 - ⊗ TO BE REMOVED



Clackamas Regional Center Area Design Plan
Functional Classification

Clackamas County Comprehensive Plan

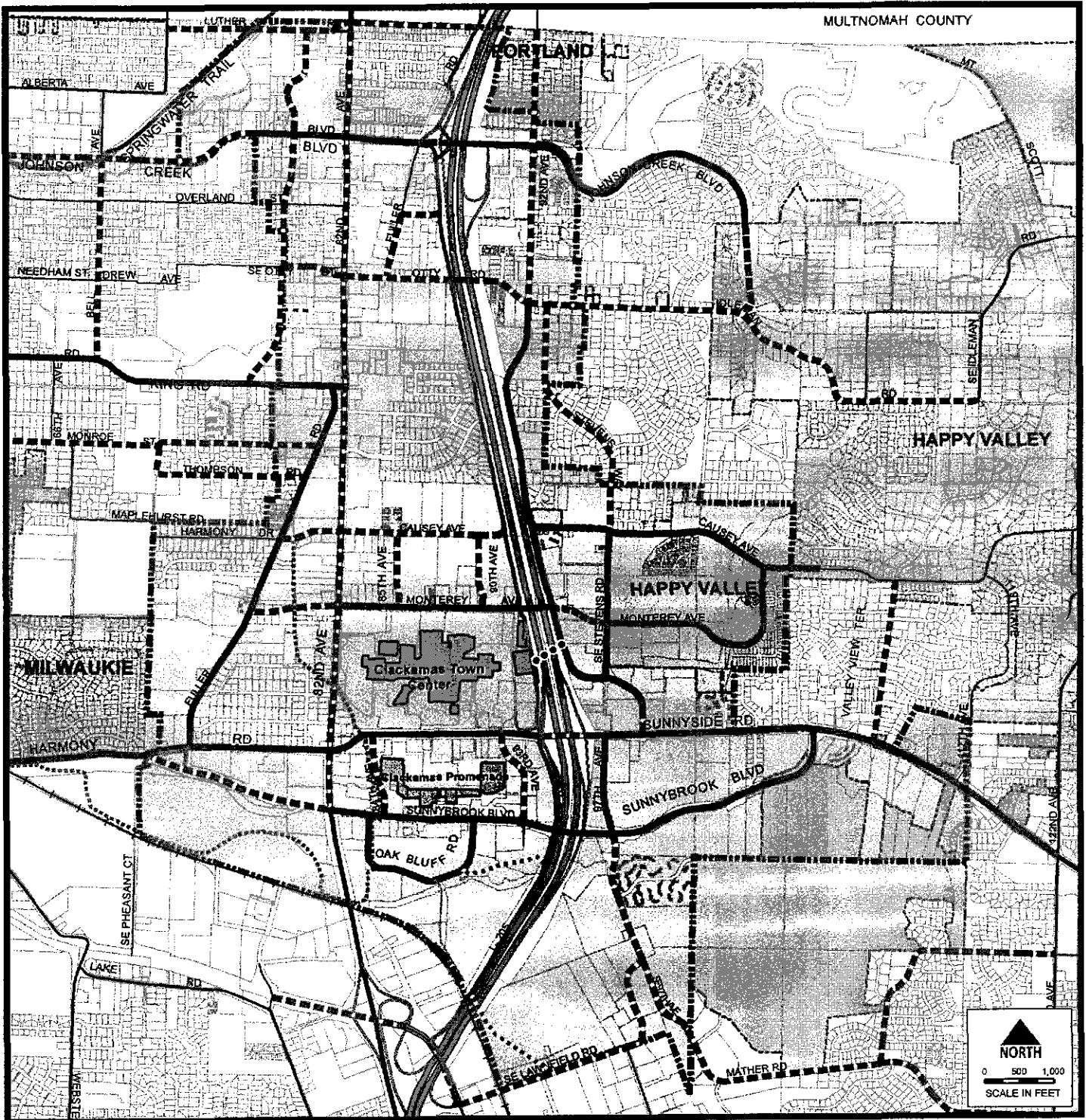
Map X-CRC-5

Last Amended Month XX, 2012

 CLACKAMAS REGIONAL CENTER AREA

 FREEWAY
 FREEWAY RAMP
 MAJOR ARTERIAL
 MINOR ARTERIAL
 COLLECTOR

 LOCAL STREET LOCATION TO BE DETERMINED (PUBLIC OR PRIVATE)
 LOCAL STREET (PUBLIC OR PRIVATE)



MULTNOMAH COUNTY

PORTLAND

HAPPY VALLEY

HAPPY VALLEY

Clackamas Regional Center Area Design Plan
Pedestrian and Bicycle Circulation Network

Clackamas County Comprehensive Plan
MAP X-CRC-7
 Last Amended Month XX, 2012

- Clackamas Regional Center Area
- Existing Bikeways
- Planned Bikeways
- Existing Multi-Use Trails
- Planned Multi-Use Trails
- Planned Pedestrian/Bicycle Bridge (approximate location)



Department of Transportation & Development
 150 Beaver Creek Rd. Oregon City, OR 97045



MARC GONZALES
DIRECTOR

DEPARTMENT OF FINANCE

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

December 13, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

**Resolution for Clackamas County for a Supplemental Budget
(Greater Than Ten Percent) for Fiscal Year 2012-2013**

Each fiscal year it is necessary to allocate additional sources of revenue and appropriate additional expenditures to more accurately meet the changing requirements of the operating departments. The attached Board Order reflects such changes requested by departments in keeping with a legally accurate budget. These changes are in compliance with O.R.S. 294.480 (4) which allows for governing body approval of supplemental budget changes for items ten percent or greater of the qualifying expenditures of the budget fund(s) being adjusted. The required notices have been published.

The **General Fund – Non Departmental** is recognizing debt issuance revenue and budgeting proceeds pursuant to Board Order 2012-80. This fund is also decreasing its budget to recognize lower than anticipated interfund transfer from the Justice Court Fund.

The **County School Fund** is recognizing fund balance and Secure Rural Schools revenue and appropriating it in materials and services.

The **Law Library Fund** is recognizing fund balance and appropriating it in reserves.

The **Public Land Corner Preservation Fund** is recognizing fund balance and budgeting it in personnel services and contingency.

The **Happy Valley/Clackamas Joint Transportation SDC Fund** is recognizing fund balance and budgeting it in materials and services for internal contracted services and contingency.

The **County Safety Net Legislation Local Projects** is recognizing federal revenue and budgeting it in materials and services.

The **Telecommunication Services Fund** is recognizing fund balance and budgeting it in capital outlay for upgrades to primary phone gear and planned future replacement of phone servers.

The **Justice Court Fund** is decreasing its budget to recognize lower than estimated beginning fund balance and reducing interfund transfer expense.

The **Public Safety Local Option Levy Fund** is decreasing its budget to recognize lower than estimated beginning fund balance and reducing contingency.

The **Code Compliance and Sustainability Fund** is decreasing its budget to recognize lower than estimated beginning fund balance and reducing contingency.

The **Clackamas Mental Health Organization Fund** is decreasing its budget to recognize lower than estimated beginning fund balance, realigning revenues, reducing materials and services and adjusting contingency. This fund is also recognizing an interfund transfer from the Community Health Fund.

The **Social Services Fund** is decreasing its budget to recognize lower than estimated beginning fund balance, local government & other agencies and matching revenue and reducing personnel services, materials and services and reserve for future expenditure accordingly.

The **Community Solutions for Clackamas County Fund** is decreasing its budget to recognize reduction in the Hire Oregon Veterans training grant and reducing expenditures accordingly.

The **Children, Youth and Families Fund** is decreasing its budget to recognize lower than estimated fund balance and reducing materials and services.

The **Community Health Fund** is decreasing its budget to recognize lower than estimated fund balance and reducing contingency.

The **Records Management Fund** is decreasing its budget to recognize lower than estimated fund balance and reducing contingency.

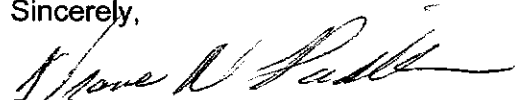
The effect of this Resolution is to increase in appropriations of \$18,694,997 including revenues as detailed below:

Fund Balance	\$	(3,269,100.)
Federal Operating Grants		751,334.
State Operating Grants		554,630.
Local Government & Other Agencies		(86,118.)
Other Financing Sources		20,080,000.
Interfund Transfers		<u>664,251.</u>
Total Recommended	\$	<u>18,694,997.</u>

RECOMMENDATION:

Staff respectfully recommends adoption of the attached supplemental budget and Exhibit A in keeping with a legally accurate budget.

Sincerely,



Diane D. Padilla
Budget Manager

For information on this issue or copies of attachments
please contact Diane Padilla at (503) 742-5425

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

A RESOLUTION OF THE CLACKAMAS
COUNTY BOARD OF COMMISSIONERS
REGARDING ADOPTION OF A
SUPPLEMENTAL BUDGET FOR ITEMS
GREATER THAN 10 PERCENT
OF THE TOTAL QUALIFYING
EXPENDITURES AND MAKING
APPROPRIATIONS FOR FISCAL
YEAR 2012-13



Resolution No. _____
1 of 2 pages

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from one appropriation category to another;

WHEREAS, a supplemental budget for the period of July 1, 2012 through June 30, 2013, inclusive, has been prepared, published and submitted to the taxpayers as provided by statute;

WHEREAS; a hearing to discuss the supplemental budget was held before the Board of County Commissioners on December 13, 2012.

WHEREAS; the funds being adjusted are:

- . General Fund – Non Departmental
- . County School Fund
- . Law Library Fund
- . Public Land Corner Preservation Fund
- . Happy Valley/Clackamas Joint Transportation SDC Fund
- . County Safety Net Legislation Local Projects Fund
- . Telecommunication Services Fund
- . Justice Court Fund
- . Public Safety Local Option Levy Fund
- . Code Compliance and Sustainability Fund
- . Clackamas Mental Health Organization Fund
- . Social Services Fund
- . *Community Solutions for Clackamas County Fund*
- . Children, Youth and Families Fund
- . Community Health Fund
- . Records Management Fund;

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

A RESOLUTION OF THE CLACKAMAS
COUNTY BOARD OF COMMISSIONERS
REGARDING ADOPTION OF A
SUPPLEMENTAL BUDGET FOR ITEMS
GREATER THAN 10 PERCENT
OF THE TOTAL QUALIFYING
EXPENDITURES AND MAKING
APPROPRIATIONS FOR FISCAL
YEAR 2012-13



Resolution No. _____
2 of 2 pages

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.480, the supplemental budget be adopted and appropriations established as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

ADOPTED this 13th day of December, 2012

By the BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

SUMMARY OF SUPPLEMENTAL BUDGET
Exhibit A
CHANGES OF GREATER THAN 10% OF BUDGET
December 13, 2012

Recommended items by revenue source:

Fund Balance	\$ (3,269,100.)
Federal Operating Grants	751,334.
State Operating Grants	554,630.
Local Gov't and Other Agencies	(86,118.)
Other Financing Sources	20,080,000.
Interfund Transfer	<u>664,251.</u>
Total Recommended	<u>\$ 18,694,997.</u>

GENERAL FUND – NON DEPARTMENTAL

Revenues:	
Other Financing Sources	<u>\$ 20,080,000.</u>
Interfund Transfers	<u>(143,754.)</u>
Total Revenues	<u>\$ 19,936,246.</u>
Expenses:	
Materials & Services	\$ 20,080,000.
Contingency	<u>(143,754.)</u>
Total Expenses	<u>\$ 19,936,246.</u>

Recognizing debt issuance revenue and budgeting proceeds pursuant to Board Order 2012-80. This fund is also decreasing its budget to recognize lower than anticipated interfund transfer from the Justice Court Fund.

COUNTY SCHOOL FUND

Revenues:	
Fund Balance	\$ 213,295.
Federal Operating Grants	<u>327,590.</u>
Total Revenues	<u>\$ 540,885.</u>
Expenses:	
Materials & Services	<u>\$ 540,885.</u>
Total Expenses	<u>\$ 540,885.</u>

Recognizing fund balance and Secure Rural Schools revenue and appropriating it in materials and services.

LAW LIBRARY FUND

Revenues:		
Fund Balance		\$ 127,873.
Total Revenues		<u>\$ 127,873.</u>
Expenses:		
Reserve for Future Expenditures		\$ 127,873.
Total Expenses		<u>\$ 127,873.</u>

Recognizing fund balance and appropriating it in reserves.

PUBLIC LAND CORNER FUND

Revenues:		
Fund Balance		\$ 72,230.
Total Revenues		<u>\$ 72,230.</u>
Expenses:		
Personnel Services		\$ 20,000.
Contingency		52,230.
Total Expenses		<u>\$ 72,230.</u>

Recognizing fund balance and budgeting it in personnel services and contingency.

HAPPY VALLEY/CLACKAMAS JOINT TRANSPORTATION SDC FUND

Revenues:		
Fund Balance		\$ 206,061.
Total Revenues		<u>\$ 206,061.</u>
Expenses:		
Materials & Services		\$ 30,000.
Contingency		176,061.
Total Expenses		<u>\$ 206,061.</u>

Recognizing fund balance and budgeting it in materials and services for internal contracted services and contingency.

COUNTY SAFETY NET LEGISLATION LOCAL PROJECTS FUND

Revenues:		
Federal Operating Grants		\$ 188,852.
Total Revenues		<u>\$ 188,852.</u>
Expenses:		
Materials & Services		\$ 188,852.
Total Expenses		<u>\$ 188,852.</u>

Recognizing federal revenue and budgeting it in materials and services.

TELECOMMUNICATION SERVICES FUND

Revenues:		
	Fund Balance	\$ 509,901.
	Total Revenues	<u>\$ 509,901.</u>
Expenses:		
	Capital Outlay	\$ 509,901.
	Total Expenses	<u>\$ 509,901.</u>

Recognizing fund balance and budgeting it in capital outlay for upgrades to primary phone gear and planned future replacement of phone servers

PUBLIC SAFETY LOCAL OPTION LEVY FUND

Revenues:		
	Fund Balance	\$ (228,431.)
	Total Revenues	<u>\$ (228,431.)</u>
Expenses:		
	Contingency	\$ (228,431.)
	Total Expenses	<u>\$ (228,431.)</u>

Decreasing its budget to recognize lower than estimated beginning fund balance and reducing contingency.

CODE COMPLIANCE AND SUSTAINABILITY FUND

Revenues:		
	Fund Balance	\$ (72,323.)
	Total Revenues	<u>\$ (72,323.)</u>
Expenses:		
	Contingency	\$ (72,323.)
	Total Expenses	<u>\$ (72,323.)</u>

Decreasing its budget to recognize lower than estimated beginning fund balance and reducing contingency.

JUSTICE COURT FUND

Revenues:		
	Fund Balance	\$ (143,754.)
	Total Revenues	<u>\$ (143,754.)</u>
Expenses:		
	Interfund Transfer	\$ (143,754.)
	Total Expenses	<u>\$ (143,754.)</u>

Decreasing its budget to recognize lower than estimated beginning fund balance and reducing interfund transfer expense.

CLACKAMAS MENTAL HEALTH ORGANIZATION FUND

Revenues:	
Fund Balance	\$(3,202,595.)
Federal Operating Grants	734,892.
State Operating Grants	554,630.
Interfund Transfer	<u>808,005.</u>
Total Revenues	<u>\$(1,105,068.)</u>
Expenses:	
Materials & Services	\$(1,108,775.)
Contingency	<u>3,707.</u>
Total Expenses	<u>\$(1,105,068.)</u>

Decreasing its budget to recognize lower than estimated beginning fund balance, realigning revenues, reducing materials and services and adjusting contingency. This fund is also recognizing an interfund transfer from the Community Health Fund.

SOCIAL SERVICES FUND

Revenues:	
Fund Balance	\$ (333,717.)
Local Gov't and Other Agencies	<u>(86,118.)</u>
Total Revenues	<u>\$ (419,835.)</u>
Expenses:	
Personnel Services	\$ (73,071.)
Materials & Services	(72,806.)
Reserve for Future Expenditures	<u>(273,958.)</u>
Total Expenses	<u>\$ (419,835.)</u>

Decreasing its budget to recognize lower than estimated beginning fund balance, local government & other agencies and matching revenue and reducing personnel services, materials and services and reserve for future expenditure accordingly.

COMMUNITY SOLUTIONS FOR CLACKAMAS COUNTY FUND

Revenues:	
Federal Operating Grants	\$ (500,000.)
Total Revenues	<u>\$ (500,000.)</u>
Expenses:	
Personnel Services	\$ (216,070.)
Materials & Services	<u>(283,930.)</u>
Total Expenses	<u>\$ (500,000.)</u>

Decreasing its budget to recognize reduction in the Hire Oregon Veterans training grant and reducing expenditures accordingly.

CHILDREN, YOUTH AND FAMILIES FUND

Revenues:		
Fund Balance		\$ (32,696.)
Total Revenues		<u>\$ (32,696.)</u>
Expenses:		
Materials & Services		\$ (32,696.)
Total Expenses		<u>\$ (32,696.)</u>

Recognizing interfund transfer revenue from the General Fund and budgeting for the Abuse and Family Violence Prevention program.

COMMUNITY HEALTH FUND

Revenues:		
Fund Balance		\$ (368,141.)
Total Revenues		<u>\$ (368,141.)</u>
Expenses:		
Contingency		\$ (368,141.)
Total Expenses		<u>\$ (368,141.)</u>

Decreasing its budget to recognize lower than estimated fund balance and reducing contingency.

RECORDS MANAGEMENT FUND

Revenues:		
Fund Balance		\$ (16,803.)
Total Revenues		<u>\$ (16,803.)</u>
Expenses:		
Contingency		\$ (16,803.)
Total Expenses		<u>\$ (16,803.)</u>

Decreasing its budget to recognize lower than estimated fund balance and reducing contingency.

December 13, 2012

Board of Commissioners
Clackamas County

Members of the Board:

**Approval of a Behavioral Health Services Agreement with
Alternative Services of Oregon, Inc. for
Behavioral Consultation Services and Outpatient Mental Health Services**

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a renewal Behavioral Health Services Agreement with Alternative Services of Oregon, Inc. for Behavioral Consultation Services and Outpatient Mental Health Services.

Through this agreement, CCBHD subcontracts services for people who are Oregon Health Plan (OHP) members capitated to Clackamas County. The previous agreement was reviewed by the Board of County Commissioners and approved on June 28, 2012.

Payment is based on current Medicaid rates. The agreement does not contain an upper limit; expenditures are controlled by Behavioral Health Division, CCBHD staff pre-authorize and monitor services on an on-going basis.

This agreement will be funded with Oregon Health Authority funds received through Health Share Oregon. No County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. It is effective January 1, 2013 and terminates on December 31, 2013.

Recommendation

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

Respectfully submitted,



Cindy Becker
Director

For information on this issue or copies of attachments,
please contact Emily M. Zwetzig at (503)742-5318.

BEHAVIORAL HEALTH SERVICES AGREEMENT

This Behavioral Health Services Agreement is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY" and ALTERNATIVE SERVICES OF OREGON, INC., hereinafter called "CONTRACTOR".

AGREEMENT

1.0 Engagement

COUNTY hereby engages CONTRACTOR to provide services as described in Exhibit B, Scope of Work, attached hereto and incorporated herein. This agreement sets forth the terms under which CONTRACTOR will contract with COUNTY to provide mental health services to Oregon Health Plan Medicaid recipients enrolled with Health Share of Oregon / Clackamas and residents of Clackamas County who are eligible for services as uninsured, indigent individuals.

2.0 Term

Services provided under the terms of this agreement shall commence upon the **January 1, 2013**. This agreement shall terminate **December 31, 2013** unless terminated by one or both parties as provided for in paragraph 6.0 below. This agreement may be renewed annually and amended by mutual written consent of both parties.

3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate CONTRACTOR as specified in Exhibit C, Compensation and Payment, for satisfactorily performing contracted services. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

3.2 Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding payment for cause may continue until CONTRACTOR performs required services or establishes to COUNTY'S satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

3.3 Financial Records. CONTRACTOR and its subcontractors shall maintain complete and legible financial records pertinent to authorized Covered Services delivered and payments received. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines such as outlined in Office of Management and Budget circulars A-87, A-122 and A-133. Financial records and supporting documents shall be retained for at least five (5) years after final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to CONTRACTOR were in excess of the amount to which CONTRACTOR was entitled, CONTRACTOR shall repay the amount of the excess to COUNTY.

4.0 Manner of Performance

4.1 Compliance with Applicable Laws and Regulations, and Special Federal Requirements. CONTRACTOR shall comply with all Federal, State and local laws, rules and regulations applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit F, Compliance with Applicable Law, attached hereto and incorporated herein. CONTRACTOR shall comply with OAR 410-120-1380, which establishes the requirements for compliance with Section 4751 of Omnibus Budget Reconciliation Act (OBRA) 1991 and ORS 127.649, Patient Self-Determination Act.

4.2 Subcontracts. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this agreement without obtaining prior written approval from COUNTY. CONTRACTOR shall not be relieved of any of CONTRACTOR's obligations hereunder by virtue of any such subcontract, and shall remain directly responsible for compliance with all the terms of this agreement.

4.3 Independent Contractor. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of County, State or Federal government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the solely the responsibility of CONTRACTOR.

4.4 Workers' Compensation. CONTRACTOR certifies that it is an insured employer for purposes of the Oregon Workers' Compensation law and maintains workers' compensation insurance as required by ORS 656.017, or qualifies for an exemption under ORS 656.126. CONTRACTOR shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

5.0 General Conditions

5.1 Indemnification. CONTRACTOR agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand attributable in whole or in part to the acts or omissions of CONTRACTOR, and CONTRACTOR's officers, agents, and employees, in performance of this agreement.

CONTRACTOR shall defend, save, hold harmless and indemnify the State of Oregon, OHA and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of CONTRACTOR, or its agents or employees under this agreement.

If CONTRACTOR is a public body, CONTRACTOR's liability under this agreement is subject to the limitations of the Oregon Tort Claims Act.

5.2 Insurance. During the term of this agreement, CONTRACTOR shall maintain in force at its own expense each insurance noted below:

5.2.1 Commercial General Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall obtain, at CONTRACTOR's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$2,000,000 per occurrence/\$4,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute it.

5.2.2 Commercial Automobile Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall also obtain at CONTRACTOR's expense, and keep in effect during the term of the agreement, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$2,000,000.

5.2.3 Professional Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$2,000,000 combined single limit per occurrence/\$4,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the CONTRACTOR'S insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this contract.

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

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

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

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

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

5.2.10 Primary Coverage Clarification. CONTRACTOR's coverage will be primary in the event of a loss.

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

5.3 Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and CONTRACTOR that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided,

Alternative Services, Inc.

however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR by execution of this agreement consents to the in personam jurisdiction of said courts.

5.4 Amendments. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.

5.5 Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.

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

5.9 Public Contracting Requirements. Pursuant to the requirements of ORS 279B-020 and ORS 279B.220 through 279B.335 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this agreement:

5.9.1 CONTRACTOR shall:

- a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the performance of the work provided for in this agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in performance of this agreement.
- c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.

5.9.3 CONTRACTOR shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.4 CONTRACTOR shall promptly, as due, make payment to any person or partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness and injury, to the employees of CONTRACTOR, of all sums that CONTRACTOR agrees to pay for the services and all monies and sums that CONTRACTOR

Alternative Services, Inc.

collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

5.10 Integration. This agreement contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

5.11 Federal Grant Requirements. CONTRACTOR shall comply with all applicable Federal Grant Requirements pursuant to 45 CFR Parts 74, 80, 84, 91, and 95.

5.12 Disclosure. CONTRACTOR shall comply with all disclosure requirements of 42 CFR 1002.3(a); 42 CFR 422 Subpart (B); and 42 CFR 457.900(a)(2).

5.13 Advance Directives. CONTRACTOR shall maintain written notices and procedures respecting Advance Directives in compliance with 42 USC Section 1396.(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 431.107(b)(1) & (2); and 42 CFR Subpart I.

CONTRACTOR shall comply with 42 CFR Part 422.128 for maintaining written policies and procedures for Advance Directives. This includes compliance with OAR 410-120-1380 which establishes, among other requirements the requirements for compliance with Section 4751 of the Omnibus Budget Reconciliation Act of 1991 (OBRA) and ORS 127.649, Patient Self-Determination Act.

6.0 Termination

6.1 Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon ninety (90) business days notice, in writing and delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this agreement effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 The terms of the OHP Medicaid Demonstration Project are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding authorized by this agreement.

6.2.2 The termination, suspension or expiration of the Health Share of Oregon Participating Agreement.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. Alternatively, the parties may agree to modify the agreement to accommodate a reduction in funding.

6.2.4 COUNTY has evidence that CONTRACTOR has endangered or is endangering the health or safety of clients, staff or the public. CONTRACTOR shall ensure the orderly and reasonable transfer of care in progress with clients and shall work with COUNTY staff to accomplish same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of CONTRACTOR, or the lapse, relinquishment, suspension, expiration, cancellation or termination of CONTRACTOR's insurance as required in this agreement.

6.2.6 CONTRACTOR's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage CONTRACTOR's affairs, or the judicial declaration that CONTRACTOR is insolvent.

6.2.7 If CONTRACTOR fails to perform any of the other provisions of this agreement, or fails to pursue the work of this agreement in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.3 Notice of Default. COUNTY may also issue written notice of default (including breach of contract) to CONTRACTOR and terminate the whole or any part of this agreement if CONTRACTOR substantially fails to perform the following specific provisions: Exhibit D(2)(A) Licenses and, Certification; Exhibit D(2)(C) Quality Assurance and Utilization Review; and Exhibit D(3) Recordkeeping and Reporting. The rights and remedies of COUNTY related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

6.4 Transition. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CONTRACTOR and COUNTY shall continue to perform all duties and obligations under this agreement with respect to clients under care of CONTRACTOR to the date of termination.

7.0 Notices

Any notice under this agreement shall be deemed received the earlier of the time of delivery of two (2) business days after mailing certified and postage prepaid through the U.S. Postal Service addressed as follows:

If to CONTRACTOR:

Alternative Services of Oregon, Inc.
7165 SW Fir Loop, # 200
Tigard, OR 97223-8055

If to COUNTY:

Clackamas County Behavioral Health Division
2051 Kaen Road, # 367
Oregon City, OR 97045

This agreement consists of seven (7) sections plus the following attachments, which by this reference are incorporated herein:

Exhibit A	Definitions
Exhibit B	Compensation and Payment
Exhibit C	Scope of Work
Exhibit D	Performance Standards
Exhibit E	Fraud and Abuse
Exhibit F	Compliance with Applicable Law

ALTERNATIVE SERVICES, INC.

c/o Community Living Concepts

By: 

Arthur Mack, President

Date

32625 W Seven Mile Road, Suite 7

Street Address

Livonia, MI 48152

City / State / Zip

(248)471-4880 / (248)476-0929

Phone

/ Fax

CLACKAMAS COUNTY

Commissioner: Charlotte Lehan, Chair

Commissioner: Jim Bernard

Commissioner: Jamie Damon

Commissioner: Ann Lininger

Commissioner: Paul Savas

Signing on Behalf of the Board:

Cindy Becker, Director

Health, Housing, and Human Services Department

COPY

December 13, 2013

Board of Commissioners
Clackamas County

Members of the Board:

**Approval of a Professional Services Agreement with
LifeWorks NW Providing On-site Services at the
Gladstone Center for Children and Families**

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing & Human Services Department requests the approval of a Professional Services Agreement with LifeWorks NW to provide on-site services at the Gladstone Center for Children and Families.


LifeWorks NW will provide on-site consultation, care coordination and treatment services. Services will be provided to partners in the Gladstone Center, i.e. Gladstone School District, as well as families seeking services through the Gladstone Center.

The total amount of this contract is \$168,886. No County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. The agreement is effective upon signature through June 30, 2013.

Recommendation

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

Respectfully submitted,


Cindy Becker
Director

For information on this issue or copies of attachments,
please contact Emily Zwetzig at (503)742-5318.

Healthy Families. Strong Communities.

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

www.clackamas.us

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY" and LifeWorks NW, hereinafter called "CONTRACTOR".

AGREEMENT

1.0 Engagement

COUNTY hereby engages CONTRACTOR to provide on-site consultation, care coordination and treatment services at the Gladstone Center for Children and Families as more fully described in Exhibit A, Scope of Work, attached hereto and incorporated herein.

2.0 Term

Services provided under the terms of this agreement shall commence **upon signature**. This agreement shall terminate **June 30, 2013** unless terminated earlier by one or both parties as provided for in paragraph 6.0. This agreement may be renewed annually and amended by mutual consent of both parties.

3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate CONTRACTOR for satisfactorily performing contracted services as specified in Exhibit A as follows:

Total payment to CONTRACTOR shall not exceed **\$168,886**.

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

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

CONTRACTOR shall submit monthly invoices by the tenth day of the month following that in which service was performed. The invoice shall list the dates of service and the total amount due for all service provided during the month. Invoices shall be submitted to:

Clackamas County Behavioral Health Division
Attn: Nina Danielsen
2051 Kaen Road, # 367
Oregon City, Oregon 97045

Or electronically to:

ndanielsen@clackamas.us

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

3.3 Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding payment for cause may continue until CONTRACTOR performs required services or establishes to COUNTY'S satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

3.4 Financial Records. CONTRACTOR shall maintain complete and legible financial records pertinent to payments received. Such records shall be maintained in accordance with Generally Accepted Accounting Principles. Financial records shall be retained for at least five (5) years after final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to CONTRACTOR were in excess of the amount to which CONTRACTOR was entitled, CONTRACTOR shall repay the amount of the excess to COUNTY.

3.4.1 CONTRACTOR shall maintain up-to-date accounting records that accurately reflect all revenue by source, all expenses by object of expense, and all assets, liabilities and equities consistent with Generally Accepted Accounting Principles and Oregon Administrative Rules. CONTRACTOR shall make reports and fiscal data generated under and for this agreement available to COUNTY upon request.

3.4.2 COUNTY shall conduct a fiscal compliance review of CONTRACTOR as part of compliance monitoring of this agreement. CONTRACTOR agrees to provide, upon reasonable notice, access to all financial books, documents, papers and records of CONTRACTOR which are pertinent to this agreement to ensure appropriate expenditure of funds under this agreement. COUNTY shall monitor compliance with COUNTY's financial reporting and accounting requirements.

3.4.3 CONTRACTOR may be subject to audit requirements. CONTRACTOR agrees that audits must be conducted by Certified Public Accountants who satisfy the independence requirement outlined in the rules of the American Institute of Certified Public Accountants (Rule 101 of the AICPA Code of Professional Conduct), the Oregon State Board of Accountancy, the independence rules contained within Governmental Auditing Standards (1994 Revision), and rules promulgated by other federal, state and local government agencies with jurisdiction over CONTRACTOR.

3.4.4 CONTRACTOR shall establish and maintain systematic written procedures to assure timely and appropriate resolution of review or audit findings and recommendations. CONTRACTOR shall make such procedures and documentation of resolution of audit findings available to COUNTY upon request.

4.0 Manner of Performance

4.1 Compliance with Applicable Laws and Regulations, and Special Federal Requirements. CONTRACTOR shall comply with all Federal and State regulations and laws, Oregon Administrative Rules, local laws and ordinances applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit B, Performance Standards, attached hereto and incorporated herein.

4.2 Subcontracts. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this agreement.

4.3 Independent Contractor. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of Clackamas County, State of Oregon or Federal government. CONTRACTOR is not an officer, employee or agent of Clackamas County as those terms are used in ORS 30.265. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the solely the responsibility of CONTRACTOR.

5.0 General Conditions

5.1 Indemnification. CONTRACTOR agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand attributable in whole or in part to the acts or omissions of CONTRACTOR, and CONTRACTOR's officers, agents, and employees, in performance of this agreement.

If CONTRACTOR is a public body, CONTRACTOR's liability under this agreement is subject to the limitations of the Oregon Tort Claims Act.

5.2 Insurance. During the term of this agreement, CONTRACTOR shall maintain in force at its own expense each insurance noted below:

5.2.1 Commercial General Liability

Required by COUNTY Not required by COUNTY

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

5.2.2 Commercial Automobile Liability

Required by COUNTY Not required by COUNTY

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

5.2.3 Professional Liability

Required by COUNTY Not required by COUNTY

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

5.2.4 Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the CONTRACTOR'S insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided it's retroactive date is on or before the effective date of this contract.

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

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

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

5.2.8 Certificates of Insurance. As evidence of the insurance coverage required by this agreement, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY. No agreement shall be in effect until required certificates have been received, approved and accepted by COUNTY. A renewal certificate will be sent to COUNTY ten days prior to coverage expiring.

5.2.9 Primary Coverage Clarification. CONTRACTOR's coverage will be primary in the event of a loss.

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

5.3 Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and CONTRACTOR that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided, however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR by execution of this agreement consents to the in personam jurisdiction of said courts.

5.4 Amendments. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.

5.5 Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.

5.8 Oregon Public Contracting Requirements. Pursuant to the requirements of Oregon law, the following terms and conditions are made a part of this agreement:

5.8.1 Workers' Compensation. All subject employers working under this agreement must either maintain workers' compensation insurance as required by ORS 656.017, or qualify for an exemption under ORS 656.126. CONTRACTOR shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

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

5.8.3 Oregon Public Contracting Conditions. Pursuant to the terms of ORS 279B.220, CONTRACTOR shall:

- a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the performance of the work provided for in this agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in performance of this agreement.
- c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.8.4 CONTRACTOR shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference.

5.8.5 As required by ORS 279B.230, CONTRACTOR shall promptly, as due, make payment to any person or partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness and injury, to the employees of CONTRACTOR, of all sums that CONTRACTOR agrees to pay for the services and all monies and sums that CONTRACTOR collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

5.9 Integration. This agreement contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

6.0 Termination

6.1 Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon thirty (30) business days notice, in writing and delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY, by written notice of default (including breach of contract) to CONTRACTOR, may terminate this agreement effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

- a. If COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services, the contract may be modified to accommodate a reduction in funds.
- b. If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding authorized by this agreement.
- c. If any license or certificate required by law or regulation to be held by CONTRACTOR to provide the services required by this agreement is for any reason denied, revoked, or not renewed.
- d. If CONTRACTOR fails to provide services, outcomes, reports as specified by COUNTY in this agreement.
- e. If CONTRACTOR fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within 10 days or such longer period as COUNTY may authorize.

6.2.1 If CONTRACTOR fails to perform any of the provisions of this agreement, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from COUNTY fails to correct such failures within 10 days or such longer period as COUNTY may authorize.

6.3 Transition. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CONTRACTOR and COUNTY shall continue to perform all duties and obligations under this agreement with respect to individuals under care of CONTRACTOR to the date of termination.

7.0 Notices

Any notice under this agreement shall be deemed received the earlier of the time of delivery of two (2) business days after mailing certified and postage prepaid through the U.S. Postal Service addressed as follows:

If to CONTRACTOR:

LifeWorks NW
14600 NW Cornell Road
Portland, OR 97229

If to COUNTY:

Clackamas County Behavioral Health Division
2051 Kaen Road, # 367
Oregon City, OR 97045

This agreement consists of seven (7) sections plus the following attachment(s), which by this reference is incorporated herein:

Exhibit A Scope of Work
Exhibit B Performance Standards

LIFEWORKS NW

By: 

Mary Monnat, CEO/President

Date

14600 NW Cornell Road

Street Address

Portland, Oregon 97229

City / State / Zip

(503)645-3581

Phone

/ Fax

CLACKAMAS COUNTY

Commissioner: Charlotte Lehan, Chair

Commissioner: Jim Bernard

Commissioner: Jamie Damon

Commissioner: Ann Lininger

Commissioner: Paul Savas

Signing on Behalf of the Board:

Cindy Becker, Director

Health, Housing and Human Services Department

Date

S:\Admin\CONTRACTS\MHO\Expense\LifeWorks NW\Gladstone Center\2013-06-30PSAcontract.docx

December 13, 2012

Board of Commissioners
Clackamas County

Members of the Board:

**Approval of a Behavioral Health Services Agreement with
Options Counseling Services of Oregon, Inc. for
Intensive Community-Based Services for Children and Outpatient Mental Health Services**

Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department (H3S) requests the approval of a renewal Behavioral Health Services Agreement with Options Counseling Services of Oregon, Inc. for Intensive Community-Based Services for Children and Outpatient Mental Health Services.

Through this agreement, CCBHD subcontracts services for people who are Oregon Health Plan (OHP) members capitated to Clackamas County. The previous agreement was reviewed by the Board of County Commissioners and approved on December 8, 2011.

Payment is based on current Medicaid rates. The agreement does not contain an upper limit; expenditures are controlled by Behavioral Health Division, CCBHD staff pre-authorize and monitor services on an on-going basis.

This agreement will be funded with Oregon Health Authority funds received through Health Share Oregon. No County General Funds are involved. County Counsel has reviewed and approved this agreement as part of the H3S contract standardization project. It is effective January 1, 2013 and terminates on December 31, 2013.

Recommendation

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

Respectfully submitted,



Cindy Becker
Director

For information on this issue or copies of attachments,
please contact Emily M. Zwetzig at (503)742-5318.

Healthy Families. Strong Communities.

BEHAVIORAL HEALTH SERVICES AGREEMENT

This Behavioral Health Services Agreement is between Clackamas County acting by and through its Health, Housing and Human Services Department, Behavioral Health Division, hereinafter called "COUNTY" and OPTIONS COUNSELING SERVICES OF OREGON, INC., hereinafter called "CONTRACTOR".

AGREEMENT

1.0 Engagement

COUNTY hereby engages CONTRACTOR to provide services as described in Exhibit B, Scope of Work, attached hereto and incorporated herein. This agreement sets forth the terms under which CONTRACTOR will contract with COUNTY to provide mental health services to Oregon Health Plan Medicaid recipients enrolled with Health Share of Oregon / Clackamas and residents of Clackamas County who are eligible for services as uninsured, indigent individuals.

2.0 Term

Services provided under the terms of this agreement shall commence upon the **January 1, 2013**. This agreement shall terminate **December 31, 2013** unless terminated by one or both parties as provided for in paragraph 6.0 below. This agreement may be renewed annually and amended by mutual written consent of both parties.

3.0 Compensation and Fiscal Records

3.1 Compensation. COUNTY shall compensate CONTRACTOR as specified in Exhibit C, Compensation and Payment, for satisfactorily performing contracted services. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment, mileage, and incidentals necessary to perform the work and services.

3.2 Withholding of Contract Payments. Notwithstanding any other payment provision of this agreement, should CONTRACTOR fail to perform or document the performance of contracted services, COUNTY shall immediately withhold payments hereunder. Such withholding payment for cause may continue until CONTRACTOR performs required services or establishes to COUNTY'S satisfaction that such failure arose out of causes beyond the control, and without the fault or negligence, of CONTRACTOR.

3.3 Financial Records. CONTRACTOR and its subcontractors shall maintain complete and legible financial records pertinent to authorized Covered Services delivered and payments received. Such records shall be maintained in accordance with Generally Accepted Accounting Principles and/or other applicable accounting guidelines such as outlined in Office of Management and Budget circulars A-87, A-122 and A-133. Financial records and supporting documents shall be retained for at least five (5) years after final payment is made under this agreement or until all pending matters are resolved, whichever period is longer. If an audit of financial records discloses that payments to CONTRACTOR were in excess of the amount to which CONTRACTOR was entitled, CONTRACTOR shall repay the amount of the excess to COUNTY.

4.0 Manner of Performance

4.1 Compliance with Applicable Laws and Regulations, and Special Federal Requirements. CONTRACTOR shall comply with all Federal, State and local laws, rules and regulations applicable to work performed under this agreement, including, but not limited to, all applicable Federal and State civil rights and rehabilitation statutes, rules and regulations, and as listed in Exhibit F, Compliance with Applicable Law, attached hereto and incorporated herein. CONTRACTOR shall comply with OAR 410-120-1380, which establishes the requirements for compliance with Section 4751 of Omnibus Budget Reconciliation Act (OBRA) 1991 and ORS 127.649, Patient Self-Determination Act.

Options Counseling Services of Oregon, Inc.

4.2 Subcontracts. CONTRACTOR shall not enter into any subcontracts for any of the work scheduled under this agreement without obtaining prior written approval from COUNTY. CONTRACTOR shall not be relieved of any of CONTRACTOR's obligations hereunder by virtue of any such subcontract, and shall remain directly responsible for compliance with all the terms of this agreement.

4.3 Independent Contractor. CONTRACTOR certifies that it is an independent contractor and not an employee or agent of County, State or Federal government. Responsibility for all taxes, assessments, and any other charges imposed upon employers shall be the solely the responsibility of CONTRACTOR.

4.4 Workers' Compensation. CONTRACTOR certifies that it is an insured employer for purposes of the Oregon Workers' Compensation law and maintains workers' compensation insurance as required by ORS 656.017, or qualifies for an exemption under ORS 656.126. CONTRACTOR shall maintain employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 each policy limit.

5.0 General Conditions

5.1 Indemnification. CONTRACTOR agrees to indemnify, save, hold harmless, and defend COUNTY, its officers, commissioners and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of actions, suits, claims or demand attributable in whole or in part to the acts or omissions of CONTRACTOR, and CONTRACTOR's officers, agents, and employees, in performance of this agreement.

CONTRACTOR shall defend, save, hold harmless and indemnify the State of Oregon, OHA and their officers, agents and employees from and against all claims, suits, actions, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities or omissions of CONTRACTOR, or its agents or employees under this agreement.

If CONTRACTOR is a public body, CONTRACTOR's liability under this agreement is subject to the limitations of the Oregon Tort Claims Act.

5.2 Insurance. During the term of this agreement, CONTRACTOR shall maintain in force at its own expense each insurance noted below:

5.2.1 Commercial General Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall obtain, at CONTRACTOR's expense, and keep in effect during the term of this agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$2,000,000 per occurrence/\$4,000,000 general aggregate for the protection of COUNTY, its officers, commissioners, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this agreement. This policy(s) shall be primary insurance as respects to the COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute it.

5.2.2 Commercial Automobile Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR shall also obtain at CONTRACTOR's expense, and keep in effect during the term of the agreement, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$2,000,000.

5.2.3 Professional Liability

Required by COUNTY

Not required by COUNTY

CONTRACTOR agrees to furnish COUNTY evidence of professional liability insurance in the amount of not less than \$2,000,000 combined single limit per occurrence/\$4,000,000 general annual aggregate for malpractice or errors and omissions coverage for the protection of COUNTY, its officers, commissioners and employees against liability for damages because of personal injury, bodily injury, death, or damage to property, including loss of use thereof, and damages because of negligent acts, errors and omissions in any way related to this agreement. COUNTY, at its option, may require a complete copy of the above policy.

5.2.4 Tail Coverage. If liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of thirty-six (36) months or the maximum time period the CONTRACTOR'S insurer will provide "tail" coverage as subscribed, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of this contract.

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

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

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

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

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

5.2.10 Primary Coverage Clarification. CONTRACTOR's coverage will be primary in the event of a loss.

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

5.3 Governing Law; Consent to Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between COUNTY and CONTRACTOR that arises out of or relates to performance under this agreement shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, State of Oregon. Provided,

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however, that if any such claim, action or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR by execution of this agreement consents to the in personam jurisdiction of said courts.

5.4 Amendments. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by CONTRACTOR and COUNTY.

5.5 Severability. If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

5.6 Waiver. The failure of either party to enforce any provision of this agreement shall not constitute a waiver of that or any other provision.

5.7 Future Support. COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in this agreement.

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

5.9 Public Contracting Requirements. Pursuant to the requirements of ORS 279B-020 and ORS 279B.220 through 279B.335 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this agreement:

5.9.1 CONTRACTOR shall:

- a. Make payments promptly, as due, to all persons supplying to CONTRACTOR labor or materials for the performance of the work provided for in this agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in performance of this agreement.
- c. Not permit any lien or claim to be filed or prosecuted against Clackamas County on account of any labor or material furnished.
- d. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

5.9.2 If CONTRACTOR fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of this agreement.

5.9.3 CONTRACTOR shall pay employees at least time and a half for all overtime work performed under this agreement in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 to 209) from receiving overtime.

5.9.4 CONTRACTOR shall promptly, as due, make payment to any person or partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness and injury, to the employees of CONTRACTOR, of all sums that CONTRACTOR agrees to pay for the services and all monies and sums that CONTRACTOR

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collected or deducted from the wages of its employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

5.10 Integration. This agreement contains the entire agreement between COUNTY and CONTRACTOR and supersedes all prior written or oral discussions or agreements.

5.11 Federal Grant Requirements. CONTRACTOR shall comply with all applicable Federal Grant Requirements pursuant to 45 CFR Parts 74, 80, 84, 91, and 95.

5.12 Disclosure. CONTRACTOR shall comply with all disclosure requirements of 42 CFR 1002.3(a); 42 CFR 422 Subpart (B); and 42 CFR 457.900(a)(2).

5.13 Advance Directives. CONTRACTOR shall maintain written notices and procedures respecting Advance Directives in compliance with 42 USC Section 1396.(a)(57) and (w), 42 CFR 431.107(b)(4), and 42 CFR 431.107(b)(1) & (2); and 42 CFR Subpart I.

CONTRACTOR shall comply with 42 CFR Part 422.128 for maintaining written policies and procedures for Advance Directives. This includes compliance with OAR 410-120-1380 which establishes, among other requirements the requirements for compliance with Section 4751 of the Omnibus Budget Reconciliation Act of 1991 (OBRA) and ORS 127.649, Patient Self-Determination Act.

6.0 Termination

6.1 Termination Without Cause. This agreement may be terminated by mutual consent of both parties, or by either party upon ninety (90) business days notice, in writing and delivered by certified mail or in person.

6.2 Termination With Cause. COUNTY may terminate this agreement effective upon delivery of written notice to CONTRACTOR, or at such later date as may be established by COUNTY, under any of the following conditions:

6.2.1 The terms of the OHP Medicaid Demonstration Project are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding authorized by this agreement.

6.2.2 The termination, suspension or expiration of the Health Share of Oregon Participating Agreement.

6.2.3 COUNTY funding from Federal, State, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. Alternatively, the parties may agree to modify the agreement to accommodate a reduction in funding.

6.2.4 COUNTY has evidence that CONTRACTOR has endangered or is endangering the health or safety of clients, staff or the public. CONTRACTOR shall ensure the orderly and reasonable transfer of care in progress with clients and shall work with COUNTY staff to accomplish same.

6.2.5 The lapse, relinquishment, suspension, expiration, cancellation or termination of any required license, certification or qualification of CONTRACTOR, or the lapse, relinquishment, suspension, expiration, cancellation or termination of CONTRACTOR's insurance as required in this agreement.

6.2.6 CONTRACTOR's filing for protection under United States Bankruptcy Code, the appointment of a receiver to manage CONTRACTOR's affairs, or the judicial declaration that CONTRACTOR is insolvent.

6.2.7 If CONTRACTOR fails to perform any of the other provisions of this agreement, or fails to pursue the work of this agreement in accordance with its terms, and after receipt of written notice from COUNTY, fails to correct such failures within ten (10) business days or such longer period as COUNTY may authorize.

6.3 Notice of Default. COUNTY may also issue written notice of default (including breach of contract) to CONTRACTOR and terminate the whole or any part of this agreement if CONTRACTOR substantially fails to perform the following specific provisions: Exhibit D(2)(A) Licenses and, Certification; Exhibit D(2)(C) Quality Assurance and Utilization Review; and Exhibit D(3) Recordkeeping and Reporting. The rights and remedies of COUNTY related to defaults (including breach of contract) by CONTRACTOR shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

6.4 Transition. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. CONTRACTOR and COUNTY shall continue to perform all duties and obligations under this agreement with respect to clients under care of CONTRACTOR to the date of termination.

7.0 Notices

Any notice under this agreement shall be deemed received the earlier of the time of delivery of two (2) business days after mailing certified and postage prepaid through the U.S. Postal Service addressed as follows:

If to CONTRACTOR:

Options Counseling Services of
Oregon, Inc.
1255 Pearl Street, # 102
Eugene, OR 97401

If to COUNTY:

Clackamas County Behavioral Health Division
2051 Kaen Road, # 367
Oregon City, OR 97045

This agreement consists of seven (7) sections plus the following attachments, which by this reference are incorporated herein:

Exhibit A	Definitions
Exhibit B	Compensation and Payment
Exhibit C	Scope of Work
Exhibit D	Performance Standards
Exhibit E	Fraud and Abuse
Exhibit F	Compliance with Applicable Law

OPTIONS COUNSELING SERVICES OF OREGON, INC.

By: _____

Steve Allan, PhD, Executive Director
12-3-2012

Date

1255 Pearl Street, # 102

Street Address

Eugene, Oregon 97401

City / State / Zip

(541)687-6983 / (541)687-2063

Phone

/ Fax

CLACKAMAS COUNTY

Commissioner: Charlotte Lehan, Chair

Commissioner: Jim Bernard

Commissioner: Jamie Damon

Commissioner: Ann Liningier

Commissioner: Paul Savas

Signing on Behalf of the Board:

Cindy Becker, Director

Health, Housing, and Human Services Department

Date



TRANSPORTATION MAINTENANCE DIVISION

McCoy Building

902 ABERNETHY ROAD | OREGON CITY, OR 97045

December 13, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

**APPROVING THE RENEWAL FOR AN ODOT FLEXIBLE SERVICES
MAINTENANCE AGREEMENT FOR EQUIPMENT AND SERVICES WITH THE
OREGON DEPARTMENT OF TRANSPORTATION**

ODOT and Clackamas County agreed five years ago to enter into an Intergovernmental Agreement for sharing equipment and services.

ODOT signed the original agreement in 2006, and this IGA was developed to be utilized by any agency who wishes to partner with ODOT in a flexible service agreement for equipment and services.

This is the first amendment to the agreement and extends it for another ten (10) years.

RECOMMENDATION

Staff respectfully recommends the Board adopt the attached agreement.

Sincerely,

A handwritten signature in black ink that reads "Samuel Irving, Jr.".

Samuel Irving, Jr.
Transportation Operations Manager

For information on this issue or copies of attachments
please contact Samuel Irving, Jr. at (503) 650-3467

**AMENDMENT NUMBER 01
ODOT FLEXIBLE SERVICE AGREEMENT
Intergovernmental Agreement for Equipment and Services with
The Oregon Department of Transportation**

The **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "ODOT," and the cities and counties which have signed on to this Agreement, hereinafter referred to collectively as "Agencies," entered into an Agreement on April 17, 2006. Said Agreement covers procedures for sharing road and highway services, equipment and materials and to define legal relationships and responsibilities for any services or equipment sharing between ODOT and any of the Agencies.

It has now been determined by ODOT and Agencies that the Agreement referenced above shall be amended to extend the term of the Agreement, correct and update standard language, update contact information and update Exhibit A. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

ODOT Flexible Services Maintenance Agreement Signature Page shall be deleted in its entirety and replaced with the attached Revised ODOT Flexible Services Maintenance Agreement Signature Page. All references to "ODOT Flexible Services Maintenance Agreement Signature Page" shall hereinafter be referred to as "Revised ODOT Flexible Services Maintenance Agreement Signature Page."

Exhibit A, Work Order Authorization, shall be deleted in its entirety and replaced with the attached Revised Exhibit A, Work Order Authorization. All references to "Exhibit A, Work Order Authorization" shall hereinafter be referred to as "Revised Exhibit A, Work Order Authorization."

TERMS OF AGREEMENT, Paragraph 5, Page 3, which reads:

5. The term of this Agreement shall begin upon signature by ODOT and the first Party to execute said Agreement and shall be in effect for a period of five (5) years. The Agreement may be extended at that time by mutual consent of all parties in the form of an amendment to this Agreement.

Shall be deleted in its entirety and replaced with the following:

5. a. The term of this Agreement shall begin upon the signature by ODOT and first Party to execute this Agreement and shall terminate April 17, 2021.

b. Amendment No. 1 extends this Agreement for another ten (10) years, but continued participation after April 17, 2011 by an individual Party will be viewed as

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terminated unless the Party has signed Amendment No. 1. No activity after April 17, 2011 shall be considered as billable under this Agreement without a Party's execution of this Amendment 1. After April 17, 2011, the Agreement may still be extended by mutual consent of the Parties by signing Amendment No. 1, at any time during the term established by Amendment No. 1. Any Party's current Equipment Sharing Catalogue already on file for this Agreement shall remain active if the Party signs Amendment No. 1.

TERMS OF AGREEMENT, Paragraph 6, Page 3, which reads:

6. This Agreement may be modified by mutual consent of all Parties and upon execution of amendments to this Agreement stating said modifications. If the total cost of any Work Order under this Agreement exceeds \$100,000, the Department of Justice must review and approve any amendments and/or Work Orders prior to performance of any work. At no time shall total cost under this Agreement for services provided to ODOT (including all Work Orders) exceed a total amount of \$4,000,000 per calendar year for an Agreement total of \$20,000,000 without first obtaining a fully executed amendment to this Agreement.

Shall be deleted in its entirety and replaced with the following:

6. This Agreement may be modified by mutual consent of all Parties and upon execution of amendments to this Agreement stating said modifications. If the total cost of any Work Order under this Agreement exceeds \$150,000, the Department of Justice must review and approve any amendments and/or Work Orders prior to performance of any work. At no time shall total cost under this Agreement for services provided to ODOT (including all Work Orders) exceed a total amount of \$4,000,000 per calendar year for an Agreement total of \$20,000,000 without first obtaining a fully executed amendment to this Agreement.

SCOPE OF WORK, Paragraph 1, Page 3, which reads:

1. ODOT's District Managers, or their approved designees, may request services from Agencies on an as-needed basis for work performed on ODOT-owned and maintained highways and highway right of way. Service requests shall be a written request in the form of a Work Order Authorization, attached hereto as Exhibit A and made a part of this Agreement. The Work Order Authorization may be signed by ODOT's District Manager, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both parties shall sign the faxed Work Order Authorization before work begins. An original signed

Work Order Authorization shall be completed and returned to the originating party within ten (10) working days.

Shall be deleted in its entirety and replaced with the following:

1. ODOT's District Managers, or their approved designees, may request services from Agencies on an as-needed basis for work performed on ODOT-owned and maintained highways and highway right of way. Service requests shall be a written request in the form of a Work Order Authorization, attached hereto as Revised Exhibit A Work Order Authorization and made a part of this Agreement. The Work Order Authorization may be signed by ODOT's District Manager, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Executed Work Order Authorizations shall be sent by the originating party to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503)731-8559;email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence.

SCOPE OF WORK, Paragraph 2, Page 3, which reads:

2. Agencies may request services from ODOT on an as-needed basis for work performed on city or county owned and maintained streets or roads and city or county right of way. Service requests shall be a written request in the form of a Work Order Authorization, as shown on Exhibit A. The Work Order Authorization may be signed by the Agencies Public Works Director, Street Foreman, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Under emergency conditions, the Work Order Authorization may be faxed. Both parties shall sign the faxed Work Order Authorization before work begins. An original signed Work Order Authorization shall be completed and returned to the originating party within ten (10) working days. Upon execution of this Agreement, Agencies shall provide the names and titles of the individuals authorized to sign the Work Order Authorizations to ODOT on the signature page attached to this Agreement.

Shall be deleted in its entirety and replaced with the following:

2. Agencies may request services from ODOT on an as-needed basis for work performed on city or county owned and maintained streets or roads and city or county right of way. Service requests shall be a written request in the form of a Work Order Authorization, as shown on the attached Revised Exhibit A Work Order

Authorization. The Work Order Authorization may be signed by the Agencies Public Works Director, Street Foreman, or their approved designee. Each Work Order Authorization shall be issued pursuant to this Agreement and the provisions of this Agreement shall be incorporated into each Work Order Authorization. Both parties shall sign the Work Order Authorization before commencement of work. Upon execution of this Agreement, Agencies shall provide the names and titles of the individuals authorized to sign the Work Order Authorizations to ODOT on the signature page attached to this Agreement. Executed Work Order Authorizations shall be sent by the originating party sent to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503)731-8559; email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence.

REIMBURSEMENT INSTRUCTIONS, Paragraph 2, Page 4, which reads:

2. Billings to ODOT shall be submitted to ODOT's Region 1 Operations/Maintenance Manager at 123 NW Flanders St., Portland, OR 97204. Billings to Agencies shall be submitted to the contact person and address provided on the individual Agency signature page.

Shall be deleted in its entirety and replaced with the following:

2. Billings to ODOT shall be submitted to Ted Miller, ODOT's Region 1 Operations Manager, 123 NW Flanders Street, Portland, OR 97209, Telephone: (503) 731-8559; email: Theodore.C.Miller@odot.state.or.us or assigned designee upon individual's absence. Billings to Agencies shall be submitted to the contact person and address provided on the individual Agency signature page.

EXPENDITURE AUTHORIZATION, Paragraph 1, Page 4, which reads:

1. All Parties certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within their current appropriation or limitation of their current biennial budget. No Party shall be indebted or liable for any obligation created by this Agreement in excess of the debt limitation as stated in Article XI, Section 7, of the Oregon Constitution. No Party shall assume any debts of the other Parties in violation of Article XI, Section 8, of the Oregon Constitution.

Shall be deleted in its entirety and replaced with the following:

1. Agencies certify, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within their current appropriation or limitation of the current biennial budget. No Party shall be indebted or liable for any obligation created by this Agreement in excess of the

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debt limitation as stated in Article XI, Section 7, of the Oregon Constitution. Agencies shall not be indebted or liable for any obligation created by this Agreement in excess of the debt limitation of Article XI, Section 10, of the Oregon Constitution.

EQUIPMENT AND SERVICES, Paragraph 9, Page 6, which reads:

9. The Parties shall maintain accurate and up-to-date records of all rentals of equipment and operators. Said records will be kept available for inspection by representatives of each Party for a period of three years following termination of this Agreement.

Shall be deleted in its entirety and replaced with the following:

9. All Parties shall maintain accurate and up-to-date records of all rentals of equipment and operators. Said records will be kept available for inspection by representatives of each Party for a period of six (6) years following termination of the Agreement.

Insert new EQUIPMENT AND SERVICES, Paragraph 11, to read as follows:

11. The user is responsible for any damage to rented equipment reasonably considered to be beyond normal wear and tear.

GENERAL PROVISIONS, Paragraph 3, Page 6, which reads:

3. The Parties acknowledge and agree that each of the other Parties, the Oregon Secretary of State's office, and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of each Party that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts. The Parties shall retain and keep all files and records for a minimum of three years following termination of the Agreement.

Shall be deleted in its entirety and replaced with the following:

3. The Agencies acknowledge and agree that ODOT, the Oregon Secretary of State's office and the federal government and their duly authorized representatives shall have access to the books, documents, papers, and records of the Agencies which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.

GENERAL PROVISIONS, Paragraphs 8 and 9, shall be deleted their entirety and shall be identified as RESERVED.

GENERAL PROVISIONS, Paragraph 10, Page 8, which reads:

10. All employers under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers, unless such employers are exempt under ORS 656.126. All employers shall ensure that each of its contractors complies with these requirements.

Shall be deleted in its entirety and replaced with the following:

10. All employers, including the Agencies, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. The Agencies shall ensure that each of its contractors complies with these requirements.

Insert new GENERAL PROVISIONS, Paragraphs 17 through 22, to read as follows:

17. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or any other Party or Parties with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

18. With respect to a Third Party Claim for which ODOT is jointly liable with any other Party or Parties (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Agency in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of the Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in

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any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if the ODOT had sole liability in the proceeding.

19. With respect to a Third Party Claim for which any other Party or Parties is jointly liable with ODOT (or would be if joined in the Third Party Claim), the Party or Parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the ODOT in such proportion as is appropriate to reflect the relative fault of the Party or Parties on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Party or Parties on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
20. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
21. The Agencies shall require any contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agencies' contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that ODOT shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of ODOT, be indemnified by the contractor and subcontractor from and against any and all Claims.
22. Any such indemnification shall also provide that neither the Agencies' contractor and subcontractor nor any attorney engaged by Agencies' contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agencies' contractor is prohibited from

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defending the State of Oregon, or that Agencies' contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agencies' contractor if the State of Oregon elects to assume its own defense.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director. The Director may also delegate to other Administrators the authority to execute intergovernmental agreements over \$75,000 for specific programs such as transportation safety, growth management and public transit.

APPROVAL RECOMMENDED

By [Signature]
State Highway Maintenance Engineer

Date 4/12/11

By [Signature]
Region 1 Manager

Date 4/12/11

By [Signature]
Region 1 Maintenance and Operations
Manager

Date 4-7-11

STATE OF OREGON, by and through
its Department of Transportation

By [Signature]
Highway Division Administrator

Date 4/19/11

APPROVED AS TO LEGAL
SUFFICIENCY

By [Signature]
Assistant Attorney General

Date 4/19/11



9

MARC GONZALES
DIRECTOR

DEPARTMENT OF FINANCE

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

December 13, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

**Resolution for Clackamas County for a Supplemental Budget
(Less Than Ten Percent) for Fiscal Year 2012-2013**

Each fiscal year it is necessary to allocate additional sources of revenue and appropriate additional expenditures to more accurately meet the changing requirements of the operating departments. The attached Board Order reflects such changes requested by departments in keeping with a legally accurate budget. These changes are in compliance with O.R.S. 294.480 (3) which allows for governing body approval of supplemental budget changes of less than ten percent of qualifying expenditures in the fund(s) being adjusted. The required notice has been published.

The **General Fund – Surveyor** is recognizing additional interdepartmental revenue and budgeting it in personnel services to increase a part-time administrative assistant position to full-time.

The **General Fund – Public and Government Affairs** is recognizing additional printing services revenue and budgeting in materials and services for the cost of providing the services.

The **General Fund – Non Departmental** is recognizing actual beginning fund balance and Secure Rural Schools and Community Self-Determination Act revenue and appropriating it in interfund transfer to the Community Corrections Fund and contingency.

The **Road Fund** is recognizing Secure Rural Schools and Motor Vehicle Fund revenues and actual beginning fund balance and appropriating it in personnel services, materials and services, contingency and capital outlay.

The **Building Codes Fund** is recognizing additional fund balance and budgeting it in personnel services for temporary workers, materials and services for software maintenance expenditures, and contingency.

The **Business and Economic Development Fund** is recognizing additional fund balance and budgeting it in materials and services for economic development and moving expenses.

The **Library Services Fund** is recognizing fund balance and an interagency transfer from the Library Service District and appropriating it in capital outlay and materials and services for anticipated network equipment, servers, computers and vehicle replacement expenses, potential building maintenance and construction costs and contingency.

The **County Parks Fund** is recognizing fund balance and revenue from the Oregon State Marine Board and Metro and budgeting it in personnel services for higher than anticipated seasonal staff expenses, materials and services for parks equipment, and capital outlay for parking lot paving and the Rosemont Trail project.

The **Planning Fund** is recognizing actual fund balance and revenue from additional licenses, permits and fees and appropriating it in personnel services.

The **Sheriff Fund** is recognizing additional fund balance and budgeting it in personnel services and in materials and services for dispatch fees and ammunition for the training center.

The **District Attorney Fund** is recognizing actual fund balance and budgeting it in personnel services to hire a temporary advocate and materials and services to replace older computer systems and provide computer hardware support for remote video conferencing.

The **Countywide Transportation SDC Fund** is recognizing additional fund balance and appropriating it in materials and services.

The **Sunnyside Village Park Road Frontage Construction Fund** is recognizing additional fund balance and higher fee revenue and appropriating it in materials and services.

The **Sunnyside Village Park Acquisition Fund** is recognizing additional fund balance and appropriating it in materials and services.

The **Community Health Fund** is recognizing additional Oregon City Primary Care Clinic revenue and budgeting it in personnel services to hire a full-time nurse practitioner and increase a current part-time position to full-time, in materials and services for program expenses and in contingency.

The **Dog Services Fund** is recognizing additional fund balance and appropriating it in personnel services.

The **Juvenile Fund** is recognizing additional fund balance and appropriating it in personnel services.

The **Stone Creek Golf Course Fund** is recognizing additional fund balance and budgeting it in capital outlay for slurry seal and drainage projects and contingency.

The **Cable Administration Fund** is recognizing additional fund balance and budgeting it in materials and services and capital outlay for production and training equipment expenses and in reserve for future expenditure.

The **Technology Services Fund** is recognizing fund balance and budgeting it to complete projects carried over from the prior year as well as current year projects.

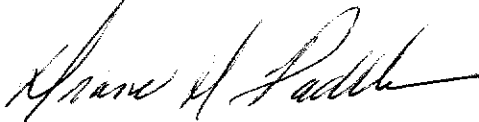
The effect of this Resolution Order is an increase in appropriations of \$10,049,429 including new revenues as detailed below:

Fund Balance	\$ 3,862,861.
License and Permits Revenue	20,900.
Federal Operating Grants	1,756,470.
State Operating Grants	605,261.
Local Gov't and Other Agencies	75,000.
Charge for Services	3,694,356.
Interagency Transfer	<u>34,581.</u>
Total Recommended	<u>\$ 10,049,429.</u>

RECOMMENDATION:

Staff respectfully recommends adoption of the attached supplemental budget and Exhibit A in keeping with a legally accurate budget.

Sincerely,



Diane D. Padilla
Budget Manager

For information on this issue or copies of attachments
please contact Diane Padilla at (503) 742-5425

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

A RESOLUTION OF THE CLACKAMAS
COUNTY BOARD OF COMMISSIONERS
REGARDING ADOPTION OF A
SUPPLEMENTAL BUDGET FOR ITEMS
LESS THAN 10 PERCENT
OF THE TOTAL QUALIFYING
EXPENDITURES AND MAKING
APPROPRIATIONS FOR FISCAL
YEAR 2012-13



Resolution No. _____
1 of 2 pages

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from one appropriation category to another;

WHEREAS, a supplemental budget for the period of July 1, 2012 through June 30, 2013, inclusive, has been prepared, published and submitted to the taxpayers as provided by statute;

WHEREAS; the funds being adjusted are:

- . General Fund - Surveyor
- . General Fund – Public and Government Affairs
- . General Fund – Non Departmental
- . Road Fund
- . Building Codes Fund
- . Business and Economic Development Fund
- . Library Services Fund
- . County Parks Fund
- . Planning Fund
- . Sheriff Fund
- . District Attorney Fund
- . Countywide Transportation SDC Fund
- . Sunnyside Village Park Road Frontage Construction Fund
- . Sunnyside Village Park Acquisition Fund
- . Community Health Fund
- . Dog Services Fund
- . Juvenile Fund
- . Stone Creek Golf Course Fund
- . Cable Administration Fund
- . Technology Services Fund;

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

A RESOLUTION OF THE CLACKAMAS
COUNTY BOARD OF COMMISSIONERS
REGARDING ADOPTION OF A
SUPPLEMENTAL BUDGET FOR ITEMS
LESS THAN 10 PERCENT
OF THE TOTAL QUALIFYING
EXPENDITURES AND MAKING
APPROPRIATIONS FOR FISCAL
YEAR 2012-13



Resolution No. _____
2 of 2 pages

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.480, the supplemental budget be adopted and appropriations established as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

ADOPTED this 13th day of December, 2012

By the BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

SUMMARY OF SUPPLEMENTAL BUDGET
Exhibit A
CHANGES OF LESS THAN 10% OF BUDGET
December 6, 2012

Recommended items by revenue source:

Fund Balance	\$ 3,862,861.
Licenses and Permits	20,900.
Federal Operating Grants	1,756,470.
State Operating Grants	605,261.
Local Gov't and Other Agencies	75,000.
Charges for Services	3,694,356.
Interagency Transfer	<u>34,581.</u>
 Total Recommended	 <u>\$10,049,429.</u>

**GENERAL FUND –SURVEYOR, PUBLIC & GOVERNMENT AFFAIRS AND
NON DEPARTMENTAL**

Revenue:	
Fund Balance	\$ 1,605,341.
Federal Operating Grants	982,841.
Charge for Services	<u>135,000.</u>
Total Revenues	<u>\$ 2,723,182.</u>
Expense:	
Personnel Services	\$ 45,000.
Materials & Services	90,000.
Interfund Transfer	400,000.
Contingency	<u>2,188,182.</u>
Total Expenses	<u>\$ 2,723,182.</u>

General Fund – Surveyor is recognizing additional interdepartmental revenue and budgeting it in personnel services to increase a part-time administrative assistant position to full-time. Public and Government Affairs is recognizing additional printing services revenue and budgeting in materials and services for the cost of providing the services. Non Departmental is recognizing actual beginning fund balance and Secure Rural Schools and Community Self-Determination Act revenue and appropriating it in interfund transfer to the Community Corrections Fund and contingency.

BUILDING CODES FUND

Revenue:	
Fund Balance	\$ 367,753.
Total Revenues	<u>\$ 367,753.</u>
Expense:	
Personnel Services	\$ 120,000.
Materials & Services	100,000.
Contingency	<u>147,753.</u>
Total Expenses	<u>\$ 367,753.</u>

Building Codes Fund is recognizing additional fund balance and budgeting it in personnel services for temporary workers, materials and services for software maintenance expenditures, and contingency.

BUSINESS & ECONOMIC DEVELOPMENT FUND

Revenue:	
Fund Balance	\$ 84,061.
Total Revenues	<u>\$ 84,061.</u>
Expense:	
Materials & Services	\$ 84,061.
Total Expenses	<u>\$ 84,061.</u>

Business and Economic Development Fund is recognizing additional fund balance and budgeting it in materials and services for economic development and moving expenses.

LIBRARY SERVICES FUND

Revenue:	
Fund Balance	\$ 769,789.
Interagency Transfer	<u>34,581.</u>
Total Revenues	<u>\$ 804,370.</u>
Expense:	
Materials & Services	\$ 269,910.
Capital Outlay	297,000.
Contingency	<u>237,460.</u>
Total Expenses	<u>\$ 804,370.</u>

Library Services Fund is recognizing fund balance and an interagency transfer from the Library Service District and appropriating it in capital outlay and materials and services for anticipated network equipment, servers, computers and vehicle replacement expenses, potential building maintenance and construction costs and contingency

COUNTY PARKS FUND

Revenue:	
Fund Balance	\$ 33,900.
Federal Operating Grants	1,350.
State Operating Grants	1,025.
Local Gov't & Other Agencies	<u>75,000.</u>
Total Revenues	<u>\$ 111,275.</u>
Expense:	
Personnel Services	\$ 12,200.
Materials & Services	3,775.
Capital Outlay	<u>95,300.</u>
Total Expenses	<u>\$ 111,275.</u>

County Parks Fund is recognizing fund balance and revenue from the Oregon State Marine Board and Metro and budgeting it in personnel services for higher than anticipated seasonal staff expenses, materials and services for parks equipment, and capital outlay for parking lot paving and the Rosemont Trail project.

PLANNING FUND

Revenue:	
Fund Balance	\$ 17,461.
Licenses & Permits	9,000.
Charge for Services	<u>15,000.</u>
Total Revenues	<u>\$ 41,461.</u>
Expense:	
Personnel Services	<u>\$ 41,461.</u>
Total Expenses	<u>\$ 41,461.</u>

Planning Fund is recognizing actual fund balance and revenue from additional licenses, permits and fees and appropriating it in personnel services.

ROAD FUND

Revenue:	
Fund Balance	\$ (503,888.)
Federal Operating Grants	772,279.
State Operating Grants	<u>604,236.</u>
Total Revenues	<u>\$ 872,627.</u>
Expense:	
Personnel Services	\$ 672,279.
Materials & Services	100,000.
Capital Outlay	35,000.
Contingency	<u>65,348.</u>
Total Expenses	<u>\$ 872,627.</u>

Road Fund is recognizing Secure Rural Schools and Motor Vehicle Fund revenues and actual beginning fund balance and appropriating it in personnel services, materials and services, contingency and capital outlay

SHERIFF FUND

Revenue:		
Fund Balance		\$ 425,000.
Total Revenues		<u>\$ 425,000.</u>
Expense:		
Personal Services		\$ 315,000.
Materials & Services		<u>110,000.</u>
Total Expenses		<u>\$ 425,000.</u>

Sheriff Fund is recognizing additional fund balance and budgeting it in personnel services and in materials and services for dispatch fees and ammunition for the training center.

DISTRICT ATTORNEY FUND

Revenue:		
Fund Balance		\$ 211,118.
Total Revenues		<u>\$ 211,118.</u>
Expense:		
Personnel Services		\$ 201,067.
Materials & Services		<u>10,051.</u>
Total Expenses		<u>\$ 211,118.</u>

District Attorney Fund is recognizing actual fund balance and budgeting it in personnel services to hire a temporary advocate and materials and services to replace older computer systems and provide computer hardware support for remote video conferencing.

COUNTYWIDE TRANSPORTATION SDC FUND

Revenue:		
Fund Balance		\$ 42,060.
Total Revenues		<u>\$ 42,060.</u>
Expense:		
Materials & Services		\$ 42,060.
Total Expenses		<u>\$ 42,060.</u>

Countywide Transportation SDC Fund is recognizing additional fund balance and appropriating it in materials and services.

SUNNYSIDE VILLAGE PARK ROAD FRONTAGE CONSTRUCTION FUND

Revenue:		
Fund Balance		\$ 4,179.
Licenses & Permits		<u>1,900.</u>
Total Revenues		<u>\$ 6,079.</u>
Expense:		
Materials & Services		\$ 6,079.
Total Expenses		<u>\$ 6,079.</u>

Sunnyside Village Park Road Frontage Construction Fund is recognizing additional fund balance and higher fee revenue and appropriating it in materials and services.

SUNNYSIDE VILLAGE PARK ACQUISITION FUND

Revenue:	
Fund Balance	\$ 16,531.
Licenses & Permits	10,000.
Total Revenues	<u>\$ 26,531.</u>
Expense:	
Materials & Services	\$ 26,531.
Total Expenses	<u>\$ 26,531.</u>

Sunnyside Village Park Acquisition Fund is recognizing additional fund balance and appropriating it in materials and services.

DOG SERVICES FUND

Revenue:	
Fund Balance	\$ 3,204.
Total Revenues	<u>\$ 3,204.</u>
Expense:	
Personnel Services	\$ 3,204.
Total Expenses	<u>\$ 3,204.</u>

Dog Services Fund is recognizing additional fund balance and appropriating it in personnel services.

COMMUNITY HEALTH FUND

Revenue:	
Charge for Services	\$ 3,544,356.
Total Revenues	<u>\$ 3,544,356.</u>
Expense:	
Personnel Services	\$ 178,434.
Materials & Services	120,184.
Contingency	3,245,738.
Total Expenses	<u>\$ 3,544,356.</u>

Community Health Fund is recognizing additional Oregon City Primary Care Clinic revenue and budgeting it in personnel services to hire a full-time nurse practitioner and increase a current part-time position to full-time, in materials and services for program expenses and in contingency.

JUVENILE FUND

Revenue:	
Fund Balance	\$ 36,836.
Total Revenues	<u>\$ 36,836.</u>
Expense:	
Personnel Services	\$ 36,836.
Total Expenses	<u>\$ 36,836.</u>

Juvenile Fund is recognizing additional fund balance and appropriating it in personnel services.

STONE CREEK GOLF COURSE FUND

Revenue:	
Fund Balance	\$ 179,894.
Total Revenues	<u>\$ 179,894.</u>
Expense:	
Capital Outlay	\$ 60,000.
Contingency	119,894.
Total Expenses	<u>\$ 179,894.</u>

Stone Creek Golf Course Fund is recognizing additional fund balance and budgeting it in capital outlay for slurry seal and drainage projects and contingency.

CABLE ADMINISTRATION FUND

Revenue:	
Fund Balance	\$ 116,822.
Total Revenues	<u>\$ 116,822.</u>
Expense:	
Materials & Services	\$ 68,390.
Capital Outlay	20,000.
Reserve for Future Expenditures	28,432.
Total Expenses	<u>\$ 116,822.</u>

Cable Administration Fund is recognizing additional fund balance and budgeting it in materials and services and capital outlay for production and training equipment expenses and in reserve for future expenditure

TECHNOLOGY SERVICES FUND

Revenue:	
Fund Balance	\$ 452,800.
Total Revenues	<u>\$ 452,800.</u>
Expense:	
Personnal Services	\$ 120,000.
Materials & Services	262,800.
Capital Outlay	70,000.
Total Expenses	<u>\$ 452,800.</u>

Technology Services Fund is recognizing fund balance and budgeting it to complete projects carried over from the prior year as well as current year projects.



MARC GONZALES
DIRECTOR

DEPARTMENT OF FINANCE

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

December 13, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

**Resolution for Clackamas County for Budgeting of
New Specific Purpose Revenue for Fiscal Year 2012-2013**

Each fiscal year it is necessary to appropriate additional expenditures and allocate additional sources of revenue to more accurately meet the changing requirements of the operating departments of the County.

The attached resolution reflects those changes that departments have requested which, pursuant to ORS 294.326, qualify as grants in trust for specific purposes in keeping with a legally accurate budget.

The **County Parks Fund** is recognizing grant revenue from the United States Forest Service Clackamas River Stewardship and Bureau of Land Management and budgeting it in personnel services and materials and services to support the Dump Stopper Program.

The **Sheriff Fund** is recognizing grant revenue from the Children, Youth and Families Fund and budgeting for personnel services and materials and services to establish a Domestic Violence System Response program.

The **Social Services Fund** is recognizing grant funding from the Developmental Disability Program and United Way and budgeting for personnel services and materials and services for program expenses and in reserve for future expenditures.

The **Community Solutions for Clackamas County Fund** is recognizing grant funding from Working for Independence, National Career Readiness and Corrections Reentry programs and budgeting it in personnel services and materials and services for program expenses associated with these grants.

The **Community Health Fund** is recognizing additional grant funding from a variety of sources and budgeting it in personnel services to add two mental health specialist positions and for program expenses associated with these funding sources and contingency.

The **Juvenile Fund** is recognizing funding from the Bureau of Land Management, Juvenile Accountability Block Grant, Juvenile Assistance Grant and Clackamas Technical Education Consortium Grant and budgeting it in personnel services for temporary employees and materials and services for contracted services associated with the programs.

The **Capital Project Reserve Fund** is recognizing increased project cost anticipated in fiscal year 2012-13 with reimbursement to be provided by the Courthouse Security Trust and appropriating it for expenditure for the sallyport addition.

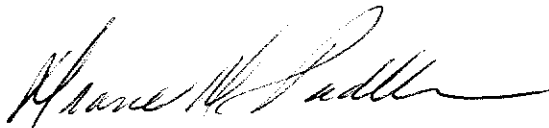
The effect of this Board Order is an increase in appropriations of \$5,697,078 including new revenues as detailed below:

Prior Year Revenue	\$ 577,247.
Fund Balance	634,144.
Grant Revenue	32,236.
Federal Operating Grants	2,347,392.
State Operating Grants	1,218,333.
Local Gov't & Other Agencies	288,056.
Charge for Services	43,200.
Miscellaneous Revenue	<u>556,470.</u>
Total Recommended	<u>\$ 5,697,078.</u>

RECOMMENDATION:

Staff respectfully recommends that the Board adopt the attached resolution order and Exhibit A to maintain an accurate budget.

Sincerely,



Diane D. Padilla
Budget Manager

For information on this issue or copies of attachments
please contact Diane Padilla at (503) 742-5425

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

A RESOLUTION OF THE CLACKAMAS
COUNTY BOARD OF COMMISSIONERS
PROVIDING AUTHORIZATION TO
APPOPRIATE GRANTS FOR SPECIFIC
PURPOSES WITHIN THE FISCAL
YEAR 2012-13



Resolution No. _____

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from one appropriation category to another;

WHEREAS, appropriation of grants entrusted for specific purposes within Clackamas County budget for the period of July 1, 2012 through June 30, 2013, inclusive is necessary to authorize the expenditure of funds, for the needs of Clackamas County residents;

WHEREAS; the funds being adjusted are:

- . County Parks Fund
- . Sheriff Fund
- . Social Services Fund
- . Community Solutions for Clackamas County Fund
- . Community Health Fund
- . Juvenile Fund
- . Capital Project Reserve Fund;

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.326, appropriation of specific purpose grants is authorized as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

ADOPTED this 13th day of December, 2012

By the BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

NEW SPECIFIC PURPOSE REVENUE REQUESTS

Exhibit A

Prior Year Revenue	\$ 577,247.
Fund Balance	634,144.
Grant Revenue	32,236.
Federal Operating Grants	2,347,392.
State Operating Grants	1,218,333.
Local Gov't and Other Agencies	288,056.
Charge for Services	43,200.
Miscellaneous Revenue	<u>556,470.</u>
Total Recommended	<u>\$ 5,697,078.</u>

COUNTY PARKS FUND

Revenue:	
Federal Operating Grants	\$ 95,638.
Total	<u>\$ 95,638.</u>
Expense:	
Personnel Services	\$ 53,143.
Materials & Services	42,495.
Total	<u>\$ 95,638.</u>

County Parks Fund is recognizing grant revenue from the United States Forest Service Clackamas River Stewardship and Bureau of Land Management and budgeting it in personnel services and materials and services to support the Dump Stopper Program.

SHERIFF FUND

Revenue:	
Charge for Services	\$ 25,000.
Total	<u>\$ 25,000.</u>
Expense:	
Personnel Services	\$ 15,160.
Materials & Services	9,840.
Total	<u>\$ 25,000.</u>

Sheriff Fund is recognizing grant revenue from the Children, Youth and Families Fund and budgeting for personnel services and materials and services to establish a Domestic Violence System Response program.

SOCIAL SERVICES FUND

Revenue:	
Prior Year Revenue	\$ 577,247.
Fund Balance	634,144.
Federal Operating Grants	21,442.
State Operating Grants	301,680.
Local & Gov't and Other Agencies	83,762.
Charge for Services	18,200.
Total	<u>\$ 1,636,475.</u>
Expense:	
Personnel Services	\$ 121,984.
Materials & Services	1,264,777.
Reserve for Future Expenditure	249,714.
Total	<u>\$ 1,636,475.</u>

Social Services Fund is recognizing grant funding from the Developmental Disability Program and United Way and budgeting for personnel services and materials and services for program expenses and in reserve for future expenditures.

COMMUNITY SOLUTIONS FOR CLACKAMAS COUNTY FUND

Revenue:	
Federal Operating Grants	\$ 701,000.
Total	<u>\$ 701,000.</u>
Expense:	
Personal Services	\$ 204,364
Materials and Services	496,636.
Total	<u>\$ 701,000.</u>

Community Solutions for Clackamas County Fund is recognizing grant funding from Working for Independence, National Career Readiness and Corrections Reentry programs and budgeting it in personnel services and materials and services for program expenses associated with these grants.

COMMUNITY HEALTH FUND

Revenue:	
Federal Operating Grants	\$ 1,430,429.
State Operating Grants	916,653.
Local Government & other Agencies	204,294.
Total	<u>\$ 2,551,376.</u>
Expense:	
Personnel Services	\$ 417,261.
Materials and Services	560,736.
Capital Outlay	96,526.
Contingency	1,476,853.
Total	<u>\$ 2,551,376.</u>

Community Health Fund is recognizing additional grant funding from a variety of sources and budgeting it in personnel services to add two mental health specialist positions and for program expenses associated with these funding sources and contingency.

JUVENILE FUND

Revenue:	
Grant Revenue	\$ 32,236.
Federal Operating Grants	98,883.
Total	<u>\$ 131,119.</u>
Expense:	
Personnel Services	\$ 36,223.
Materials & Services	94,896.
Total	<u>\$ 131,119.</u>

Juvenile Fund is recognizing funding from the Bureau of Land Management, Juvenile Accountability Block Grant, Juvenile Assistance Grant and Clackamas Technical Education Consortium Grant and budgeting it in personnel services for temporary employees and materials and services for contracted services associated with the programs.

CAPITAL PROJECT RESERVE FUND

Revenue:	
Miscellaneous Revenue	\$ 556,470.
Total	<u>\$ 556,470.</u>
Expense:	
Materials & Services	\$ 100,000.
Capital Outlay	456,470.
Total	<u>\$ 556,470.</u>

Capital Project Reserve Fund is recognizing increased project cost anticipated in fiscal year 2012-13 with reimbursement to be provided by the Courthouse Security Trust and appropriating it for expenditure for the sallyport addition.



11
MARC GONZALES
DIRECTOR

DEPARTMENT OF FINANCE

December 13, 2012

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Resolution for Clackamas County for
Transfer of Appropriations for Fiscal Year 2012-2013**

Periodically during the fiscal year it is necessary to transfer appropriations between the major spending categories (personal services, materials and services, debt service, interfund transfer, capital outlay and other requirements) to more accurately reflect the changing requirements of the operating departments.

Transfers are a method of moving budgeted appropriations during the fiscal year as required by state budget law per ORS 294.450. There is no financial impact incurred as a result of transfers as appropriations for these amounts have been accomplished through the initial budget process.

The attached resolution order accomplishes the above mentioned changes as requested by the following operating departments in keeping with a legally accurate budget.

The **Public Safety Local Option Levy Fund** is transferring from contingency to materials and services for additional Corizon Medical contract expenses.

The **Resolution Services Fund** is transferring from personnel services to materials and services to pay for renovation costs not completed prior to last fiscal year end.

The **Sheriff Fund** is transferring from materials and services to capital outlay to cover a portion of the cost of a license plate reader system.

The **Community Corrections Fund** is recognizing an interfund transfer from the General Fund and budgeting it in personnel services and materials and services to keep the Residential Center operating for the remainder of the fiscal year.

The **Community Health Fund** is realigning revenues and transferring from personnel services, materials and services and contingency to interfund transfer to the Clackamas Mental Health Organization Fund.

RECOMMENDATION:

Staff respectfully recommends that the Board adopt the attached board order and Exhibit A to maintain an accurate budget.

Sincerely,



Diane D. Padilla
Budget Manager

For information on this issue or copies of attachments
please contact Diane Padilla at (503) 742-5425

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

A RESOLUTION OF THE CLACKAMAS
COUNTY BOARD OF COMMISSIONERS
PROVIDING AUTHORIZATION TO
TRANSFER APPROPRIATIONS WITHIN
THE FISCAL YEAR 2012-13



Resolution No. _____

WHEREAS, during the fiscal year changes in appropriated expenditures may become necessary and appropriations may need to be increased, decreased or transferred from appropriation category to another;

WHEREAS, transfer of appropriations for the period of July 1, 2012 through June 30, 2013, inclusive is necessary to continue to prudently manage the distribution of those expenditures for the needs of Clackamas County residents;

WHEREAS; the funds being adjusted are:

- . Public Safety Local Option Levy Fund
- . Resolution Services Fund
- . Sheriff Fund
- . Community Corrections Fund
- . Community Health Fund,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

Pursuant to its authority under OR 294.450, transfer of appropriation within the fiscal year budget is authorized as shown in the attached Exhibit A which by this reference is made a part of this Resolution.

ADOPTED this 13th day of December, 2012

By the BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

TRANSFER REQUESTS

Exhibit A

PUBLIC SAFETY LOCAL OPTION LEVY FUND

Decrease:		
	Contingency	\$ 24,860.
	Total	<u>\$ 24,860.</u>
Increase:		
	Materials & Services	\$ 24,860.
	Total	<u>\$ 24,860.</u>

Transferring from contingency to materials and services for additional Corizon Medical contract expenses.

RESOLUTION SERVICES FUND

Decrease:		
	Personnel Services	\$ 25,000.
	Total	<u>\$ 25,000.</u>
Increase:		
	Materials & Services	\$ 25,000.
	Total	<u>\$ 25,000.</u>

Transferring from personnel services to materials and services to pay for renovation costs not completed prior to last fiscal year end.

SHERIFF FUND

Decrease:		
	Materials & Services	\$ 8,536.
	Total	<u>\$ 8,536.</u>
Increase:		
	Capital Outlay	\$ 8,536.
	Total	<u>\$ 8,536.</u>

Transferring from materials and services to capital outlay to cover a portion of the cost of a license plate reader system.

COMMUNITY CORRECTIONS FUND

Increase:		
Revenue		
Interfund Transfer	\$	<u>400,000.</u>
Total	\$	<u>400,000.</u>
Increase:		
Expenses		
Personal Services	\$	320,109.
Materials & Services		<u>79,891.</u>
Total	\$	<u>400,000.</u>

Recognizing an interfund transfer from the General Fund and budgeting it in personnel services and materials and services to keep the Residential Center operating for the remainder of the fiscal year.

COMMUNITY HEALTH FUND

Increase:		
Revenue		
Grant Revenue	\$	272,073.
Federal Operating Grants		609,372.
Charge for Services		15,697,216.
Miscellaneous Revenue		<u>14,716.</u>
Total	\$	<u>16,593,377.</u>
Decrease:		
Revenue		
Fund Balance	\$	4,813,489.
State Operating Grants		<u>11,779,888.</u>
Total	\$	<u>16,593,377.</u>
Increase:		
Expenses		
Interfund Transfer	\$	<u>808,005.</u>
Total	\$	<u>808,005.</u>
Decrease:		
Expenses		
Personnel Services	\$	51,998.
Materials & Services		623,252.
Contingency		<u>132,755.</u>
Total	\$	<u>808,005.</u>

Realigning revenues and transferring from personnel services, materials and services and contingency to interfund transfer to the Clackamas Mental Health Organization Fund.



13
COPY

GARY BARTH
DIRECTOR

BUSINESS AND COMMUNITY SERVICES

December 13, 2012

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

Board of County Commissioners
As the Governing Body of Clackamas County

Members of the Board:

**TRANSFER OF OWNERSHIP OF Three CREEKS REAL PROPERTY
TO CLACKAMAS COUNTY SERVICE DISTRICT NO. 1**

The Clackamas County Development Agency ("Agency") acquired property, now known as the Harmony Community Campus area (HCC), for uses provided for in the Clackamas Industrial Area Urban Renewal Plan. Within the HCC were six original parcels designated for certain purposes. Parcels 2, 4 and 5 are referred to as "Three Creeks."

In 1998, Clackamas County Service District No. 1 ("CCSD#1"), the County ("County"), the North Clackamas Parks and Recreation District ("NCPRD") and the Agency entered into a Development and Disposition Agreement ("DDA") regarding the purpose and use of the six original parcels within the HCC. The DDA identified that the Three Creeks parcels be developed and managed for "drainage and flood control facilities, wetland mitigation and recreational and related uses".

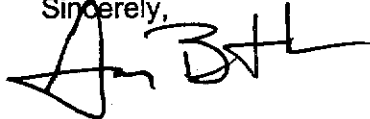
Since 1998, significant changes in the intended recreational use of the Three Creeks portion of the HCC have occurred, and the public no longer desires NCPRD to utilize Three Creeks for active recreation as originally envisioned in the DDA. Also, the DDA tasked CCSD#1 with responsibility for operating and managing the remaining non-recreational aspects of the site outlined in the DDA, including stormwater management and flood mitigation. CCSD#1 was recently subject to a lawsuit associated with the Three Creeks parcels. This suit brought to light that CCSD#1 was expending resources on and insuring property that it did not own. Furthermore, CCSD#1 received an opinion from its auditors that it must own an interest in any real property before it can invest capital dollars there, which has significantly reduced planned watershed enhancement efforts on the Three Creeks site.

Staff from the four departments party to the DDA, with Business & Community Services (BCS) representing both the County and NCPRD, met to discuss these issues. In a study session held on December 4, 2012, staff jointly recommended to the Board of County Commissioners (BCC), as the elected board of all parties included in the DDA, that the Three Creeks parcels (original parcels 2,4, and 5) within the HCC be transferred to CCSD#1 (see the attached map). This conveyance better aligns ownership with responsibility and allows for water quality improvements to be made while mitigating legal risk and exposure to CCSD#1. After conveyance, staff will recommended concomitant changes to the DDA that reflect current conditions for BCC review and approval at a later date. The BCC agreed with the staff recommendation to convey the Three Creeks property at an upcoming business meeting. A resolution delegating authority to execute a deed transferring the ownership of the Three Creeks Site from the County to CCSD#1 is attached.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners adopt the attached resolution delegating authority to execute a Deed transferring ownership of the Three Creeks parcels from the County to CCSD#1 as directed by the Board at the December 4, 2012 study session.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Barth". The signature is stylized with a large initial "G" and "B".

Gary Barth
Director, BCS

For additional information on this item or copies of attachments,
please contact Michelle Healy at 503-742-4356.

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

COPY

In the matter of a Resolution delegating
Authority to Execute a Deed Transferring
Certain Parcels in the Harmony Campus
To Clackamas County Service District No. 1

This matter comes before the Board of County Commissioners of Clackamas County, Oregon (the "Board") at its regularly scheduled meeting on December 13, 2012.

WHEREAS, Clackamas County ("County") received certain real property (the "3 Creeks Site") from the Clackamas County Development Agency ("Agency") to be reserved for future park space, working in conjunction with North Clackamas Parks and Recreation District ("NCPRD"); and

WHEREAS, significant changes in the intended use of the Harmony Campus have occurred, and NCPRD no longer desires to utilize the 3 Creeks for active recreation as originally envisioned; and

WHEREAS, Clackamas County Service District No. 1 was tasked with responsibility for operating and managing a facility located in the 3 Creeks Site designed to mitigate stormwater issues and possible flooding, and auditors have identified it as a problem to allow continued capital investment on the site without an ownership interest; and

WHEREAS, the Board conferred regarding the 3 Creeks Site in work session on December 4, 2012 and discussed that CCSD#1 would be the best steward of the 3 Creeks Site in support of stormwater management, water quality improvement investments, and partnering with local interested parties; and

WHEREAS, the Board desires the transfer of the 3 Creeks Site to proceed expeditiously to allow resumption of capital investment by CCSD#1 on the site;

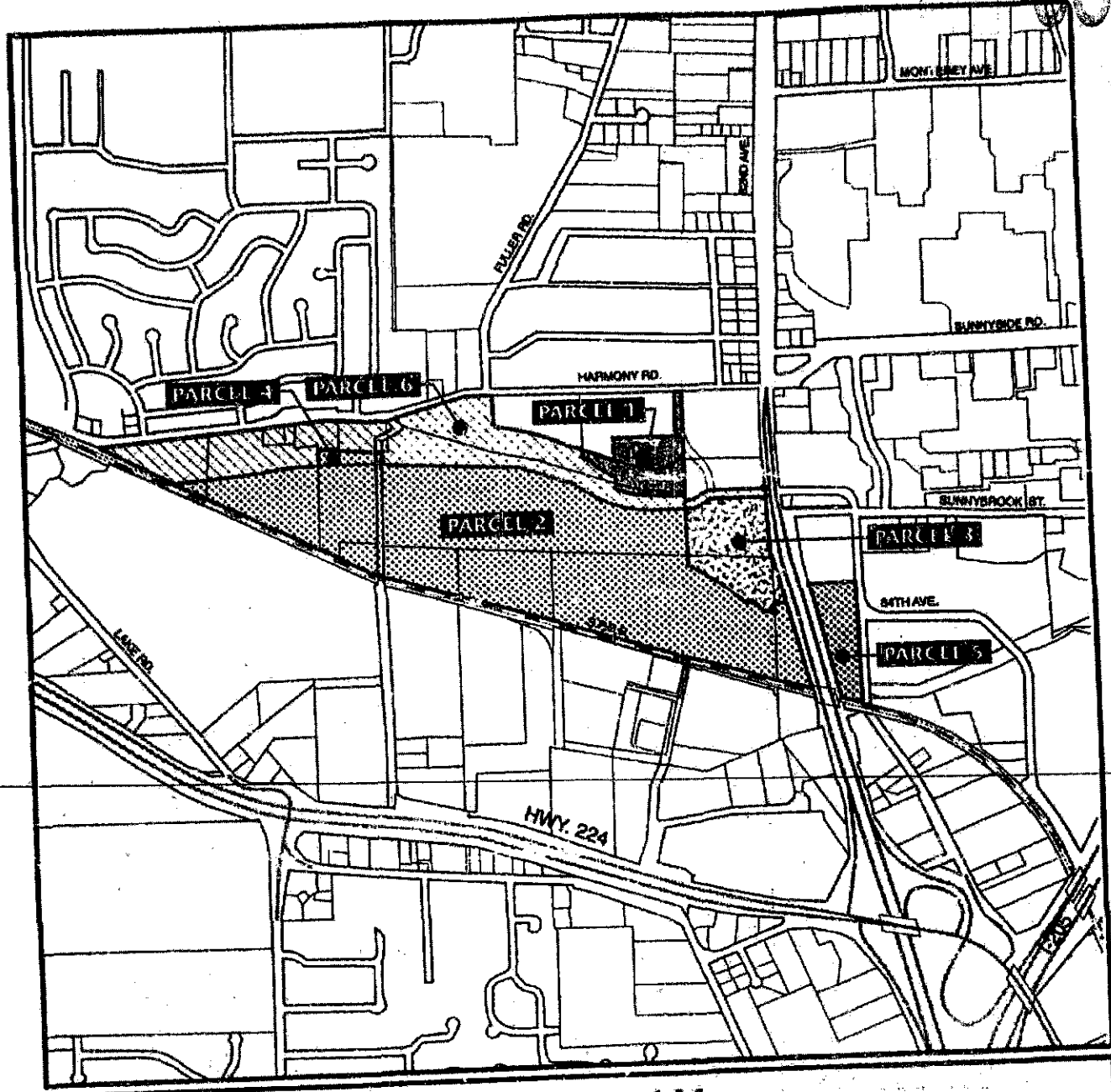
NOW, THEREFORE, IT IS HEREBY ORDERED, that the Director of Business and Community Services, or his designee, be and hereby is authorized to finalize and execute a Deed transferring the 3 Creeks Site to Clackamas County Service District No. 1, and any and all other documents necessary to effectuate the same.

Dated this 13th day of December, 2012

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary



Site and Parcel Map







-  1 NORTH CLACK. PARKS & REC. DIST.
-  2 COUNTY
-  3 COUNTY
-  4 COUNTY/C.C. DEVELOPMENT AGENCY
-  5 COUNTY
-  6 DEVELOPMENT AGENCY

EXHIBIT A



14

Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment
Michael S. Kuenzi, P.E.
Director

December 13, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

APPROVAL OF AMENDMENT No. 1 TO THE AGREEMENT WITH PERKINS COIE LLP FOR LEGAL REPRESENTATION AND SUPPORT REGARDING THE BLUE HERON WEST NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT

Acquisition of the Blue Heron West property by Clackamas County Service District No. 1 and the Tri-City Service District ("Districts") was finalized in July 2012. The property includes approximately 39 acres of land and key environmental assets, including a valuable outfall into the Willamette River, easements and existing environmental infrastructure. The Districts' goal in acquiring the site is to use its superior outfall to meet the challenges of increasingly stringent rules regulating heat discharges into the Willamette River.

WES staff applied for transfer and modification of the existing Blue Heron Paper Company industrial NPDES permit to the Tri-City Service District. The transfer was completed in September 2012, and the modification is still pending.

The Districts entered into an Agreement with Perkins Coie LLP effective April 2012 for legal representation and support regarding the transfer, petition and/or trading of the NPDES permit loads associated with the Blue Heron West outfall. The Oregon Department of Environmental Quality ("DEQ") and the Environmental Protection Agency ("EPA") have signaled their reluctance to move forward with the Blue Heron NPDES permit transfer to Tri-City at this time due to a third party lawsuit against the EPA regarding temperature total maximum daily load limits set in Oregon. The Districts have expended significant effort to persuade DEQ and EPA to move forward with the NPDES permit transfer and revision in spite of the third party lawsuit. In addition, the remedial investigation that is currently underway regarding the cleanup of the former industrial waste lagoon on the Blue Heron West property is a key driver of the need for permitting certainty.

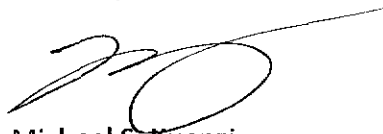
The funds available under the original \$100,000 Agreement with Perkins Coie LLP have been exhausted. The Districts desire that Perkins Coie LLP continue to represent the Districts in the reconfiguration of the Blue Heron industrial NPDES permit as the key value proposition of their

Blue Heron acquisition effort. Amendment No. 1 in the amount of \$100,000, which would bring the total Agreement to \$200,000, is attached for the Board's review. The original Agreement was previously approved by the Board. Funds for this effort are budgeted in the Districts' 2013 Operating Budgets. District Counsel has reviewed the amendment as to form.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners, acting as governing body of Clackamas County Service District No. 1 and governing body of the Tri-City Service District, approve Amendment No. 1 to the Agreement to Furnish Services to Clackamas County Service District No.1 and the Tri-City Service District and authorize the Director of Water Environment Services to execute the Amendment.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Kuenzi', with a long horizontal line extending from the end of the signature.

Michael S. Kuenzi
Director

For information on this issue or copies of attachments, please contact
Chris Storey at 503-742-4623

**AMENDMENT No. 1
TO
AGREEMENT TO FURNISH SERVICES
TO
CLACKAMAS COUNTY SERVICE DISTRICT NO.1
AND
THE TRI-CITY SERVICE DISTRICT**

THIS AMENDMENT NO. 1 to the AGREEMENT TO FURNISH PROFESSIONAL SERVICES (this "Amendment No. 1") is made and entered into on December 13, 2012, by and between CLACKAMAS COUNTY SERVICE DISTRICT NO.1 and the TRI-CITY SERVICE DISTRICT (together, "Districts"), and Perkins Coie LLP, an Oregon limited liability partnership (the "PROFESSIONAL").

WHEREAS, the parties entered into that certain Agreement to Furnish Professional Services effective April 7, 2012 for legal representation and support regarding the transfer, petition and/or trading of NPDES permit loads associated with the Blue Heron Lagoon permit (the "Agreement"); and

WHEREAS, subsequent to the Agreement the Oregon Department of Environmental Quality ("DEQ") and the Environmental Protection Agency ("EPA") signaled their reluctance to move forward with the Blue Heron NPDES permit transfer at this time due to a third party lawsuit against EPA regarding temperature total maximum daily loads ("TMDLs") limits set in Oregon; and

WHEREAS, Professional and Districts have expended significant effort and time to persuade DEQ and EPA to move forward with the NPDES permit transfer and revision despite the third party lawsuit, and exhausted the amounts available for expenditure under the Agreement; and

WHEREAS, Districts desire the Professional to continue its representation of the Districts to assist in the reconfiguration of the Blue Heron NPDES permit as the key value proposition of the Blue Heron acquisition effort;

NOW, THEREFORE, for good and sufficient consideration, the parties hereby agree that:

1. To reflect an increase of total compensation by \$100,000, the Agreement's Paragraph 5.1.1 is hereby replaced in its entirety with:

5.1.1 The DISTRICTS agree to pay the CONSULTANT an amount equal to Two Hundred Thousand and no/100 (\$200,000.00) for the Services as billed monthly. Notwithstanding anything else to the contrary herein, the total compensation under this Agreement shall not exceed Two Hundred Thousand and No/100 Dollars (\$200,000.00) without prior written approval of the DISTRICTS.

2. The Districts and the Professional ratify the remainder of the Agreement and affirm that no other changes are made hereby.

In witness thereof, the parties execute this Amendment No. 1 as of the date set forth above.

PERKINS COIE, LLP

CLACKAMAS COUNTY SERVICE
DISTRICT NO. 1

[Authorized Signatory]

Chair

Address

Date

City, State, Zip Code

TRI-CITY SERVICE DISTRICT

Federal Tax ID Number

Chair

Date

Date



Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Michael S. Kuenzi, P.E.
Director

December 13, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

**CHANGE ORDER NO.3 BETWEEN CLACKAMAS COUNTY SERVICE DISTRICT
NO.1 AND RICHARD PHILLIPS MARINE, INC. FOR THE
HOODLAND EMERGENCY OUTFALL REPAIRS PROJECT**

On May 3, 2012, the Board of County Commissioners approved a construction services contract between Clackamas County Service District No.1 (District) and Richard Phillips Marine, Inc. (RPM), for the Hoodland Emergency Outfall Repair Project for an amount not to exceed \$213,500.

Conditions placed on the contractor for in-water work were established by the Army Corp. of Engineers and were limited to July 15, 2012, to August 31, 2012. On July 16, RPM initiated construction activities in the river. On July 25, Oregon Department of Fish and Wildlife expressed concerns with the means and methods the contractor was using to divert flows and its effectiveness in fish protection. The District was asked to stop work until it could be verified the flow diversion was not trapping fish and whether or not corrective measures for completing the work were necessary. The District complied immediately and asked the contractor to stop work. On July 30, the District received a formal Cease and Desist Order from the Army Corp. of Engineers to allow them time to determine if disturbance of an existing cobble bar in the vicinity of the outfall exceeded the permit and determine what corrective measures would be required. On August 16, the Cease and Desist Order was lifted and the contractor was allowed to complete the project.

District Staff has negotiated Change Order No. 3 for an amount not to exceed \$28,028.39 to reimburse RPM for delay costs associated with equipment rental, standby labor, materials and supplies and administrative costs for the 21-day Cease and Desist Order.

RECOMMENDATION:

For these reasons, District Staff recommends that:

- 1) The Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of Clackamas County Service District No.1, approve Change Order No.3 of the agreement between Richard Phillips Marine, Inc. and Clackamas County Service District No.1 for the Hoodland Emergency Outfall Repairs Project, and
- 2) Authorize the Director of Water Environment Services to execute Change Order No.3 for an amount not to exceed \$28,028.39.

Sincerely,



Michael Kuenzi, PE
Director

For information on this issue or copies of attachments, please contact Trista Crase at (503) 742-4566

Change Order No.3
 Hoodland Emergency Outfall Repairs
 Project P111963



CHANGE ORDER #3

Project No. P111963

Contract Change Item No. 3

Contract Name:	Hoodland Emergency Outfall Repairs	Orig. Contract Amount	\$213,500	Days	110
Owner:	Clackamas County Service District No.1	Prev. Appvd. Changes	\$ 24,220.64	Days	5
Contractor:	Richard Phillips Marine	Amount This Change	\$28,028.39	Days	21
CM/Engineer:	Jim Fisher / Kennedy /Jenks	Revised Contract Amt.	\$265,749.03	Days	136

This Change Order covers changes to the subject contract as described herein. The Contractor shall construct, furnish equipment and materials, and perform all work as necessary or required to complete the Change Order Items for a lump sum price agreed upon between the Contractor and the Owner.


Description of Changes	Increase in Contract Amount (\$)	(Decrease) in Contract Amount (\$)	Contract Time Extension (days)
<u>Equipment on Standby:</u> Rental Equipment on Standby based on monthly rental rates for 21 days due to permitting agencies cease and desist order while the project was under review for compliance.	\$11,068.07		21 days
<u>Standby labor:</u> Standby Labor based on standby rates for 16 days due to permitting agencies cease and desist order while the project was under review for compliance.	\$12,133.00		
<u>Materials and Supplies for 21 days</u>	\$1,171.44		
<u>Administrative overhead for 21 days</u>	\$3,655.88		
Totals:	\$28,028.39		
Net Change in Contract Amount:	\$28,028.39		21 days

The amount of the contract will be increased by the sum of \$28,028.39 and the contract time shall be extended by 21 calendar days. The undersigned Contractor approves the foregoing Change Order as to the changes, if any, in the contract price

Change Order No.3
Hoodland Emergency Outfall Repairs
Project P111963

specified for each item including any and all supervision costs and other miscellaneous costs relating to the change in work, and as to the extension of time allowed, if any, for completion of the entire work on account of said Change Order. The Contractor agrees to furnish all labor and materials and perform all other necessary work, inclusive of that directly or indirectly related to the approved time extension, required to complete the Change Order items. This document will become a supplement of the contract and all provisions will apply hereto. It is understood that the Change Order shall be effective when approved by the Owner.

Attachments: Equipment Rental rates, Contractors Certification of impacted equipment on site, standby labor rates for on site labor, materials and supplies, Administrative Overhead

Accepted:  Richard Phillips Richard Phillips Mike Mc Contractor

Date: 12-4-12

Recommended: _____ /Owner PM
Randy Rosane

Date: _____

Approved: _____ /Director
Mike Kuenzi

Date: _____

Distribution: Owner: two (2) original
Engineer: copy
Contractor: original
CM 10.3.1: original

16



Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Michael S. Kuenzi, P.E.
Director

December 13, 2012

Board of County Commissioners
Clackamas County

Members of the Board:

APPROVAL OF A MUTUAL INVESTMENT AGREEMENT BETWEEN CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 AND THE TRI-CITY SERVICE DISTRICT

Acquisition of the Blue Heron West property by Clackamas County Service District No. 1 and the Tri-City Service District ("Districts") was finalized in July 2012. The property includes approximately 39 acres of land and key environmental assets, including a valuable outfall into the Willamette River, easements and existing environmental infrastructure. The Districts' goal in acquiring the site is to use its superior outfall to meet the challenges of increasingly stringent rules regulating heat discharges into the Willamette River.

The advisory committees for both Districts met with staff to review a proposed intergovernmental agreement, attached, that covers the allocation and splitting of costs for several aspects of the Blue Heron West project. The agreement provides for a 50/50 split on costs related to acquisition, remediation, future capital investment regarding the project, permitting costs and benefits, and any ancillary revenue received during ownership of the site. CCSD#1's RiverHealth Advisory Committee unanimously approved the agreement on November 28, 2012. The Tri-City Advisory Committee unanimously approved the agreement on December 5, 2012.

RECOMMENDATION

Staff respectfully recommends that the Board of County Commissioners, acting as governing body of Clackamas County Service District No. 1 and the governing body of the Tri-City Service District, approve the Mutual Investment Agreement between the Districts regarding the Blue Heron West project.

Sincerely,

Michael S. Kuenzi
Director

For information on this issue or copies of attachments, please contact Chris Storey at 503-742-4623

MUTUAL INVESTMENT AGREEMENT
BETWEEN
CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
AND
TRI-CITY SERVICE DISTRICT

THIS MUTUAL INVESTMENT AGREEMENT (this "Agreement") is entered into this ___ day of _____, 2012 by and between CLACKAMAS COUNTY SERVICE DISTRICT NO. 1, a county service district ("CCSD#1") and TRI-CITY SERVICE DISTRICT, a county service district ("TCSD" and, together with CCSD#1, the "Parties").

RECITALS

WHEREAS, the Clackamas County Board of County Commissioners ("BCC") is the governing body of CCSD#1 and the governing body of the TCSD; and

WHEREAS, the Parties are authorized pursuant to Oregon Revised Statutes ("ORS") 451 to enter into agreements regarding the provision of services to their customers and service areas; and

WHEREAS, the Parties have entered into agreements together from time to time for mutually beneficial arrangements, including the current lease and sharing of facilities at the Tri-City Wastewater Treatment Plant ("TC Plant"); and

WHEREAS, in December 2010 the Blue Heron Paper Company ceased operations and the opportunity for utilization of its Clean Water Act-authorized National Pollution Discharge Elimination Permit ("Blue Heron Permit") as part of the regulatory portfolio of the Parties; and

WHEREAS, the Tri-City Advisory Committee, the Riverhealth Advisory Committee, the Regional Wastewater Treatment Capacity Committee, and the BCC each recommended acquisition of the real property in West Linn containing the Blue Heron treatment lagoon and related outfall to and in the Willamette River (collectively, the "Lagoon Site"); and

WHEREAS, pursuant to those recommendations staff negotiated and the BCC has approved that certain purchase and sale agreement between the Parties and the Blue Heron Bankruptcy Estate selling the Lagoon Site to both CCSD#1 and TCSD (the "Purchase Agreement"); and

WHEREAS, to limit the liability exposure of the Parties staff has negotiated and DEQ has issued on July 17, 2012 a prospective purchaser agreement ("PPA") that requires the Parties to undertake certain remediation efforts at the Lagoon Site in return for immunity from third party lawsuits under applicable environmental laws for

discharges or contamination arising from the site's prior use by the Blue Heron Paper Company or their predecessors in interest; and

WHEREAS, the closing for the transfer of that property occurred on July 18, 2012 and subsequently staff successfully was able to transfer the Blue Heron Permit into the name of TCSD as of August 28, 2012; and

WHEREAS, the joint investment in the acquisition and utilization of the Lagoon Site and the Blue Heron Permit are in the best interests of the Parties;

NOW THEREFORE, the Parties hereby agree as follows:

SECTION 1. ACQUISITION.

1.1 Acquisition Cost Sharing. Pursuant to the Purchase Agreement, the total cost of acquisition of the Lagoon Site was \$1,750,669.20 inclusive of closing costs (the "Lagoon Purchase Price"). The Parties agree that each district is responsible for one-half of the Lagoon Purchase Price in the amount of \$875,334.60.

1.2 Ownership. The Lagoon Site shall be held by the Parties jointly as co-tenants with an undivided one-half interest in the entirety and neither shall exclude the other from access or utilization of the Lagoon Site unless mutually agreed.

SECTION 2. REMEDIATION.

2.1 PPA Obligations. The Parties agree that it is in their mutual best interests to comply with the remediation requirements of the PPA, and each will contribute one-half of the total remediation costs as required for compliance. The Parties agree they will remediate the Lagoon Site sufficient to meet the requirements of the PPA.

2.2 Reports & Compliance. The Parties direct staff to provide updates on the remediation process and utilization of the staff in reasonable intervals to each district's advisory body.

SECTION 3. FUTURE CAPITAL INVESTMENT.

3.1 Future Investment. The Parties agree that there may be additional investment required to fully utilize the Lagoon Site and/or the Blue Heron Permit, including without limitation a pipeline to connect to the outfall located there, pump stations or outfall modification. To the extent necessary and approved as part of each district's budgets and capital plans, the Parties will each contribute one-half the cost of such capital investment.

3.2 Timing & Reports. The Parties direct staff to provide reports at reasonable intervals to each district's advisory committee on the timing, cost and related factors

pertaining to any anticipated capital projects associated with the Lagoon Site and/or the Blue Heron Permit.

SECTION 4. PERMIT SHARING.

4.1 Permit Sharing. The Parties acknowledge that the Blue Heron Permit has been transferred into the name of TCSD to ease the regulatory hurdles in associating that outfall and related regulatory allocations with the TC Plant treatment works where both districts operate facilities. The Parties agree that irrespective of the legal holder of the permit, that both districts are co-owners and beneficial operators of said permit and each shall share equally in the costs and benefits of the Blue Heron Permit as it may be modified from time to time.

4.2 Permit Responsibilities. To the extent any costs, penalties, fines, capital directives, memorandums of agreement and order, reallocations of regulatory values including total maximum daily load ("TMDL") allocations, or any other issues arise from the normal use, operation, or preservation of value of the Blue Heron Permit, that the Parties shall each share equally in said costs, changes or benefits and no district shall gain advantage or disadvantage from the legal designation of permit holdship by TCSD.

4.3 Permit Trading. The Parties acknowledge that given projected growth rate that some portions of the Blue Heron Permit allocations may not be needed for more than a decade, and agree that staff may explore regulatory trading opportunities as a means of reducing the cost of this investment. To the extent any revenue is received from permit trading, the Parties agree that each shall receive one-half of such revenue irrespective of the legal name on the Blue Heron Permit.

SECTION 5. DIVESTURE & REVENUE.

5.1 Potential Divesture. The Parties acknowledge and agree that they undertook acquisition of the Lagoon Site to gain access to the regulatory allocations associated with the Blue Heron Permit, including but not limited to thermal allocations under the mid-Willamette TMDL, and utilization of a superior outfall in a deeper part of the river. This investment was undertaken to avoid a significantly more expensive water reuse capital project. The Parties agree that, if in their joint and collective judgment that the benefits anticipated from pursuing this project no longer outweigh the known costs of the alternative, they may sell off the Lagoon Site and otherwise seek to recoup as much of the investment made pursuant to this Agreement as possible.

5.2 Recovery Shares. If the Parties decide to divest of the Lagoon Site and related assets, they agree that each district will receive one-half of the sale price and related income pertaining to the project.

5.3 Current Revenue. The Districts shall share equally in any revenue received during the period of ownership of the Property, including but not limited to rental revenue received from occupied homes located on the Property. Nothing in this

Agreement shall obligate or prevent the Districts from terminate the leaseholds assigned to them at the time of purchase.

SECTION 6. GENERAL PROVISIONS.

6.1 Term. This Agreement shall commence upon execution hereof and terminate upon the earlier of (i) the sale of all assets related to the Lagoon Site, including the Blue Heron Permit, (ii) the abandonment of the assets by mutual agreement of both districts, or (iii) terminated upon the mutual written consent of the parties.

6.2 Severability and Waiver. In case any one or more of the provisions contained in this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired in any way. One or more waivers by either Party of any provision, term, condition or covenant shall not be construed by the other Party as a waiver of subsequent breach of the same by the other Party.

6.3 Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

6.4 Amendment. The Agreement may be amended at any time by mutual written agreement.

6.5 No Third-Party Beneficiaries. The parties to this Agreement are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons.

6.6 Nonwaiver. Failure by any party at any time to require performance by any other party or parties of any of the provisions hereof shall in no way affect such party's rights hereunder to enforce the same, nor shall any waiver by any party or parties of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

6.7 Governing Laws. This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without giving effect to the conflict of law provisions thereof. Venue in connection with any legal proceeding affecting this Agreement shall be in the Circuit Court of the State of Oregon for Clackamas County.

6.8 Successors and Assigns. This Agreement is to be binding on the successors and assigns of the Parties hereto and is not to be assigned by either Party without first obtaining the written consent of the other. No assignment of this Agreement shall be effective until the assignee assumes in writing the obligations of the assigning Party, and delivers such written assumption to the original Party to this Agreement.