



AGENDA

***Revised**

Added Presentation 1 & 2

Thursday April 4, 2019 - 10:00 AM
BOARD OF COUNTY COMMISSIONERS

Beginning Board Order No. 2019-33

CALL TO ORDER

- Roll Call
- Pledge of Allegiance

I. HOUSING AUTHORITY CONSENT AGENDA

1. Approval of Resolution No. 1937: Housing Authority Annual Plan 2019-2020

II. PRESENTATION

- *1. Proclaiming April as Child Abuse Prevention Month (Rod Cook, Children, Families & Community Connections)
- *2. Proclaiming April 2019 as Grange Month in Clackamas County (BCC)

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

IV. PUBLIC HEARINGS *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the department or 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. Board Order No. _____ for Boundary Change Proposal CL 17-015 Annexation to Tri-City Service District (Nate Boderman, County Counsel, Ken Martin, Boundary Change Consultant)
2. Board Order No. _____ for Boundary Change Proposal CL 17-018 Annexation to Sunrise Water Authority (Nate Boderman, County Counsel, Ken Martin, Boundary Change Consultant)
3. Board Order No. _____ for Boundary Change Proposal CL 18-013 Annexation to Clackamas County Service District No. 1 (Nate Boderman, County Counsel, Ken Martin, Boundary Change Consultant)
4. Board Order No. _____ for Boundary Change Proposal CL 18-014 Annexation to Clackamas County Service District No. 1 (Nate Boderman, County Counsel, Ken Martin, Boundary Change Consultant)

V. BOARD DISCUSSION ITEMS *(The following items will be individually discussed by the Board only, followed by Board action.)*

Disaster Management

1. Resolution No. _____ Adopting the Updates to the 2019 Clackamas County Multi-Jurisdictional Natural Hazards Mitigation Plan (Nancy Bush, Disaster Management)

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

A. Health, Housing & Human Services

1. Authorization to Sign Grant Award Documents from the US Department of Housing & Urban Development for 2019-2020 Continuum of Care Program Funding – *Housing & Community Development*

B. Department of Transportation & Development

1. Approval of an Intergovernmental Agreement with the City of Tualatin regarding a transfer of a portion of Borland Road
2. Approval of a Contract with D&D Concrete and Utilities, Inc. for the Torbank (River Road-Trolley Trail) Sidewalks Project – *Procurement*

C. Elected Officials

1. Approval of Personal Services Contract Amendment No. 1 with U.S. Bank to Provide Banking Services – County Treasurer via Procurement
2. Request by the Clackamas County Sheriff's Office to enter into an Intergovernmental Agreement with Oregon Department of Human Services for Funding to Conduct a Child Abuse & Family Violence Training – *Sheriff's Office*

D. Technology Services

1. Approval for a Service Level Agreement with Oregon City School District for the lease of Dark Fiber

VII. DEVELOPMENT AGENCY

1. Approval of an Intergovernmental Agreement for Right-of-Way Services with the Oregon Department of Transportation for the CRC Mobility Improvement Project
2. Execution of a Property Line Adjustment Deed with Pat Murphy and Dyan Murphy to Adjust Approximately 0.145 Acres on Property Located on Capps Rd. West of SE 120th Ave.
3. Execution of a Property Line Adjustment Deed with Pat Murphy and Dyan Murphy to Adjust Approximately 0.014 Acres on Property Located on Capps Rd. West of SE 120th Ave.
4. Acceptance of a Quitclaim Deed from Pat Murphy and Dyan Murphy Related to Property Located on Capps Road West of SE 120th Ave.

VIII. COUNTY ADMINISTRATOR UPDATE

IX. COMMISSIONERS COMMUNICATION

April 4, 2019

Housing Authority of Clackamas County
Board of Commissioners

Members of the Board:

Approval of Resolution #1937: Housing Authority Annual Plan 2019-2020

Purpose/Outcomes	Approval of the Housing Authority of Clackamas County's (HACC) Annual Plan.
Dollar Amount and Fiscal Impact	\$13,405,000 for Section 8 Voucher funds, \$2,249,000 in Public Housing funds and \$1,300,000 in Capital Grants Program funds
Funding Source	U.S. Department of Housing and Urban Development No County General Funds are involved.
Duration	Effective July 1, 2019 through June 30, 2020
Previous Board Action	2018-2019 Annual Plan approved by the HACC Board on April 5, 2018 by Resolution No. 1928
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Ensure safe, healthy and secure communities 2. Individuals and families in need are healthy and safe 3. Grow a vibrant community 4. Sustainable and Affordable Housing 5. Build public trust through good government
Contact Person	Jill Smith, HACC Executive Director (503) 742-5336
Contract No.	N/A

BACKGROUND:

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests the approval of Resolution #1937, which approves the Housing Authority's Annual Plan. A public hearing was held on March 28th, 2019, to receive and consider public comments on HACC's Plan, however, no comments were received.

The Annual Plan is effective July 1st, 2019. The purpose of the Plan is to provide an annual update to HUD (U.S. Department of Housing and Urban Development) regarding the Housing Authority's policies, rules, and requirements concerning its operations, programs and services. The Annual Plan can be amended during the implementation year by calling a public hearing in front of the Housing Authority Board of Commissioners and by providing notification of the amendment of modification to HUD. The amendment will be approved in accordance with HUD's plan review procedures, as provided in the Code of Federal Regulations (CFR) 903.23.

The Plan meets the following requirements of the Quality Housing and Work Responsibility Act (QHWRA) of 1998:

- The Annual Plan was developed in consultation with the Resident Advisory Board (RAB).
- The RAB is made up of residents from Public Housing and Section 8 programs. The RAB met on January 16th, 2019 to review the Annual Plan.
- HACC posted a public notice opening the Annual Plan for public review and comments from January 19, 2019 through March 5th, 2019.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF THE HOUSING AUTHORITY OF CLACKAMAS COUNTY, OREGON**

In the Matter of Approving the
Housing Authority's Annual Plan,
related Certifications and
Attachments



Resolution No. 1937
Page 1 of 1

Whereas, the Housing Authority of Clackamas County (HACC), Oregon has developed an Annual Plan; and

Whereas, the Annual Plan must be updated each year, while the Five Year Plan is developed every five years; and

Whereas, the Annual Plan and its attachments, was developed using the required HUD templates with input and recommendations from an established Resident Advisory Board (RAB) on January 16, 2019; and

Whereas, the Annual Plan and its attachments were advertised in the Oregonian for public review and comment from January 19, 2019 through March 5, 2019; and

Whereas, the Annual Plan and its attachments were discussed and testimony was taken at a public hearing in front of the HACC Board of Commissioners on March 28, 2019; and

Whereas, HUD requires HACC Board approval in the form of a board resolution; and

Whereas, the Annual Plan, related certifications and attachments are to be submitted to HUD at least 75 days prior to the effective date, July 1, 2019; and

NOW THEREFORE, IT IS HEREBY ORDERED that The Board of Commissioners for the Housing Authority of Clackamas County reviewed HACC's Annual Plan and formally approves the Annual Plan, related Certifications and Attachments, and the Executive Director of the Housing Authority is authorized to submit these documents to HUD.

Motion was made by _____ and seconded by _____

DATED this 4 day of April, 2019

**BOARD OF COUNTY COMMISSIONERS OF THE
HOUSING AUTHORITY OF CLACKAMAS COUNTY, OREGON**

Chair

Recording Secretary

Civil Rights Certification
(Qualified PHAs)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB Approval No. 2577-0226
Expires 02/29/2016

Civil Rights Certification

Annual Certification and Board Resolution

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official, I approve the submission of the 5-Year PHA Plan for the PHA of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the public housing program of the agency and implementation thereof:

The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those program, addressing those impediments in a reasonable fashion in view of the resources available and working with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.

Housing Authority of Clackamas County
PHA Name

OR001
PHA Number/HA Code

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official **JIM BERNARD**

Title **HOUSING AUTHORITY BOARD CHAIR**

Signature

Date

**Certifications of Compliance with
PHA Plans and Related Regulations
(Standard, Troubled, HCV-Only, and
High Performer PHAs)**

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 02/29/2016

**PHA Certifications of Compliance with the PHA Plan and Related Regulations including
Required Civil Rights Certifications**

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the 5-Year and/or X Annual PHA Plan for the PHA fiscal year beginning 7/1/2019, hereinafter referred to as "the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Resident Advisory Board or Boards in developing the Plan, including any changes or revisions to the policies and programs identified in the Plan before they were implemented, and considered the recommendations of the RAB (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
5. The PHA certifies that it will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
6. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those programs, addressing those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.
7. For PHA Plans that includes a policy for site based waiting lists:
 - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2010-25);
 - The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
 - Adoption of a site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
 - The PHA shall take reasonable measures to assure that such a waiting list is consistent with affirmatively furthering fair housing;
 - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR part 903.7(c)(1).
8. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
9. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
10. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
11. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
12. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).

April 4, 2019

Board of Commissioners
Clackamas County

Presentation
April is Child Abuse Prevention Month

Purpose/Outcomes	Update the Board about nationally recognized Child Abuse Prevention Month and highlight the collaborative work that is being done by state, county and local non-profits to prevent and address child abuse.
Dollar Amount and Fiscal Impact	No fiscal impact to the County – the intent is to educate and increase awareness of the issue and to encourage communities to take action to prevent child abuse and neglect.
Funding Source	N/A
Duration	April is dedicated to Child Abuse Prevention, but programming occurs throughout the year.
Previous Board Action	The Board has supported and promoted Child Abuse Prevention Month and highlighted programs that serve these vulnerable children.
Strategic Plan Alignment	<ul style="list-style-type: none"> • Individuals and families in need are healthy and safe • Ensure safe, healthy and secure communities
Contact Person	Rodney A. Cook, Director Children, Youth & Families Division 503-650-5677
Contract No.	N/A

BACKGROUND:

Preventing child abuse and neglect is a community responsibility that depends on involvement from people throughout the community. According to the Child Welfare Data Book 2017 prepared by Oregon Department of Human Services:

- In Oregon, there were 11,077 child victims of abuse/neglect in 2017.
- There were 511 child victims of abuse/neglect in Clackamas County in 2017.
 - ❖ 54% of the cases involved Neglect
 - ❖ 50% - Threat of Harm
 - ❖ 13% - Physical Abuse
 - ❖ 12% - Sexual Abuse
 - ❖ 3.5% - Mental Injury
 - ❖ Many children suffer more than one type of abuse

Fortunately, the child abuse rate in Clackamas County has been declining over the past three years and we must continue in our efforts to reduce the incidence of child abuse.

Whether suffering neglect, harsh physical punishment, threat of harm, sexual abuse, or psychological trauma, the children who survive carry the scars of their abuse for the rest of their lives. Research shows that in addition to the direct damage caused to children, child abuse/neglect can impact their health and well-being in the long term by increasing risk behaviors such as substance abuse, academic failure, and criminal activity, and can result in serious health problems such as heart disease and obesity.

Healthy Families. Strong Communities.

Child maltreatment most often occurs when families find themselves in stressful situations without community resources or the knowledge or ability to cope. The majority of child abuse cases stem from situations and conditions that are preventable when community programs and systems are available, engaged, and supportive. Communities that care about early childhood development and parental support are more likely to foster nurturing families and healthy children.

We would like to acknowledge agencies that have partnered together to create a continuum of services that support Clackamas County's goal of ensuring safe, healthy and secure communities. Some of these include:

- Local Offices of Oregon Department of Human Services – Child Protective Services
- Clackamas County Early Learning Hub
- Clackamas County Sheriff's Office – Child Abuse and Family Violence Summit
- Children of Incarcerated Parents Committee
- Children's Relief Nursery – Lifeworks NW
- Healthy Families of Clackamas County
- Children's Center of Clackamas County
- Clackamas Parenting Together Parent Education Hub
- Court Appointed Special Advocates
- Clackamas County Multi-Disciplinary Team (includes Sheriff's Office, District Attorney's Office, Oregon Department of Human Services, and other county agencies)

We call upon all Clackamas County citizens to observe Child Abuse Prevention month by recognizing those who work every day to keep our children safe, and by taking action to make our communities healthy places for children to grow and thrive.

Respectfully submitted,

Richard Swift, Director
Health, Housing & Human Services



*Proclaiming April 2019
as Child Abuse Prevention Month
in Clackamas County*

Whereas, preventing child abuse and neglect is a community responsibility that depends on involvement from people throughout the community, and

Whereas, according to the 2017 Child Welfare Data Book, in Oregon, there were 11,077 child victims of abuse/neglect in 2017, and

Whereas, there were 511 child victims of abuse/neglect in Clackamas County in 2017, many children suffer more than one type of abuse, and

Whereas, the child abuse rate in Clackamas County has been declining over the past three years and we must continue in our efforts to reduce the incidence of child abuse, and

Whereas, whether suffering neglect, harsh physical punishment, threat of harm, sexual abuse, or psychological trauma, the children who survive carry the scars of their abuse for the rest of their lives, and

Whereas, research shows, child abuse and neglect not only directly harm children, but also increase the likelihood of future risky behaviors such as criminal activities, substance abuse, academic failure, and health problems such as heart disease and obesity, and

Whereas, we know, child maltreatment occurs when people find themselves in stressful situations, without community resources, and don't know how to cope. The majority of child abuse cases stemmed from situations and conditions that can be preventable when community programs and systems are engaged and supportive. A community that cares about early childhood development, parental support, and maternal mental health, is more likely to foster nurturing families and healthy children, and

Whereas, we would like to recognize the effective child abuse prevention programs in our community that have partnered together to create a continuum of services that support the county's goal of ensuring safe, healthy and secure communities. Successful programs and initiatives in Clackamas County include:

Local Offices of Oregon Department of Human Services – Child Protective Services
Clackamas County Early Learning Hub
Clackamas County Sheriff’s Office – Child Abuse and Family Violence Summit
Children of Incarcerated Parents Committee
Children’s Relief Nursery – Lifeworks NW
Healthy Families of Clackamas County
Children’s Center of Clackamas County
Clackamas Parenting Together Parent Education Hub
Court Appointed Special Advocates
Clackamas County Multi-Disciplinary Team (includes Sheriff’s Office, District Attorney’s Office, Oregon Department of Human Services, and other county agencies)

Now therefore, the Clackamas County Board of Commissioners do hereby Proclaim April 2019 as Child Abuse Prevention Month and we call upon all Clackamas County citizens to observe this month and every day by demonstrating our gratitude to those who work to keep our children safe, and by taking personal action in each of our own communities to make them healthy places where children can grow and thrive.

Dated this 4th day of April, 2019

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Jim Bernard
Chair

Sonya Fischer
Commissioner

Ken Humberston
Commissioner

Paul Savas
Commissioner

Martha Schrader
Commissioner



Proclaiming April 2019 as Grange Month in Clackamas County

Whereas, since 1867, the Grange has been a grassroots movement for the benefit of American families and local communities; and

Whereas, Grange programs are family oriented, beginning with Junior Grange for children of ages 4 through 13 for the purpose of getting children involved with their community, with agriculture, and with good citizenship; and

Whereas, Grange activities support personal development, leadership seminars, and foster a wide range of useful skills and abilities for personal growth through social, cultural, and educational programs; and

Whereas, Grange members attend public meetings, inform themselves of local, state, and national issues, and speak on behalf of those working in agriculture, producing food, fuel, and fiber; and

Whereas, members of the 16 active granges in Clackamas County ignite a passion in the community for service and involvement and outcomes of Grange advocacy are felt by nearly every citizen of Clackamas County today.

Now, therefore, the Clackamas County Board of Commissioners do hereby Proclaim April 2019 as Grange Month in Clackamas County. We urge the Citizens of the County to recognize and participate in Grange activities and support Clackamas County Granges.

Dated this 4th day of April 2019

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Jim Bernard
Chair

Sonya Fischer
Commissioner

Ken Humberston
Commissioner

Paul Savas
Commissioner

Martha Schrader
Commissioner



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

April 4, 2019

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 17-015
Annexation to Tri-City County Service District

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
 Assistants

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Nate Boderman, Assistant County Counsel
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Tri-City County Service District is such a district.

Proposal No. CL 17-015 is a proposed annexation to Tri-City County Service District ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Oregon City has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the southern part of the District. The territory contains 0.96 acres, 3 single family dwellings, a population of 6 and is valued at \$347,533.

REASON FOR ANNEXATION

The property owners desired sewer service for one single family dwelling with a failed septic system. To acquire sewer service from the City's existing sewer line in South End Road the owners were required to annex to the City. Under the agreement between the City and Tri-City County Service District once the City annexation was complete, annexation to the District was required.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.


There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served (major transmission and treatment) by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with Clackamas County Service District # 1 and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION:

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-17-015, annexation to Tri-City County Service District.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal No.
CL 17-015



Board Order No. _____

Whereas, this matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Tri-City County Service District; and

Whereas, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, it further appearing that this matter came before the Board for a public hearing on April 4, 2019 and that a decision of approval was made on April 4, 2019;

NOW, THEREFORE IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 17-015 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Tri-City County Service District as of April 4, 2019.

DATED this 4th day of April, 2019.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 0.96 acres, 3 single family dwellings, a population of 6 and is valued at \$347,533.
2. The property owners desired sewer service for one single family dwelling with a failed septic system. To acquire sewer service from the City's existing sewer line in South End Road the owners were required to annex to the City. Under the agreement between the City and Tri-City County Service District once the City annexation was complete, annexation to the District was required.
3. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

4. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
 1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
 2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
 3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the reviewing entity [the County Board] must apply the

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Findings 7 & 8. No concept plans cover this area.

5. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states

that Metro shall “ . . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The territory is inside the City of Oregon City and has a planning designation of MD – Medium Density Residential. Upon annexation to the City the property owner chose to retain the County’s FU-10 zoning on the site.
9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. The property is served from the City’s 8-inch sewer line in South End Road. WES, as the service provider for the District, will provide major transmission and treatment of the sewerage.
11. The territory is with Clackamas River Water but is currently served by an on-site well.
12. The area receives police service from the City of Oregon City.
13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.

14. The area to be annexed receives parks and recreation service from the City of Oregon City.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 4 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the City and the District have agreed which entity will provide which aspects of sewer service to the area.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Oregon City Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



AKS ENGINEERING & FORESTRY, LLC
 12955 SW Herman Road, Suite 100, Tualatin, OR 97062
 P: (503) 563-6151 F: (503) 563-6152

AKS Job #3062

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

EXHIBIT B

Annexation Description

A portion of the Samuel Pomeroy Donation Land Claim No. 39, located in the Northwest One-Quarter of Section 12, Township 3 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the northeast corner of the Milton Brown Donation Land Claim No. 38, also being on the southerly line of the plat "Sunnyridge Acres No. 3", Plat No. 1731, Clackamas County Plat Records; thence along said southerly line, South 74°00'00" East 148.03 feet to the northwesterly corner of Document Number 2015-081437, Clackamas County Deed Records, and the Point of Beginning; thence continuing along said southerly line, South 74°00'00" East 197.15 feet to the northwesterly corner of Document Number 82-15019, Clackamas County Deed Records; thence along the northwesterly line of said deed, South 44°18'00" West 160.00 feet to the most westerly corner of said deed; thence along the southwesterly line of said deed, South 53°56'00" East 284.18 feet to the northwesterly right-of-way line of S South End Road (30.00 feet from centerline), also being on the City of Oregon City city limits line; thence along said northwesterly right-of-way line and said city limits line, South 44°18'00" West 21.81 feet to the northeasterly corner of Document Number 2009-023044, Clackamas County Deed Records; thence along the northeasterly line of said deed, North 61°22'00" West 417.76 feet to the most westerly corner of said Document Number 2015-081437; thence along the northwesterly line of said deed, North 26°09'00" East 168.86 feet to the Point of Beginning.

The above described tract of land contains 41,197 square feet, more or less.

9/12/2018

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

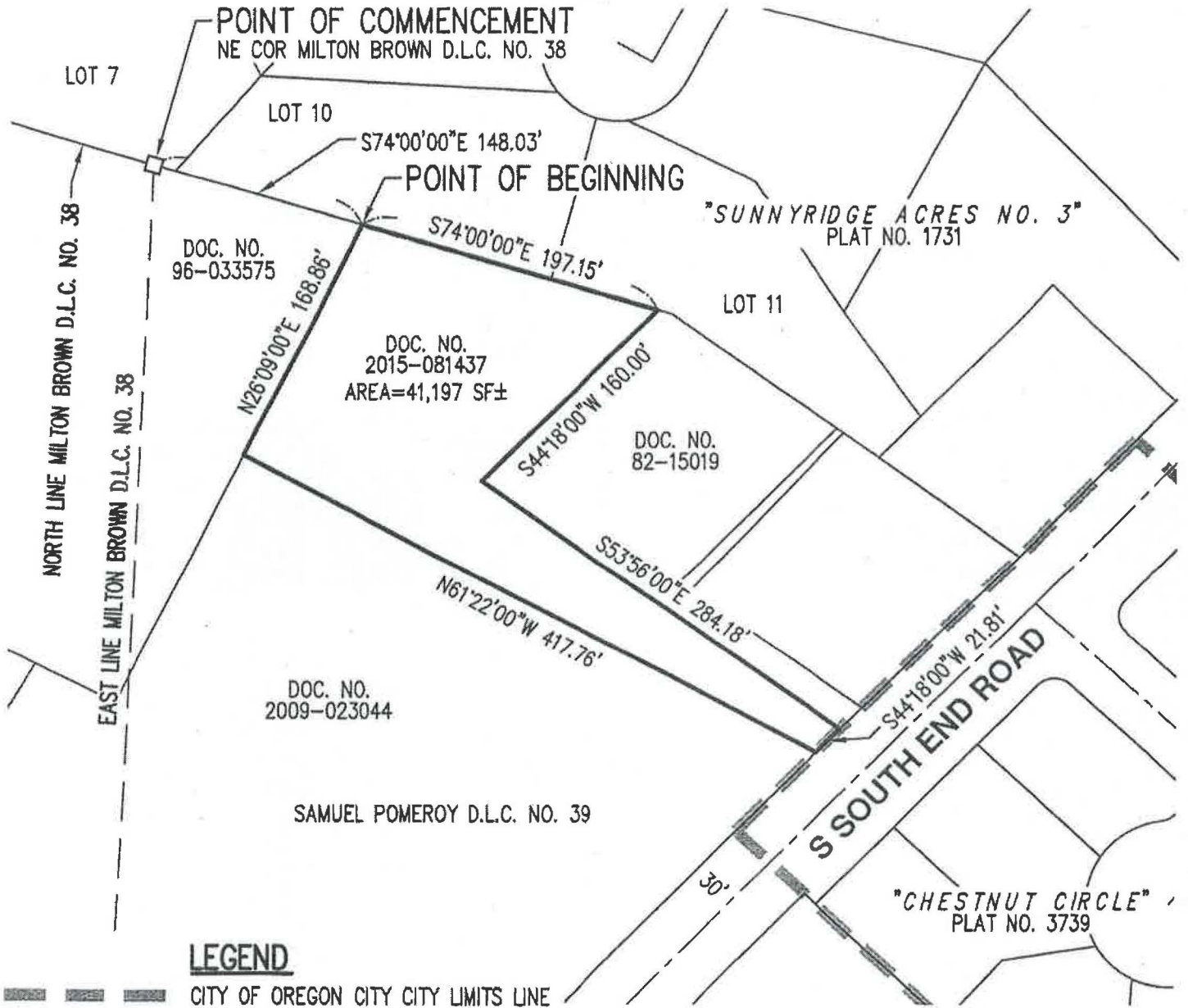
Nick White

OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/20

EXHIBIT C

A PORTION OF THE SAMUEL POMEROY DONATION LAND CLAIM NO. 39,
 LOCATED IN THE NORTHWEST 1/4 OF SECTION 12,
 TOWNSHIP 3 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON



9/12/2018

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Nick White

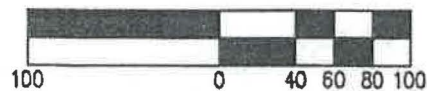
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/20

PREPARED FOR

CITY OF OREGON CITY
221 MOLALLA AVENUE, SUITE 200
OREGON CITY, OR 97045

SCALE: 1"=100 FEET



CITY OF OREGON CITY ANNEXATION
(ORD. #18-1011 AN 18-0001)

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

P: 503.563.6151 F: 503.563.6152 aks-eng.com



EXHIBIT
A

DRWN: WCB
CHKD: NSW

AKS JOB:
3062



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

April 4, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 17-018
Annexation to Sunrise Water Authority

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Nate Boderman, Assistant County Counsel
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a water authority and Sunrise Water Authority is such a district.

Proposal No. CL 17-018 is a proposed annexation to Sunrise Water Authority ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the central part of the District. The territory contains 3.42 acres, is vacant and is valued at \$189,371.

REASON FOR ANNEXATION

The property owners desire water service for an 18-lot subdivision proposed for the site.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the County Comprehensive Plan as stated in the findings attached. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration.

RECOMMENDATION:

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-17-018, annexation to Sunrise Water Authority.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal No.
CL 17-018



Board Order No. _____

Whereas, this matter coming before the Board at this time, and it appearing that all of the owners of the land in the territory to be annexed have petitioned to annex the territory to Sunrise Water Authority; and

Whereas, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, it further appearing that this matter came before the Board for a public hearing on April 4, 2019 and that a decision of approval was made on April 4, 2019;

NOW, THEREFORE IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 17-018 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Sunrise Water Authority as of April 4, 2019.

DATED this 4th day of April, 2019.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 3.42 acres, is vacant and is valued at \$189,371.
2. The property owners desire water service for an 18-lot subdivision proposed for the site.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the County Comprehensive Plan as stated in Finding No. 6. No concept plans cover this area.

4. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
5. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall " . . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195." ORS 197.015 says "Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

6. The PUBLIC FACILITIES AND SERVICES Element of the County Comprehensive Plan contains the following Goal:

POLICIES

Water

* * *

- 15.0 Require water purveyors in urban areas to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers, and storm drainage facilities, necessary to serve additional lands.

The County planning designation is Low Density Residential and the area is zoned R-7.

7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
8. This property is within Clackamas County Service District # 1. WES, as the service provider for that district, has a 12 inch sewer line in Highway 224 on the west edge of the property and an 8 inch sewer line in SE Tallina.
9. The Sunrise Water Authority has a 12 inch water line in Highway 224 on the west edge of the property and an 8 inch water line in Tallina on the east side of the property.
10. The area receives police service from the Clackamas County Sheriff's Department.
11. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 3 & 7 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The area is served by the Sunrise Water Authority and no other entity has the capability of serving this site.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements

affecting the area. The Board has reviewed the applicable comprehensive plan (Clackamas County's Comprehensive Plan) and concludes this proposal complies with it. All other necessary urban services can be made available.

4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District has service available to the area to be annexed as noted in Finding No. 9. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



CENTERLINE CONCEPTS
LAND SURVEYING, INC.

19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045
P. 503-650-0188 F. 503-650-0189

Exhibit "B"
Annexation
Legal Description

Parcel 1, Partition Plat No. 2005-101, Plat Records of Clackamas County, and a portion of Oregon State Highway 224, located in the Northeast one-quarter of Section 13, Township 2 South, Range 2 East of the Willamette Meridian, County of Clackamas, State of Oregon, being more particularly described as follows:

BEGINNING at a 5/8" iron rod with a yellow plastic cap marked "LS 2147" found at the southeast corner of Parcel 2 of Partition Plat No. 2005-101, Clackamas County Plat Records; thence along the east line of Parcel 2 of said Partition Plat No. 2005-101, North 05°01'31" West, 147.39 feet to the northeast corner thereof; thence along the north line of said Parcel 2, and continuing along the westerly extension thereof, South 84°58'22" West, 237.41 feet to the centerline of Oregon State Highway 224, being 30.00 feet east of the west right of way line thereof when measured at right angles; thence along said centerline of Oregon State Highway 224, North 07°01'21" West, 300.38 feet to the intersection of said centerline with the westerly extension of the north line of Parcel 1 of said Partition Plat No. 2005-101; thence along said westerly extension, and continuing along the south line of that Tract of land described in Deed recorded as Document No. 2017-036869, Clackamas County Deed Records, being coincident with the north line of said Parcel 1, South 87°58'04" East, 328.30 feet to the southwest corner of Lot 11, "Engert Ridge" (Plat No. 3584), Clackamas County Plat Records; thence along the following seven courses along the west line of the plat of "Shadow Mountain", Plat No. 3879, Clackamas County Plat Records: South 20°30'55" East, 127.44 feet; thence South 16°37'25" East, 171.51 feet; thence South 17°19'32" East, 8.93 feet; thence South 03°57'04" East, 75.61 feet; thence South 02°49'16" West, 46.44 feet; thence South 21°14'24" West, 57.13 feet; thence South 00°33'18" West, 85.13 feet to the southwest corner of Lot 8 of said "Shadow Mountain"; thence along the north line of that Tract of land described as Parcel 1 in Deed recorded as Document No. 2016-016176, Clackamas County Deed Records, being coincident with the south line of said Partition Plat No. 2005-101, and continuing along westerly extension thereof, North 88°00'44" West, 338.05 feet to said centerline of Oregon State Highway 224, being 30.00 feet east of the west right of way line thereof, when measured at right angles; thence along said centerline, North 07°01'21" West, 108.68 feet to the intersection of said centerline with the westerly extension of the south line of said Parcel 2 of said Partition Plat No. 2005-101; thence along said westerly extension of the south line of said Parcel 2, and continuing along the south line of said Parcel 2, North 84°58'45" East, 232.28 feet to the **POINT OF BEGINNING**.

Containing 165,345 square feet, or 3.796 acres.

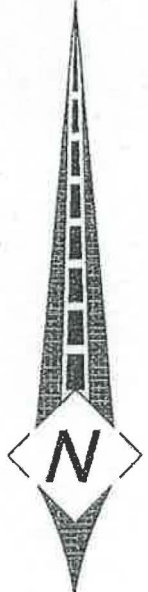
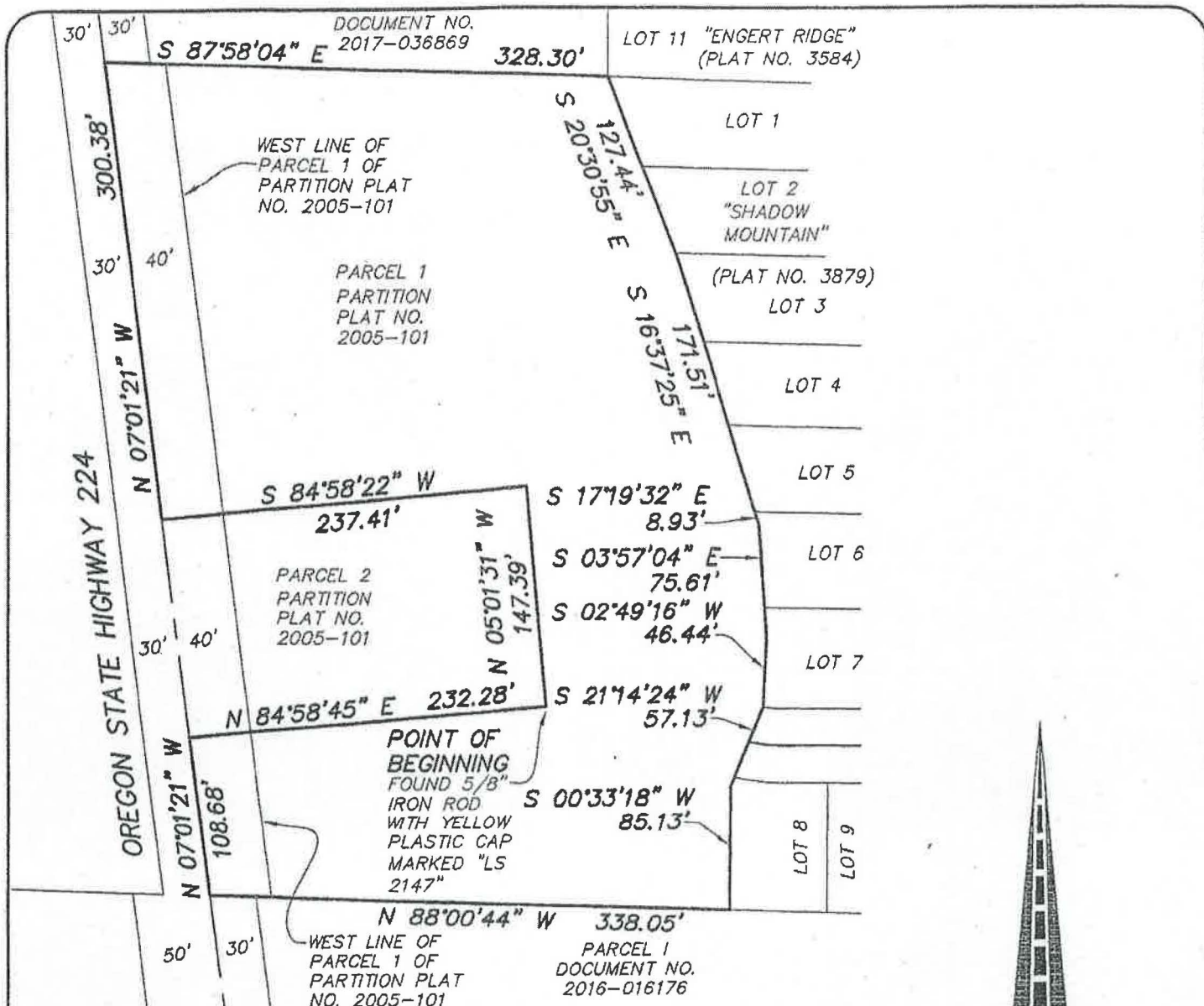
27 NOV 13

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 13, 2004
TOBY G. BOLDEN
60377LS

RENEWS: 31 DEC 19



SIGNED ON: 02 July 13

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
 JULY 13, 2004
TOBY G. BOLDEN
 60377LS

RENEWS: DECEMBER 31, 2019

CLIENT: TALIESIN HOMES
 ORIG. DATE: 11-26-18
 DRAWN BY: RLC
 SHEET No.: 1 OF 1

EXHIBIT 'C'
ANNEX TO SUNRISE WATER AUTHORITY
 NE 1/4 SEC 13, T2S, R2E, WM, CLACKAMAS COUNTY, OREGON
 SCALE: 1"=100'

CENTERLINE CONCEPTS
 LAND SURVEYING, INC.
 19378 MOLALLA AVE., SUITE 120
 OREGON CITY, OREGON 97045
 PHONE 503.650.0188 FAX 503.650.0189



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

April 4, 2019

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-013
Annexation to Clackamas County Service District No. 1

Stephen L. Madkour
 County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
 Assistants

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Nate Boderman, Assistant County Counsel
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 18-013 is a proposed annexation to Clackamas County Service District No. 1 ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the central part of the District. The territory contains 9.67 acres, one single family dwelling and is valued at \$672,760.

REASON FOR ANNEXATION

The property owners desire sewer service for eventual single-family development within the City of Happy Valley.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

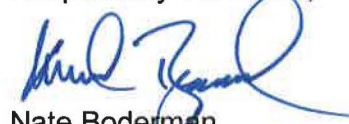
There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION:

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-18-038, annexation to Clackamas County Service District No. 1.

Respectfully submitted,



Nate Bodeman
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal No.
CL 18-013



Board Order No. _____

Whereas, this matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas Service District No. 1; and

Whereas, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, it further appearing that this matter came before the Board for a public hearing on April 4, 2019 and that a decision of approval was made on April 4, 2019;

NOW, THEREFORE IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 18-013 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of April 4, 2019.

DATED this 4th day of April, 2019.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 9.67 acres, one single family dwelling and is valued at \$672,760.
2. The property owners desire sewer service for eventual single-family development within the City of Happy Valley.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

4. Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:
 1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
 2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
 3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in Findings 7 & 8. No concept plans cover this area.

5. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992

Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The territory is inside the City of Happy Valley and has a zoning designation of R-20.
9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. WES, as the service provider for the District, has a sewer line in SE Ridgecrest Court on the east and in Mt Scott Blvd. on the west.
11. The territory is within the Sunrise Water Authority which has water lines available to serve the site.
12. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
14. The area to be annexed receives parks and recreation service from either the City of Happy Valley or North Clackamas Parks and Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 4 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



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

AKS Job #4232

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

EXHIBIT B

Clackamas County Service District No. 1 Annexation Description

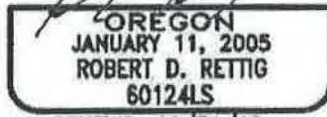
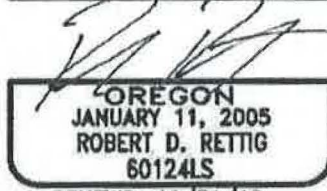
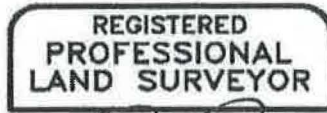
A tract of land, and a portion of right-of-way, located in the Northwest One-Quarter of Section 26 and in the Northeast One-Quarter of Section 27, Township 1 South, Range 2 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the southwesterly corner of Lot 11 of the plat "Scott Crest East No. 4", Plat No. 1798, Clackamas County Plat Records, also being on the easterly line of Document Number 85-40749, Clackamas County Deed Records (CCDR); thence along said easterly line, South 01°19'50" West 50.00 feet to the northeasterly corner of Parcel 2 of Document Number 2017-075231, CCDR and the Point of Beginning; thence along the easterly line of said Parcel 2, South 01°19'50" West 85.42 feet to the northerly northwesterly corner of Parcel I of Document 2016-080757, CCDR, and the Clackamas County Service District No. 1 (CCSD#1) limits line; thence along the northwesterly line of said Parcel I and said CCSD#1 limits line, South 49°48'38" West 150.94 feet; thence continuing along said northwesterly line and said CCSD#1 limits line, South 47°02'11" West 194.20 feet to the westerly northwesterly corner of said Parcel I; thence along the westerly line of said Parcel I and said CCSD#1 limits line, South 01°20'06" West 25.00 feet to the southwesterly corner of said Parcel I; thence along the southerly line of said Parcel I and said CCSD#1 limits line, South 89°20'10" East 60.21 feet to the northwesterly corner of Parcel 3 of Document Number 2017-075231, CCDR; thence along the westerly line of said Parcel 3 and said CCSD#1 limits line, South 00°40'44" West 141.11 feet to the southwesterly corner of said Parcel 3, also being on the northerly line of Document Number 2005-019111, CCDR; thence along said northerly line and the northerly line of Document Number 2015-054766 and said CCSD#1 limits line, North 89°19'01" West 223.23 feet to the northwesterly corner of said Document Number 2015-054766; thence along the westerly line of said deed and said CCSD#1 limits line, South 00°54'07" West 78.17 feet to the northeasterly corner of Document Number 2007-013393, CCDR; thence along the northerly line of said deed and the northerly line of Document Number 2018-006971, CCDR, and said CCSD#1 limits line, North 89°11'05" West 178.27 feet to the southerly southwesterly corner of Parcel I of Document Number 2017-075231, CCDR; thence along the southerly westerly line of said Parcel I, North 00°32'45" West 142.38 feet to the centerline of a Public Road per Book 538, Page 370, CCDR; thence along said centerline and said CCSD#1 limits line, North 87°31'14" West 444.38 feet to the easterly right-of-way of Mt. Scott Boulevard (30.00 feet from centerline); thence leaving said CCSD#1 limits line along said easterly right-of-way line, North 19°30'31" West 16.18 feet to the southwesterly corner of Document Number 92-24710, CCDR, also being on the northerly right-of-way line of said Public Road per Book 538, Page 370 (15.00 feet from centerline); thence along said northerly right-of-way line, South 87°31'14" East 152.13 feet to the southeasterly corner of Document Number 2014-054402, CCDR; thence along the easterly line of said deed, North 04°22'56" East 586.14 feet to the northwesterly corner of Parcel I of Document Number 2017-075231, CCDR; thence along the northerly line of said Parcel I, South 88°28'10" East 314.69 feet to the northerly northeasterly corner of said Parcel I, also being on the westerly line of Document Number 85-40749, CCDR; thence along said westerly

line, South 01°13'54" West 183.01 feet to the southwesterly corner of said deed; thence along the southerly line of said deed, South 89°07'11" East 547.53 feet to the Point of Beginning.

The above described tract of land contains 9.67 acres, more or less.

12/3/2018



RENEWS: 12/31/18



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

April 4, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 18-014
Annexation to Clackamas River Water

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Nate Boderman, Assistant County Counsel
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a domestic water supply district and Clackamas River Water is such a district.

Proposal No. CL 18-014 is a proposed annexation to Clackamas River Water ("District").

State statute requires the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 500 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.857 and ORS 198.750 (section of statute which

specifies contents of petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the southern part of the District. The territory contains 27.61 acres, 2 single family units, 1 commercial structure, 57 agricultural structures, a population of 4 and is valued at \$1,176,262.

REASON FOR ANNEXATION

The property owners desire water service for the existing nursery and house.

CRITERIA

Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.” The proposal is consistent with the Comprehensive Plan as stated in the findings attached in the proposed order.

Service availability is covered in the findings attached to the proposed order.

RECOMMENDATION:

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-18-014, annexation to Clackamas River Water.

Respectfully submitted,



Nate Boderman
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal No.
CL-18-014



Board Order No. _____

Whereas, this matter coming before the Board at this time, and it appearing that more than half the electors and owners of more than half the land in the territory to be annexed have petitioned to annex the territory to Clackamas River Water; and

Whereas, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198; and

Whereas, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report; and

Whereas, it further appearing that this matter came before the Board for a public hearing on April 4, 2019 and that a decision of approval was made on April 4, 2019;

NOW, THEREFORE IT IS HEREBY ORDERED that Boundary Change Proposal No. CL-18-014 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas River Water.

DATED this 4th day of April, 2019.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory contains 27.61 acres, 2 single family units, 1 commercial structure, 57 agricultural structures, a population of 4 and is valued at \$1,176,262.
2. The property owners desire water service for the existing nursery and house.
3. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Service availability is covered in the findings below.

4. The territory is outside the jurisdictional boundary of Metro and outside the regional Urban Growth Boundary.
5. The territory is designated Agriculture (TL 902) and Rural (TL 1202) on the Clackamas County Non-urban Area Land Use Plan Map (IV-7). TL 902 is zoned EFU, Exclusive Farm Use and TL 1202 is zoned FF Farm Forest, 10 acre minimum.

The following policies from the Public Facilities and Services element of the County's plan are applicable:

Water

* * *

- 12.0 Require all public water purveyors to design the extension of water facilities at levels consistent with the land use element of the Comprehensive Plan.

* * *

- 15.0 Require water service purveyors to provide water services for nonurban areas at levels which are appropriate for nonurban use.

There are no service agreements between a local government and the District which affect the territory to be annexed.

6. There is no public sewer service in this area.
7. The District has a 12-inch water line in Ferguson Road which can serve the site.
8. The area receives police service at a rural level from the Clackamas County Sheriff's

Department.

9. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the water district.

CONCLUSION AND REASON FOR DECISION

Based on the Findings, the Board determined:

1. ORS 198 requires the Board to consider the applicable local comprehensive plan and any service agreements affecting the area. The local comprehensive plan was considered and no conflicts with the Plan were discovered. As noted in Finding No. 5 above the Plan contains no clear restrictions on expansion of water districts in lands designated as Agricultural. No directly applicable service agreements were found to exist.
2. The District has a water line which can provide adequate service to the site.

LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED
PAGE 2 OF 2

TRACT 2:

A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST RIGHT OF WAY LINE OF THE AFOREMENTIONED SOUTH FERGUSON ROAD WITH THE NORTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, T. 3 S., R. 2 E., W.M.; THENCE ALONG SAID NORTH LINE WEST 640 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, T. 3 S., R. 2 E., W.M.; THENCE SOUTH 265 FEET; THENCE PARALLEL WITH THE NORTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, T. 3 S., R. 2 E., W.M., EAST 640 FEET TO THE AFOREMENTIONED WEST RIGHT OF WAY LINE OF SOUTH FERGUSON ROAD; THENCE ALONG SAID WEST RIGHT OF WAY LINE NORTH 265 FEET TO THE POINT OF BEGINNING.

TRACT 3:

PARCEL 3, PARTITION PLAT NO. 1991-168, CLACKAMAS COUNTY PLAT RECORDS.

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**



**OREGON
JULY 14, 1978
DON DEVLAEINCK
1634**

DATE OF SIGNATURE: 10/31/18
EXPIRES 12/31/2019

LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED**PAGE 1 OF 2**TRACT 1:

A PORTION OF SOUTH FERGUSON ROAD (COUNTY ROAD NO. 119), A 40 FOOT WIDE PUBLIC RIGHT-OF-WAY, SAID PORTION BEING LOCATED IN THE NORTH 1/2 OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS A STRIP OF LAND LYING 20.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

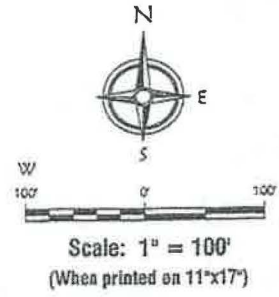
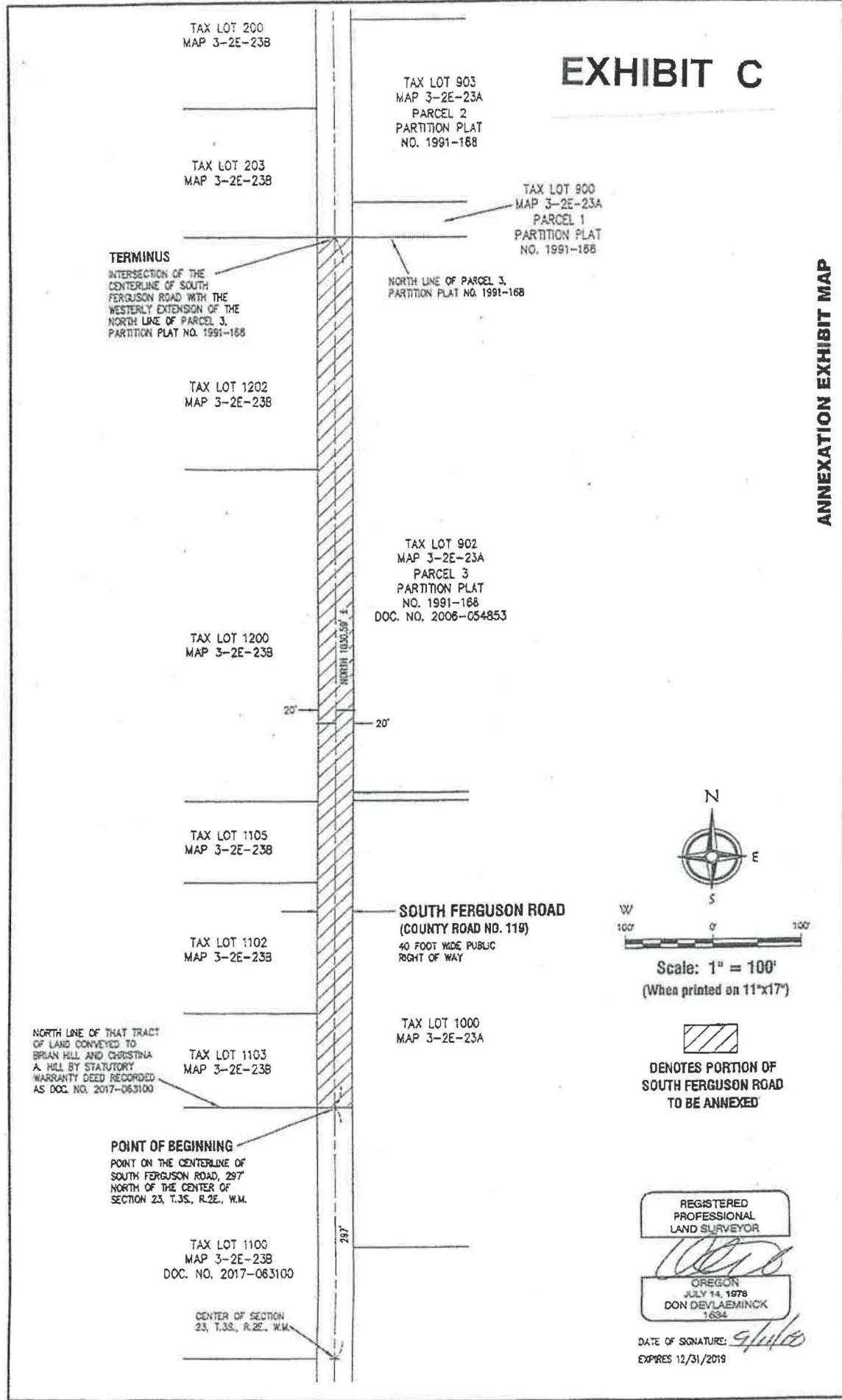
BEGINNING AT A POINT IN THE CENTERLINE OF THE AFOREMENTIONED SOUTH FERGUSON ROAD WHICH IS LOCATED NORTH 297 FEET FROM THE CENTER OF SECTION OF SECTION 23, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, (SAID POINT OF BEGINNING IS FURTHER DESCRIBED AS BEING LOCATED ON THE EASTERLY EXTENSION OF THE NORTH LINE OF THAT TRACT OF LAND CONVEYED TO BRIAN HILL AND CHRISTINA A. HILL BY STATUTORY WARRANTY DEED RECORDED AS DOCUMENT NUMBER 2017-063100, CLACKAMAS COUNTY DEED RECORDS); THENCE NORTH ALONG SAID CENTERLINE OF SOUTH FERGUSON ROAD 1030.59 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY EXTENSION OF THE NORTH LINE OF PARCEL 3, PARTITION PLAT NO. 1991-168, CLACKAMAS COUNTY SURVEY RECORDS; AND THE TERMINUS OF THE DESCRIBED CENTERLINE.


THE SIDELINES OF THE ABOVE DESCRIBED 40 FOOT WIDE PUBLIC RIGHT-OF-WAY SHALL BE EXTENDED OR SHORTENED, AS NECESSARY, AT THE NORTHERLY END OF THE ABOVE DESCRIBED STRIP, TO TERMINATE ON THE WESTERLY EXTENSION OF THE NORTH LINE OF PARCEL 3, PARTITION PLAT NO. 1991-168, CLACKAMAS COUNTY SURVEY RECORDS AND THE SIDELINES SHALL BE EXTENDED OR SHORTENED, AS NECESSARY, AT THE SOUTHERLY END OF THE ABOVE DESCRIBED STRIP, TO TERMINATE ON THE EASTERLY EXTENSION OF THE NORTH LINE OF THAT TRACT OF LAND CONVEYED TO BRIAN HILL AND CHRISTINA A. HILL BY STATUTORY WARRANTY DEED RECORDED AS DOCUMENT NUMBER 2017-063100, CLACKAMAS COUNTY DEED RECORDS.

EXHIBIT C

ANNEXATION EXHIBIT MAP

NORTH 1/2 OF SECTION 23
TOWNSHIP 3 SOUTH, RANGE 2 EAST, W.M.
CLACKAMAS COUNTY, OREGON




DENOTES PORTION OF
SOUTH FERGUSON ROAD
TO BE ANNEXED

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 14, 1978
DON DEVLAEWINCK
1634

DATE OF SIGNATURE: *9/11/18*
EXPIRES 12/31/2019

CAMPASS Land Surveyors
4107 SE International Way, Suite 705
Milwaukie, Oregon 97222 503-653-9093

DRAWN	MMMA	CHECK	DD
SCALE	1" = 100'	DATE	09/11/2018
PLT/IN	8128 Annexation.dwg		

EXHIBIT C
N.W.1/4 SEC.23 T.3S. R.2E. W.M.
CLACKAMAS COUNTY

62-04

204
0.10 Ac.
200'

117.08's
205
1.00 Ac.
21171
198' by dead
130'

200
8.77 Ac.
21181

203
1.00 Ac.
21231
62-70

1101
9.46 Ac.

1202
3.60 Ac.
21271

1200
5.81 Ac.
21341

1105
1.45 Ac.

1103
3.00 Ac.
21433

1102
0.88 Ac.
21421

1104
3.00 Ac.
21410

1106
3.00 Ac.
21432

1100
9.12 Ac.
21481

121° E 255.7'

CEL 2

Ac.)

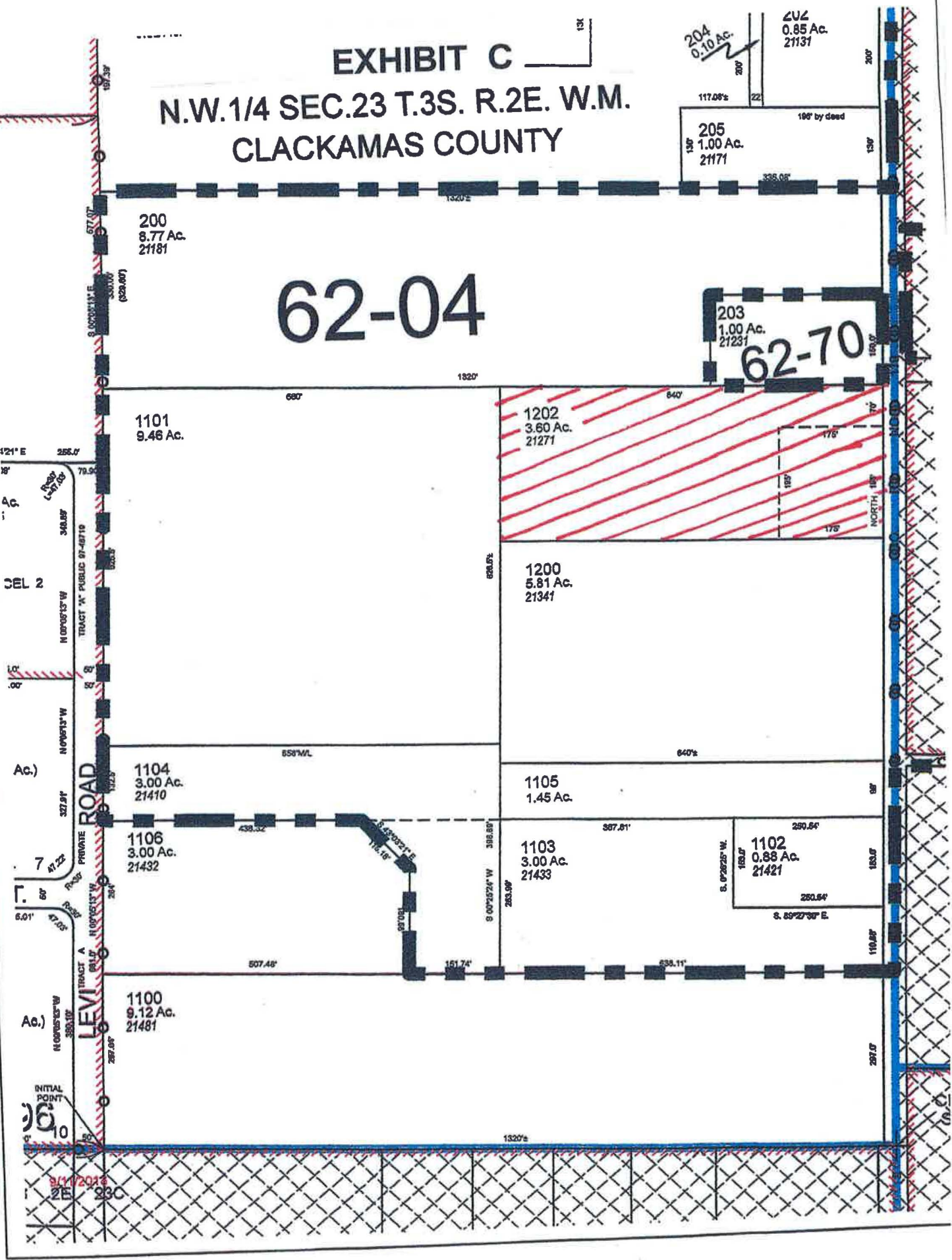
7

6.01'

Ac.)

INITIAL POINT
16
10

3/1/2013
2E 23C



PARTITION
PLAT

1991-168

N.E. 1/4 SEC. 23 T. 3S. R. 2E. W.M.
Clackamas County

EXHIBIT C

62-70

903
2.61 Ac.
21162

PARCEL 2

350'

62-70

902
23.73 Ac.
21200

PARCEL 3

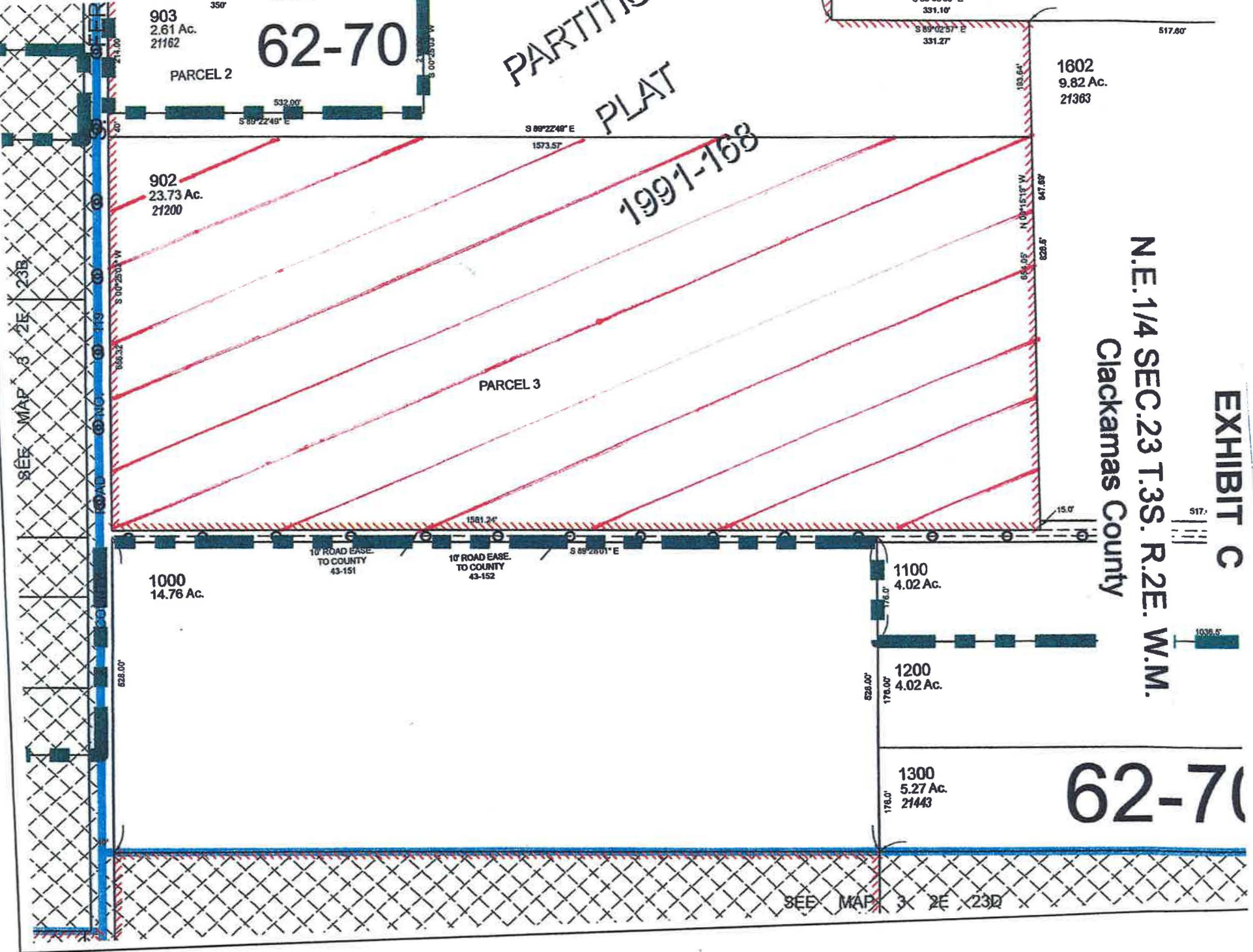
1602
9.82 Ac.
21363

1000
14.76 Ac.

1100
4.02 Ac.

1200
4.02 Ac.

1300
5.27 Ac.
21443



SEE MAP 3 2E 23B

SEE MAP 3 2E 23D

10' ROAD EASE
TO COUNTY
43-151

10' ROAD EASE
TO COUNTY
43-152

517.0'

1036.5'

517.80'

S 89°05'08" E

331.10'

S 89°02'57" E

331.27'

S 89°22'49" E

1573.57'

N 00°13'40" E

947.89'

S 82°5'

622.5'

S 90°20'0" W

683.32'

S 89°28'01" E

1581.24'

15.0'

S 82°8'00" W

176.00'

S 82°8'00" W

176.00'

S 82°8'00" W

628.00'

S 82°8'00" W

683.32'

S 82°8'00" W

683.32'

S 82°8'00" W

683.32'

S 82°8'00" W

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683.32'

S 82°8'00" W

683.32'

S 82°8'00" W

683.32'

S 82°8'00" W

683.32'

350'

532.00'

S 89°22'49" E

532.00'

S 89°22'49" E

532.00'

S 89°22'49" E

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532.00'

S 89°22'49" E

532.00'



NANCY S. BUSH
DIRECTOR

DEPARTMENT OF DISASTER MANAGEMENT
COMMUNICATIONS AND EMERGENCY OPERATIONS CENTER
2200 KAEN ROAD OREGON CITY, OR 97045

April 4, 2019

Board of Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution Adopting the Updates to the
2019 Clackamas County Multi-Jurisdictional Natural Hazards Mitigation Plan

Purpose/ Outcomes	Maintain the County's compliance with the Disaster Mitigation Act of 2000 in order to be eligible for Hazard Mitigation Assistance funds from the Federal Emergency Management Agency (FEMA). A current Mitigation Plan is also the basis for the County's hazard assessment that many partners and stakeholders reference for their plans and a Mitigation Plan should be integrated into the County Comprehensive Plan.
Dollar Amount and Fiscal Impact	Having a compliant Mitigation Plan allows the County to be eligible to apply for Hazard Mitigation Assistance with a federal 75% share and 25% local match.
Funding Source	The update was completed with Federal and County and General Funds.
Duration	Effective date for five years will be determined upon FEMA's final approval.
Previous Board Action	This is a re-adoption of the updated 2013 Plan, which received Board approval March 21, 2013 (Resolution # 2013 – 16).
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Ensure safe, healthy and secure communities. 2. Build a strong infrastructure. 3. Honor, utilize, promote and invest in our natural resources. 4. Build public trust through good government.
Contact Person	Nancy Bush, Director– Department of Disaster Management, 503-655-8665

BACKGROUND:

In 2002, Clackamas County was the first local jurisdiction in the Country to adopt a FEMA-approved Natural Hazard Mitigation Plan (NHMP), in compliance with the Disaster Mitigation Act of 2000. Since then the County has updated and re-adopted this NHMP in 2007, 2013, and now in 2019. In 2013, the County added the city addenda from Canby, Estacada, Gladstone, Happy Valley, Johnson City, Lake Oswego, Milwaukie, Molalla, Oregon City, Sandy, West Linn, and Wilsonville to make a Multi-Jurisdictional NHMP. This year all of these cities are preparing their updates, along with Clackamas Fire District 1, for the first special district to have a NHMP. These jurisdictions will each require State and Federal review, local adoption and then final FEMA approval.

RECOMMENDATION:

Staff recommends the Board approval of the attached resolution.

Respectfully submitted,

Nancy Bush, Director

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

In the Matter of a Resolution Adopting
Updates to the 2019 Clackamas
County Multi-Jurisdictional Natural
Hazards Mitigation Plan



Resolution No. _____
Page 1 of 2

Whereas, Clackamas County recognizes the threat that natural hazards pose to people, property and infrastructure within our community; and

Whereas, undertaking hazard mitigation actions will reduce the potential for harm to people, property and infrastructure from future hazard occurrences; and

Whereas, an adopted Natural Hazards Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

Whereas, Clackamas County fully participated in the FEMA prescribed mitigation planning process to prepare this Natural Hazards Mitigation Plan; and

Whereas, the Oregon Office of Emergency Management and Federal Emergency Management Agency, Region X officials have reviewed the *Clackamas County Multi-Jurisdictional Natural Hazard Mitigation Plan* and pre-approved it (dated, January 29, 2019) contingent upon this official adoption of the participating governments and entities; and

Whereas, the NHMP is comprised of three volumes: Volume I: Basic Plan, Volume II: Jurisdictional Addenda, and Volume III: Appendices, collectively referred to herein as the NHMP; and

Whereas, the NHMP is in an ongoing cycle of development and revision to improve its effectiveness; and

Whereas, Clackamas County adopts the NHMP and directs the [Resilience Coordinator] to develop, approve, and implement the mitigation strategies and any administrative changes to the NHMP.

NOW THEREFORE, the Clackamas County Board of County Commissioners resolves as follows:

1. That Clackamas County adopts *the Clackamas County Multi-Jurisdictional Natural Hazards Mitigation Plan* as an official plan; and
2. That Clackamas County will submit this Adoption Resolution to the Oregon Office of Emergency Management and Federal Emergency Management Agency, Region X officials to enable final approval of the *Clackamas County Multi-Jurisdictional Natural Hazards Mitigation Plan*.

DATED this 4th day of April, 2019

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

April 4, 2019

Board of County Commissioner
Clackamas County

Members of the Board:

Authorization to Sign Grant Award Documents from the U.S. Department of Housing & Urban Development for 2019-2020 Continuum of Care Program (CoC) Funding

Purpose/Outcomes	Authorization to sign grant award documents for the HMIS (Homeless Management Information Systems) and CoC Planning grants from the US Department of Housing and Urban Development (HUD) for Continuum of Care funding. HMIS is required by HUD to track data about serving the homeless population. CoC Planning funds are used to strategically plan for homeless services, manage our Coordinated Housing Access program, and complete the next annual application for HUD CoC funding.
Dollar Amount and Fiscal Impact	The HMIS grant amount is \$70,862 and the CoC Planning grant amount is \$70,591. The agreements total \$141,453 of funding revenue.
Funding Source	U.S. Department of Housing & Urban Development
Duration	July 1, 2019- June 30, 2020
Previous Board Action	Board has approved project applications on August 16, 2018. 081618-A2 .
Strategic Plan Alignment	1. Homeless individuals served by CoC programs will move to or maintain stable housing. 2. Ensure safe, healthy and secure communities
Contact Person	Abby Ahern, Program Planner, 503-650-5663
Contract No.	NA

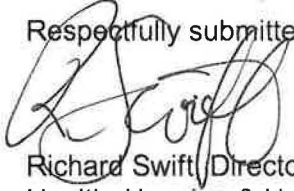
BACKGROUND:

The Housing and Community Development Division of the Health, Housing and Human Services Department requests the authorization to sign grant award documents with the U.S. Department of Housing and Urban Development for Continuum of Care Program funding. The Continuum of Care is a HUD-mandated administrative and organizational local response to homelessness. Applications for these grants were submitted on September 18, 2018 to HUD. These agreements are in the format approved by County Counsel. Total amount of these to agreements are \$141,453.

RECOMMENDATION:

Staff recommends the approval to execute these CoC grant agreements and that Richard Swift, be authorized to sign all documents necessary to accomplish this action on behalf of the Board of County Commissioners.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard Swift', written over the printed name.

Richard Swift, Director
Health, Housing & Human Services

Coc HMIS
FY 19/20

Recipient Name: Clackamas County Department of Health, Housing and Human Services
Grant Number: OR0099L0E071811
Tax ID Number: 93-6002286
DUNS Number: 096992656

SCOPE OF WORK for
FY2018 COMPETITION
(funding 1 project in CoCs with multiple recipients)

1. The project listed on this Scope of Work is governed by the Act and Rule, as they may be amended from time to time. The project is also subject to the terms of the Notice of Funds Availability for the fiscal year competition in which the funds were awarded and to the applicable annual appropriations act.
2. HUD designations of Continuums of Care as High-performing Communities (HPCS) are published in the HUD Exchange in the appropriate Fiscal Years' CoC Program Competition Funding Availability page. Notwithstanding anything to the contrary in the Application or this Grant Agreement, Recipient may only use grant funds for HPC Homelessness Prevention Activities if the Continuum that designated the Recipient to apply for this grant was designated an HPC for the applicable fiscal year.
3. Recipient is not a Unified Funding Agency and was not the only Applicant the Continuum of Care designated to apply for and receive grant funds and is not the only Recipient for the Continuum of Care that designated it. HUD's total funding obligation for this grant is \$ 70862 for project number OR0099L0E071811. If the project is a renewal to which expansion funds have been added during this competition, the Renewal Expansion Data Report, including the Summary Budget therein, in e-snaps is incorporated herein by reference and made a part hereof. In accordance with 24 CFR 578.105(b), Recipient is prohibited from moving more than 10% from one budget line item in a project's approved budget to another without a written amendment to this Agreement. The obligation for this project shall be allocated as follows:

a. Continuum of Care planning activities	\$ 0
b. Acquisition	\$ 0
c. Rehabilitation	\$ 0
d. New construction	\$ 0
e. Leasing	\$ 0
f. Rental assistance	\$ 0
g. Supportive services	\$ 0
h. Operating costs	\$ 0
i. Homeless Management Information System	\$ 66372
j. Administrative costs	\$ 4490
k. Relocation Costs	\$ 0

I. HPC homelessness prevention activities:

Housing relocation and stabilization services	\$ 0
Short-term and medium-term rental assistance	\$ 0

4. Performance Period in number of months: 12. The performance period for the project begins 07-01-2019 and ends 06-30-2020. No funds for new projects may be drawn down by Recipient until HUD has approved site control pursuant to §578.21 and §578.25 and no funds for renewal projects may be drawn down by Recipient before the end date of the project's final operating year under the grant that has been renewed.
5. If grant funds will be used for payment of indirect costs, the Recipient is authorized to insert the Recipient's and Subrecipients' federally recognized indirect cost rates on the attached Federally Recognized Indirect Cost Rates Schedule, which Schedule shall be incorporated herein and made a part of the Agreement. No indirect costs may be charged to the grant by the Recipient if their federally recognized cost rate is not listed on the Schedule. If no federally recognized indirect cost rate is listed on the Schedule for a project funded under this Agreement, no indirect costs may be charged to the project by the subrecipient carrying out that project.
6. The project has not been awarded project-based rental assistance for a term of fifteen (15) years. Additional funding is subject to the availability of annual appropriations.

This agreement is hereby executed on behalf of the parties as follows:

**UNITED STATES OF AMERICA,
Secretary of Housing and Urban Development**

By:



(Signature)

Doug Carlson, Director

(Typed Name and Title)

March 6, 2019

(Date)

RECIPIENT

Clackamas Dept. Health, Housing & Human Svcs

(Name of Organization)

By:

(Signature of Authorized Official)

Richard Swift - Director

(Typed Name and Title of Authorized Official)

(Date)

Tax ID No.: 93-6002286
CoC Program Grant Number: OR0099L0E071811
Effective Date: 3/6/2019
DUNS No.: 096992656

FEDERALLY RECOGNIZED INDIRECT COST RATE SCHEDULE

<u>Grant No.</u>	<u>Recipient Name</u>	<u>Indirect cost rate</u>	<u>Cost Base</u>
OR0099L0E071811	H3S ADMIN	1.68%	\$1,280,594

COC Planning
FY 19/20



U.S. Department of Housing and Urban Development
Office of Community Planning and Development
1220 SW 3rd Avenue
Suite 400
Portland, OR 97204-2830

Recipient Name: Clackamas County Department of Health, Housing and Human Services
Grant Number: OR0272L0E071800
Tax ID Number: 93-6002286
DUNS Number: 096992656

**CONTINUUM OF CARE PROGRAM (CDFA# 14.267)
GRANT AGREEMENT**

This Grant Agreement (“this Agreement”) is made by and between the United States Department of Housing and Urban Development (“HUD”) and Clackamas Dept. Health, Housing & Human Svcs (the “Recipient”).

This Agreement is governed by title IV of the McKinney-Vento Homeless Assistance Act 42 U.S.C. 11301 et seq. (the “Act”) and the Continuum of Care Program rule (the “Rule”).

The terms “Grant” or “Grant Funds” mean the funds that are provided under this Agreement. The term “Application” means the application submissions on the basis of which the Grant was approved by HUD, including the certifications, assurances, and any information or documentation required to meet any grant award condition. All other terms shall have the meanings given in the Rule.

The Application is incorporated herein as part of this Agreement, except that only the project (those projects) listed, and only in the amounts listed on a Scope of Work, are funded by this Agreement. In the event of any conflict between any application provision and any provision contained in this Agreement, this Agreement shall control.

The Scope of Work, is attached hereto and made a part hereof. If in the future appropriations are made available for Continuum of Care grants; if Recipient applies under a Notice of Funds Availability published by HUD; and, if pursuant to the selection criteria in the Notice of Funds Availability, HUD selects Recipient and the project or one or more of the projects listed on the Scope of Work for renewal or for new projects for funding, then additional Scopes of Work may be attached to this Agreement. Those additional Scopes of Work, when attached, will also become a part hereof.

The effective date of the Agreement shall be the date of execution by HUD and it is the date use of funds under this Agreement may begin. Each project will have a performance period that will be listed on the Scope(s) of Work to this Agreement. For renewal projects, the period of performance shall begin at the end of the Recipient’s final operating year for the project being renewed and eligible costs incurred for a project between the end of Recipient’s final operating year under the grant being renewed and the execution of this Agreement may be paid with funds from the first operating year of this Agreement. For each new project funded under this Agreement, Recipient and HUD will set an operating start date in eLOCCS, which will be used to track expenditures, to establish the project performance period and to determine when a project is eligible for renewal. Recipient hereby authorizes HUD to insert the project performance period for new projects into the Scope of Work without Recipient signature, after the operating start date is established in eLOCCS.

This Agreement shall remain in effect until termination either 1) by agreement of the parties; 2) by HUD alone, acting under the authority of 24 CFR 578.107; 3) upon expiration of the final performance period for all projects funded under this Agreement; or 4) upon the expiration of the period of availability of funds for all projects funded under this Agreement.

Recipient agrees:

1. To ensure the operation of the project(s) listed on the Scope of Work in accordance with the provisions of the Act and all requirements of the Rule;
2. To monitor and report the progress of the project(s) to the Continuum of Care and HUD;
3. To ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;
4. To require certification from all subrecipients that:
 - a. Subrecipients will maintain the confidentiality of records pertaining to any individual or family that was provided family violence prevention or treatment services through the project;
 - b. The address or location of any family violence project assisted with grant funds will not be made public, except with written authorization of the person responsible for the operation of such project;
 - c. Subrecipients will establish policies and practices that are consistent with, and do not restrict, the exercise of rights provided by subtitle B of title VII of the Act and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;
 - d. In the case of projects that provide housing or services to families, that subrecipients will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of the Act;
 - e. The subrecipient, its officers, and employees are not debarred or suspended from doing business with the Federal Government; and
 - f. Subrecipients will provide information, such as data and reports, as required by HUD; and
5. To establish such fiscal control and accounting procedures as may be necessary to assure the proper disbursement of, and accounting for grant funds in order to ensure that all financial transactions are conducted, and records maintained in accordance with generally accepted accounting principles, if the Recipient is a Unified Funding Agency;
6. To monitor subrecipient match and report on match to HUD;
7. To take the educational needs of children into account when families are placed in housing and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education;
8. To monitor subrecipients at least annually;

9. To use the centralized or coordinated assessment system established by the Continuum of Care as required by the Rule. A victim service provider may choose not to use the Continuum of Care's centralized or coordinated assessment system, provided that victim service providers in the area use a centralized or coordinated assessment system that meets HUD's minimum requirements and the victim service provider uses that system instead;
10. To follow the written standards for providing Continuum of Care assistance developed by the Continuum of Care, including those required by the Rule;
11. Enter into subrecipient agreements requiring subrecipients to operate the project(s) in accordance with the provisions of this Act and all requirements of the Rule; and
12. To comply with such other terms and conditions as HUD may have established in the applicable Notice of Funds Availability.

HUD notifications to the Recipient shall be to the address of the Recipient as stated in the Application, unless the Recipient changes the address and key contacts in e-snaps. Recipient notifications to HUD shall be to the HUD Field Office executing the Agreement. No right, benefit, or advantage of the Recipient hereunder may be assigned without prior written approval of HUD.

The Agreement constitutes the entire agreement between the parties hereto, and may be amended only in writing executed by HUD and the Recipient.

By signing below, Recipients that are states and units of local government certify that they are following a current HUD approved CHAS (Consolidated Plan).

Recipient Name: Clackamas County Department of Health, Housing and Human Services
Grant Number: OR0272L0E071800
Tax ID Number: 93-6002286
DUNS Number: 096992656

SCOPE OF WORK for
 FY2018 COMPETITION
 (funding 1 project in CoCs with multiple recipients)

1. The project listed on this Scope of Work is governed by the Act and Rule, as they may be amended from time to time. The project is also subject to the terms of the Notice of Funds Availability for the fiscal year competition in which the funds were awarded and to the applicable annual appropriations act.
2. HUD designations of Continuums of Care as High-performing Communities (HPCS) are published in the HUD Exchange in the appropriate Fiscal Years' CoC Program Competition Funding Availability page. Notwithstanding anything to the contrary in the Application or this Grant Agreement, Recipient may only use grant funds for HPC Homelessness Prevention Activities if the Continuum that designated the Recipient to apply for this grant was designated an HPC for the applicable fiscal year.
3. Recipient is not a Unified Funding Agency and was not the only Applicant the Continuum of Care designated to apply for and receive grant funds and is not the only Recipient for the Continuum of Care that designated it. HUD's total funding obligation for this grant is \$ 70591 for project number OR0272L0E071800. If the project is a renewal to which expansion funds have been added during this competition, the Renewal Expansion Data Report, including the Summary Budget therein, in e-snaps is incorporated herein by reference and made a part hereof. In accordance with 24 CFR 578.105(b), Recipient is prohibited from moving more than 10% from one budget line item in a project's approved budget to another without a written amendment to this Agreement. The obligation for this project shall be allocated as follows:

a. Continuum of Care planning activities	\$ 70591
b. Acquisition	\$ 0
c. Rehabilitation	\$ 0
d. New construction	\$ 0
e. Leasing	\$ 0
f. Rental assistance	\$ 0
g. Supportive services	\$ 0
h. Operating costs	\$ 0
i. Homeless Management Information System	\$ 0
j. Administrative costs	\$ 0
k. Relocation Costs	\$ 0

1. HPC homelessness prevention activities:

Housing relocation and stabilization services	\$ 0
Short-term and medium-term rental assistance	\$ 0

4. Performance Period in number of months: 12. The performance period for the project begins _____ and ends _____. No funds for new projects may be drawn down by Recipient until HUD has approved site control pursuant to §578.21 and §578.25 and no funds for renewal projects may be drawn down by Recipient before the end date of the project's final operating year under the grant that has been renewed.
5. If grant funds will be used for payment of indirect costs, the Recipient is authorized to insert the Recipient's and Subrecipients' federally recognized indirect cost rates on the attached Federally Recognized Indirect Cost Rates Schedule, which Schedule shall be incorporated herein and made a part of the Agreement. No indirect costs may be charged to the grant by the Recipient if their federally recognized cost rate is not listed on the Schedule. If no federally recognized indirect cost rate is listed on the Schedule for a project funded under this Agreement, no indirect costs may be charged to the project by the subrecipient carrying out that project.
6. The project has not been awarded project-based rental assistance for a term of fifteen (15) years. Additional funding is subject to the availability of annual appropriations.

This agreement is hereby executed on behalf of the parties as follows:

**UNITED STATES OF AMERICA,
Secretary of Housing and Urban Development**

By:



(Signature)

Doug Carlson, Director

(Typed Name and Title)

March 20, 2019

(Date)

RECIPIENT

Clackamas Dept. Health, Housing & Human Svcs

(Name of Organization)

By:

(Signature of Authorized Official)

Richard Swift, Director

(Typed Name and Title of Authorized Official)

(Date)

Tax ID No.: 93-6002286
CoC Program Grant Number: OR0272L0E071800
Effective Date: 3/20/2019
DUNS No.: 096992656

FEDERALLY RECOGNIZED INDIRECT COST RATE SCHEDULE

<u>Grant No.</u>	<u>Recipient Name</u>	<u>Indirect cost rate</u>	<u>Cost Base</u>
OR0272L0E071800	HBS ADMIN	1.68%	\$1,280,594



DAN JOHNSON
DIRECTOR

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

April 4, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement with the City of Tualatin regarding a
transfer of a portion of Borland Road**

Purpose/Outcomes	Jurisdictional transfer of a fragmented portion of Borland Road
Dollar Amount and Fiscal Impact	Cost savings in the form of staff time and Maintenance monies used on an isolated County maintained portion of road located entirely within the City of Tualatin. Initial cost of transfer is \$366,500, which represents the cost of a 2" asphalt overlay and necessary ADA improvements along that portion being transferred.
Funding Source	Road Fund
Duration	Upon execution; permanent transfer.
Previous Board Action	2003 IGA with the City of Tualatin. Recorded as A&C No. 2003-4264 01/22/19- Policy Session on Borland IGA.
Strategic Plan Alignment	Build a strong infrastructure. Build public trust through good government.
Contact Person	Michael Bays- Survey & CADD Supervisor – 503-742-4667

BACKGROUND:

There are certain County roads, such as Borland Road in Tualatin, that are wholly, mostly, or partially within various Cities throughout Clackamas County. Fragmented jurisdiction over these roads often results in differing road maintenance activities and confusion by the public as to which agency is responsible for the operation and maintenance of the roads. With the intent of eliminating confusion to the public and to improve the efficiencies of maintenance and public service, the attached IGA formalizes an agreement to provide funds to the City of Tualatin in the amount of \$366,500, which is equal to the cost of a 2" asphalt overlay, rebuilding or installing nineteen (19) curb ramps to meet ADA requirements, and upgrades to an ADA signal at SW 56th Avenue, in the event the City is successful in assuming exclusive jurisdiction over a portion of Borland Road containing approximately 340,000 square feet of Right-of-Way. Payment of these funds are contingent upon the City finalizing the jurisdictional transfer process. Once jurisdiction is transferred, the City becomes the "Road Authority" responsible for all maintenance, permitting and road standard activities.

County staff have been negotiating with the City of Tualatin and they have reached this agreement for the transfer for an approximately 3/4 mile long section of Borland Road that includes a provision for the city of Tualatin to complete ADA ramp and signal upgrades by December 31, 2021.

County Counsel has reviewed and approved of this agreement

RECOMMENDATION:

Staff respectfully requests that the Board approve the attached IGA between Clackamas County and the City of Tualatin related to the transfer of jurisdiction of a portion of Borland Road and the payment to the City in an amount equivalent to a 2" asphalt overlay and ADA improvement of that portion being transferred.

Respectfully Submitted,

Michael Bays
Survey & CADD Supervisor
Department of Transportation and Development

Attachments:
Intergovernmental Agreement
Map of proposed transfer area

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF TUALATIN AND
CLACKAMAS COUNTY RELATED TO THE TRANSFER OF A PORTION OF
SOUTHWEST BORLAND ROAD**

This agreement (the "Agreement") is made on the date all required signatures have been obtained, between the City of Tualatin ("CITY"), a municipal corporation of the State of Oregon, and Clackamas County ("COUNTY"), a political subdivision of the State of Oregon, pursuant to ORS Chapter 190 (Intergovernmental Cooperation), collectively referred to as the "PARTIES" and each a "PARTY."

RECITALS

WHEREAS, ORS Chapter 190 authorizes local governments to enter into intergovernmental agreements for the performance of any or all functions and activities that a local government, its officers or agencies, have the authority to perform;

WHEREAS, the portion of SW Borland Rd. subject to this Agreement is located entirely within the boundaries of the City and is a County Road, as defined in ORS 368.001 ("Borland Rd.");

WHEREAS, Borland Rd. is depicted in Exhibit "B" and more particularly described in Exhibit "A," all of which are attached hereto and incorporated herein;

WHEREAS, the Parties agree that the City is best suited to assume primary responsibility for maintenance and permitting of Borland Rd.;

WHEREAS, ORS 373.270 provides a procedure whereby a county may transfer jurisdiction over any county roads within a city to the City, and the Parties desire to pursue a transfer of jurisdiction of Borland Rd. pursuant to the terms of this Agreement; and

WHEREAS, the Parties agree that Borland Rd. should be improved, or the City should be compensated, consistent with the terms of this Agreement at, or prior to, the completion of the full transfer pursuant to ORS 373.270.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Term.** This Agreement shall be effective upon execution, and shall expire automatically at the time the City assumes jurisdiction of Borland Rd. pursuant to ORS 373.270, and the County has paid the amount of money set forth herein.
2. **County Responsibilities.**

- A. The County shall give notice and shall carry out those procedures set forth in ORS 373.270 to determine whether it is necessary, expedient or for the best interests of the County to surrender jurisdiction over Borland Rd.
- B. The County shall provide to the City the sum of \$366,500, which is equivalent to the cost of the following improvements: a 2-inch asphalt overlay on the portions of Borland Rd. identified in the exhibits attached to this Agreement, rebuilding or installing nineteen (19) curb ramps to meet ADA requirements, and upgrades to an ADA signal at SW 56th Avenue. The sum of \$366,500 identified in this paragraph shall be payable to the City within 30 days of the date that full and absolute jurisdiction over Borland Rd. is surrendered by the County and accepted by the City as described below.

3. City Responsibilities.

- A. After the County has initiated the process to transfer jurisdiction of Borland Rd., the City shall carry out those procedures set forth in ORS 373.270 for purposes of finalizing the transfer. The City shall not unreasonably delay or withhold its consent to the transfer of Borland Rd., and shall complete the process to finalize the transfer within 90 days from the date that the County concludes its hearing and decision on the matter. This obligation shall terminate in the event the governing body of the County fails to find that it is necessary, expedient or for the best interests of the County to surrender jurisdiction over Borland Rd.
- B. The City agrees to assume full and absolute jurisdiction over the portion of Borland Rd. identified in the exhibits attached to this Agreement, as the governing body of the City and the governing body of the County both determined that it is necessary, expedient or for the best interests of their respective jurisdictions to complete the transfers described herein.
- C. The City agrees to complete the rebuilding or installation of nineteen (19) curb ramps along the section of Borland Road described within this document to meet ADA requirements, and the upgrade to the ADA signal at SW 56th Avenue by December 31, 2021.

4. Termination.

- A. The County and the City, by mutual written agreement, may terminate this Agreement at any time.
- B. Either the County or the City may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.

- C. The County or the City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

5. Indemnification.

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.
- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

6. General Provisions

- A. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

- D. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.
- E. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the City.

- K. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.
- L. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- M. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.
- N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

CLACKAMAS COUNTY

Chair

Date

Recording Secretary

CITY OF TUALATIN



City Manager

3/11/19

Date



City Attorney

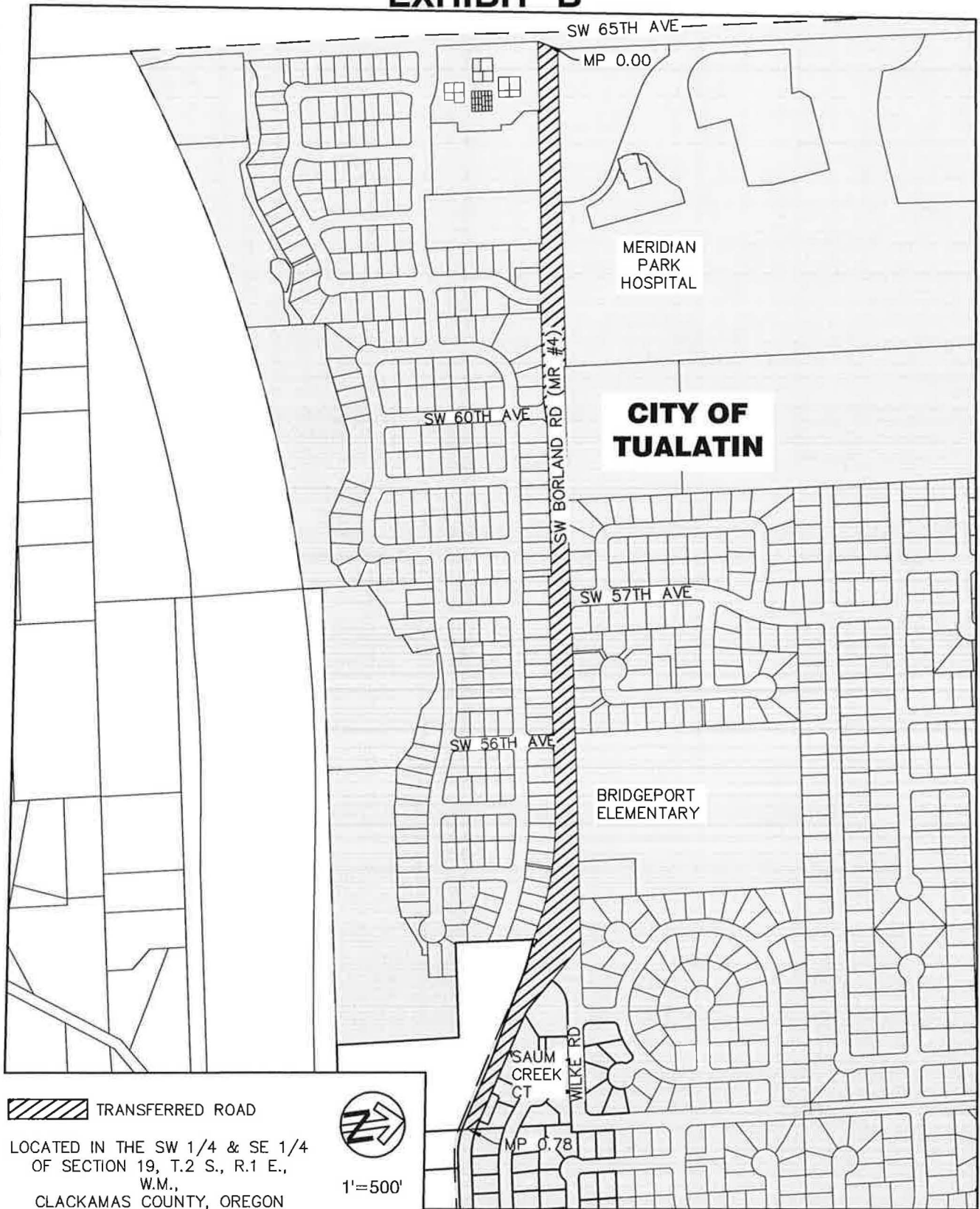
Exhibit A


Southwest Borland Road Description

All that portion of SW Borland Road, Market Road No. 4, Department of Transportation and Development maintenance No. 21547; Situated in the southwest 1/4 and southeast 1/4 of Section 19, T. 2S., R. 1E., W.M. as depicted on Exhibit B, attached hereto, lying East of and between SW 65th Avenue (mile point 0.00) and the extension of the easterly boundary of the plat of "Saum Creek Court", Plat No. 3316 (mile point 0.78), being a total of approximately 4,120 feet long, varying in width.

Containing 340,000 square feet, more or less.

EXHIBIT "B"



 TRANSFERRED ROAD
 LOCATED IN THE SW 1/4 & SE 1/4
 OF SECTION 19, T.2 S., R.1 E.,
 W.M.,
 CLACKAMAS COUNTY, OREGON



1"=500'

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



BY: M.BAYS DATE: 12/17/2018
 JURISDICTIONAL TRANSFER
 BORLAND ROAD
 MARKET ROAD #4

SHEET
 1 OF 1



DAN JOHNSON
DIRECTOR

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

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of a Contract with D&D Concrete and Utilities, Inc. for the
Torbank (River Road-Trolley Trail) Sidewalks Project**

Purpose/Outcomes	Provide a sidewalk route for students traveling to and from home and Oak Grove Elementary and other area schools. In addition to pedestrian improvements, this project will also provide improved storm drainage facilities and asphalt paving
Dollar Amount and Fiscal Impact	Contract value is \$571,110.00
Funding Source	215-7432-02102-481200-22243 DTD Funds
Duration	Contract execution through December 31, 2019
Previous Board Action	
Strategic Plan Alignment	Build a strong infrastructure. Ensure safe, healthy and secure communities.
Contact Person	Jonathan Hangartner, Project Manager 503-742-4649

Background:

Clackamas County has bicycle and pedestrian funds to enhance sidewalk facilities along SE Torbank Road in Oak Grove. The majority of the existing street lacks pedestrian facilities. This project will provide a sidewalk route for students traveling to and from home and Oak Grove Elementary and other area schools. In addition to pedestrian improvements, this project will also provide improved storm drainage facilities and asphalt paving.

Work will construct curbs and gutters, landscape strips, sidewalks, storm drainage facilities, roadway paving, and water quality facility along SE Torbank Road.

The project work is anticipated to begin immediately following contract signing. Substantial completion will be not later than August 23, 2019, with final completion no later than December 31, 2019.

Procurement Process:

This project was advertised in accordance with ORS and LCRB Rules on February 5, 2019. Bids were opened on February 28, 2019. The County received five (5) bids: D&D Concrete and Utilities, \$571,110.00; Bill Erickson Heavy Construction, \$656,205.00; Turney Excavating, \$571,830.50; Kodiak Pacific Construction, \$608,608.00; and R&R General Construction, \$597,999.00. D&D Concrete and Utilities was determined to be the lowest responsive bidder.

This contract has been reviewed and approved by County Counsel.

Recommendation:

Staff respectfully recommends that the Board approves and signs this Public Improvement Contract with D&D Concrete and Utilities, Inc. for the Torbank (River Road-Trolley Trail) Sidewalks Project.

Sincerely,

Jonathan Hangartner, Project Manager

Placed on the BCC Agenda _____ by Procurement



CLACKAMAS COUNTY PUBLIC IMPROVEMENT CONTRACT

This Public Improvement Contract (the "Contract"), is made by and between the Clackamas County, a political subdivision of the State of Oregon, hereinafter called "Owner," and **D & D Concrete and Utilities, Inc.**, hereinafter called the "Contractor" (collectively the "Parties"), shall become effective on the date this Contract has been signed by all the Parties and all County approvals have been obtained, whichever is later.

Project Name: #2019-05 Torbank (River Road-Trolley Trail) Sidewalks Project

1. Contract Price, Contract Documents and Work.

The Contractor, in consideration of the sum of **five hundred seventy-one thousand one hundred ten dollars (\$571,110.00)** (the "Contract Price"), to be paid to the Contractor by Owner in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Instructions to Bidders and other Contract Documents (as defined in the project specifications) referenced within the Instructions to Bidders), all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents. The Contract Price is the amount contemplated by the Base Bid.

Also, the following documents are incorporated by reference in this Contract and made a part hereof:

- Notice of Contract Opportunity
- Supplemental Instructions to Bidders
- Public Improvement Contract Form
- Prevailing Wage Rates
- Plans, Specifications and Drawings
- Instructions to Bidders
- Bid Bond
- Performance Bond and Payment Bond
- Payroll and Certified Statement Form
- Addendum #1

The Plans, Specifications and Drawings expressly incorporated by reference into this Contract includes, but is not limited to, the Special Provisions for Highway Construction (the "Specifications"), together with the provisions of the Oregon Standard Specifications for Construction (2015) referenced therein.

2. Representatives.

Contractor has named Don Nienke as its Authorized Representative to act on its behalf. Owner designates, or shall designate, its Authorized Representative as indicted below (check one):

Unless otherwise specified in the Contract Documents, the Owner designates Jonathan Hangartner as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to Contract performance, payment, authorization, and to carry out the responsibilities of the Owner.

Name of Owner's Authorized Representative shall be submitted by Owner in a separate writing.

3. Key Persons.

The Contractor's personnel identified below shall be considered Key Persons and shall not be replaced during the project without the written permission of Owner, which shall not be unreasonably withheld. If the Contractor intends to substitute personnel, a request must be given to Owner at least 30 days prior to the intended time of substitution. When replacements have been approved by Owner, the Contractor shall provide a transition period of at least 10 working days during which the original and replacement personnel shall be working on the project concurrently. Once a replacement for any of these staff members is authorized, further

replacement shall not occur without the written permission of Owner. The Contractor's project staff shall consist of the following personnel:

Project Executive: Don Nienke shall be the Contractor's project executive, and will provide oversight and guidance throughout the project term.

Project Manager: Corbin Pierce shall be the Contractor's project manager and will participate in all meetings throughout the project term.

Job Superintendent: Corbin Pierce shall be the Contractor's on-site job superintendent throughout the project term.

4. Contract Dates.

COMMENCEMENT DATE: Upon Issuance of Notice to Proceed ("NTP")

SUBSTANTIAL COMPLETION DATE: August 23, 2019

FINAL COMPLETION DATE: December 31, 2019

Time is of the essence for this Contract. It is imperative that the Work in this Contract reach Substantial Completion and Final Completion by the above specified dates.

5. Insurance Certificates and Required Performance and Payment Bonds.

5.1 In accordance with Section 00170.70 of the Specifications, Contractor shall furnish proof of the required insurance naming Clackamas County as an additional insured. Insurance certificates may be returned with the signed Contract or may be emailed to Procurement@clackamas.us.

5.2 Primary Coverage: Insurance carried by Contractor under the Contract shall be the primary coverage. The coverages indicated are minimums unless otherwise specified in the Contract Documents.

5.2.1 Workers' Compensation: All employers, including Contractor, that employ subject workers who work under the Contract 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. This shall include Employer's Liability Insurance with coverage limits of not less than the minimum amount required by statute for each accident. Contractors who perform the Work without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its Subcontractors complies with these requirements. The Contractor shall require proof of such Workers' Compensation coverage by receiving and keeping on file a certificate of insurance from each Subcontractor or anyone else directly employed by either the Contractor or its Subcontractors.

5.3 Builder's Risk Insurance: During the term of the Contract, for new construction the Contractor shall obtain and keep in effect Builder's Risk insurance on an all risk forms, including earthquake and flood, for an amount equal to the full amount of the Contract, plus any changes in values due to modifications, Change Orders and loss of materials added. Such Builder's Risk shall include, in addition to earthquake and flood, theft, vandalism, mischief, collapse, transit, debris removal, and architect's fees "soft costs" associated with delay of Project due to insured peril. Any deductible shall not exceed \$50,000 for each loss, except the earthquake and flood deductible which shall not exceed 2 percent of each loss or \$50,000, whichever is greater. The deductible shall be paid by Contractor. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear.

5.4 Builder's Risk Installation Floater: For Work other than new construction, Contractor shall obtain and keep in effect during the term of the Contract, a Builder's Risk Installation Floater for coverage of the Contractor's labor, materials and equipment to be used for completion of the Work performed under the Contract. The minimum amount of coverage to be carried shall be equal to the full amount of the Contract. The policy will include as loss payees Owner, the Contractor and its Subcontractors as their interests may appear. Owner may waive this requirement at its sole and absolute discretion.

5.4.1 Such insurance shall be maintained until Owner has occupied the facility.

5.4.2 A loss insured under the Builder's Risk insurance shall be adjusted by the Owner and made payable to the Owner as loss payee. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner. The Owner shall have power to adjust and settle a loss with insurers.

5.5 "Tail" Coverage: If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of the Contract for a duration of 36 months or the maximum time period available in the marketplace if less than 36 months. Contractor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 36 months following Final 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 the Contract. Owner's receipt of the policy endorsement evidencing such coverage shall be a condition precedent to Owner's obligation to make final payment and to Owner's final acceptance of Work or services and related warranty (if any).

5.6 Notice of Cancellation or Change: If the Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify Owner by fax within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. When notified by Owner, the Contractor agrees to stop Work pursuant to the Contract at Contractor's expense, unless all required insurance remain in effect. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverages provided to the Owner and its institutions, divisions, officers, and employees.

Owner shall have the right, but not the obligation, of prohibiting Contractor from entering the Project Site until a new certificate(s) of insurance is provided to Owner evidencing the replacement coverage. The Contractor agrees that Owner reserves the right to withhold payment to Contractor until evidence of reinstated or replacement coverage is provided to Owner.

5.7 Before execution of the Contract, the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Revised Statutes, Chapter 279C.830 and 279C.836, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting any Subcontractor to start Work.

5.8 When the Contract Price is \$50,000 or more, the Contractor shall furnish and maintain in effect at all times during the Contract Period a performance bond in a sum equal to the Contract Price and a separate payment bond also in a sum equal to the Contract Price. Contractor shall furnish such

bonds even if the Contract Price is less than the above thresholds if otherwise required by the Contract Documents.

5.9 Bond forms furnished by the Owner and notarized by Contractor's surety company authorized to do business in Oregon are the only acceptable forms of performance and payment security, unless otherwise specified in the Contract Documents.

6. Responsibility for Damages/Indemnity.

6.1 Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from, the carrying out of the Work to be done under the Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, employees, guests, visitors, invitees and agents.

6.2 To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel approved by Owner) and hold harmless the Owner and its elected officials, officers, directors, agents, and employees (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses, demands and actions of any nature whatsoever which arise out of, result from or are related to: (a) any damage, injury, loss, expense, inconvenience or delay described in this Section 6.1; (b) any accident or occurrence which happens or is alleged to have happened in or about the Project Site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects; (c) any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of any agreement, representation or warranty of the Contractor contained in the Contract Documents or in any subcontract; (d) the negligent acts or omissions of the Contractor, a Subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140); and (e) any lien filed upon the Project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 6.2.

6.3 In claims against any person or entity indemnified under Section 6.2 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 6.2 shall not be limited on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

7. Tax Compliance.

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

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

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

8. Confidential Information.

Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to Owner. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract shall be deemed confidential information of Owner ("Confidential Information"). Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purpose unless specifically authorized in writing under this Contract.

9. Counterparts.

This Contract may be executed in several counterparts, all of which when taken together shall constitute an agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

10. Integration.

All provisions of state law required to be part of this Contract, whether listed in the General or Special Conditions or otherwise, are hereby integrated and adopted herein. Contractor acknowledges the obligations thereunder and that failure to comply with such terms is a material breach of this Contract.

The Contract Documents constitute the entire agreement between the parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

11. Liquidated Damages

The Contractor acknowledges that the Owner will sustain damages as a result of the Contractor's failure to substantially complete the Project in accordance with the Contract Documents. These damages may include, but are not limited to delays in completion, use of the Project, and costs associated with Contract administration and use of temporary facilities.

- 11.1 Liquidated Damages shall be as follows if the actual Substantial Completion exceeds the required date of Substantial Completion:
 - 11.1.1. \$700.00 per Calendar day past the Substantial Completion date as identified in section 00180.85 (b) and 00180.85 (c).

12. Compliance with Applicable Law.

The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default.

In witness whereof, Clackamas County executes this Contract and the Contractor does execute the same as of the day and year first above written.

Contractor DATA:
D & D Concrete and Utilities, Inc.
8319 S. Gribble Road
Canby, Oregon 97062

Contractor CCB # 219262 Expiration Date: 2/26/20
Oregon Business Registry # 188596-86 Entity Type: DBC State of Formation: Oregon

Payment information will be reported to the IRS under the name and taxpayer ID# provided by the Contractor. Information must be provided prior to contract approval. Information not matching IRS records could subject Contractor to 28 percent backup withholding.

D & D Concrete and Utilities, Inc.

Clackamas County Board of County Commissioners

APPROVED AS TO FORM



Brian T. Nava
County Treasurer

Office of the County Treasurer

Public Services Building
2051 Kaen Road, Suite 460 | Oregon City, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Personal Services Contract Amendment #1 with U.S. Bank to
Provide Banking Services

Purpose/ Outcomes	Amend the Contract to extend time for general banking services.
Dollar Amount and Fiscal Impact	The maximum fiscal year amount is \$150,000.
Funding Source	General Fund
Duration	February 18, 2014 through the new extension to December 1, 2019.
Previous Board Action	None
Strategic Plan Alignment	Build Public Trust through Good Government - Banking services is a critical function the Treasurer's Office provides for the County. Ensuring County funds are safe, liquid and achieve the best yield possible are some of the priorities of the Treasurer's Office.
Contact Person	Brian Nava, Treasurer – 503-742-5990

BACKGROUND:

The Treasurer's Office has contracted with U.S. Bank for general banking services since 2004 via various contracts and in 2014 attached to an active cooperative opportunity that was for 5 years with the opportunity of two 2-year renewals.

This is a contract extension with U.S. Bank to provide banking services through December 1, 2019. The original contract was executed February 18, 2014 with an original expiration date of December 1, 2017. Amendment #1 reinstates the original Contract through the new expiration date of December 1, 2019. The services provided to the County have been monitored and payments have been made at the agreed upon rates.

PROCUREMENT PROCESS:

In January 2014, Procurement assisted the Treasurer's Office to obtain a contract with U.S. Bank using a cooperative purchasing opportunity with Marion County. Marion County issued a formal solicitation in which US Bank won the award. Clackamas County used the Marion County contract as the Procurement Authority.

This amendment has been reviewed and approved by County Counsel.

RECOMMENDATION:

The Treasurer's Office recommends the Board of County Commissioners approve the attached amendment with U.S. Bank to provide banking services for the County.

Respectfully submitted,

Brian T. Nava
Treasurer's Office

Placed on the Agenda of _____ by the Procurement Division

AMENDMENT #1

TO THE CONTRACT DOCUMENTS WITH U.S. BANCORP, DBA U.S. BANK FOR BANKING SERVICES

This Amendment #1 is entered into between U.S. Bancorp, dba U.S. Bank (“Contractor”) and the Clackamas County (“County”) and it shall become part of the Contract documents entered into between both parties on February 18, 2014 (“Contract”).

The Purpose of the Amendment #1 is to make the following changes to the Contract:

1. Section I. **SCOPE** is hereby amended as follows:

The Contract expiration date is hereby changed from December 1, 2017 to **December 1, 2019**.

County and Contractor acknowledge that services have been performed after the termination date and desire to affirm and pay for such work pursuant to this Amendment.

2. ADD Items to Section III. **CONSTRAINTS**:

Section III. **CONSTRAINTS** Items C and D:

C. The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to the Work and the Contractor under this Contract. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty of this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- i. Termination of this Contract, in whole or in part;
- ii. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County’s setoff right, without penalty; and
- iii. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.
- iv. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

D. The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with:

- i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- ii. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’S property, operations, receipts, or income, or to

Contractor's performance of or compensation for any work performed by Contractor;

- iii. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

3. Section VI. **TERMINATION – AMENDMENT**, Item A is hereby deleted in its entirety and replaced with:

VI. TERMINATION - AMENDMENT

A. **TERMINATIONS.** This Contract may be terminated for the following reasons: 1) This Contract may be terminated at any time by mutual consent of the parties, or by County for convenience upon thirty (30) days' written notice to the Contractor; 2) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the work under this Contract is prohibited or County is prohibited from paying for such work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; 3) This Contract may also be immediately terminated by County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from County, fails to correct such failure within ten (10) business days; 4) If sufficient funds are not provided in future approved budgets of County (or from applicable federal, state, or other sources) to permit County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

4. ADD Section VIII. **EXECUTION AND COUNTERPARTS:**

VIII. EXECUTION AND COUNTERPARTS:

This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

SIGNATURE PAGE FOLLOWS

Except as expressly amended above, all other terms and conditions of the Contract shall remain in full force and effect. By signature below, the parties agree to this Amendment #1, effective upon the date of the last signature below.

U.S. BANCORP
dba U.S. Bank
555 SW Oak Street
Portland, OR 97204

CLACKAMAS COUNTY

Authorized Signature

Chair

Name, Title

Recording Secretary

Date

Date

586905-88 FBC / Delaware
Oregon Business Registry Number

Approved as to form:

County Counsel

Date



Clackamas County Sheriff's Office

CRAIG ROBERTS, Sheriff

April 4, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Request by the Clackamas County Sheriff's Office to enter into an Intergovernmental Agreement with Oregon Department of Human Services for Funding to Conduct a Child Abuse & Family Violence Training

Purpose/Outcome	Clackamas County Sheriff's Office, in partnership with other local agencies, will offer a comprehensive Child Abuse & Family Violence training.
Dollar Amount and Fiscal Impact	The total billable amount under this agreement is \$30,000.00.
Funding Source	Federal Domestic Assistance (CFDA) via the Oregon Department of Human Services.
Safety Impact	This training is to increase understanding regarding the complex issues associated with child abuse & family violence.
Duration	Four days, Child Abuse & Family Violence Summit 4/16-19/2019
Previous Board Action/Review	Approval of funds in previous years
Contact Person	Erin Schweitzer, Conference Coordinator – Office (503) 785.5102
Contract No.	None

BACKGROUND:

Clackamas County Sheriff's Office has received financial assistance from DHS to assist various agencies through scholarship registration assistance for the annual Child Abuse & Family Violence Summit.

The Board has approved in previous years.

RECOMMENDATION:

Staff recommends the Board approve this agreement and authorizes Craig Roberts, Sheriff, or his designee, to sign on behalf of Clackamas County.

Respectfully submitted,

Angie Brandenburg
Undersheriff



Agreement Number 159105

**STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT**

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

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

**Clackamas County
Acting by and through its Clackamas County Sheriff's Office
Attn: Erin Schweitzer
9101 SE Sunnybrook Ave
Clackamas, OR 9701
Telephone: 503-785-5102
Facsimile: 503-785-5037
E-mail address: erinsch@co.clackamas.or.us**

hereinafter referred to as "County."

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

**Child Welfare
Child Safety
500 Summer St. NE, E-67
Salem, OR 97301
Agreement Administrator: Jay Wurscher or delegate
Telephone: 503-931-1791
E-mail address: jay.m.wurscher@dhs.oha.state.or.us**

1. Effective Date and Duration.

This Agreement shall become effective on the date this Agreement has been fully executed by every party and, when required, approved by Department of Justice or on **January 31, 2019**, whichever date is later. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **June 30, 2019**. Agreement termination or expiration shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.

2. Agreement Documents.

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

- (1) Exhibit A, Part 1: Statement of Work
- (2) Exhibit A, Part 2: Payment and Financial Reporting
- (3) Exhibit A, Part 3: Special Terms and Conditions
- (4) Exhibit B: Standard Terms and Conditions
- (5) Exhibit C: Subcontractor Insurance Requirements
- (6) Exhibit D: Federal Terms and Conditions

This Agreement constitutes the entire agreement between the parties on the subject matter in it; there are no understandings, agreements, or representations, oral or written, regarding this Agreement that are not specified herein.

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

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

3. Consideration.

a. The maximum not-to-exceed amount payable to County under this Agreement, which includes any allowable expenses, is **\$30,000.00**. DHS will not pay County any amount in excess of the not-to-exceed amount for completing the Work, and will not pay for Work until this Agreement has been signed by all parties.

b. DHS will pay only for completed Work under this Agreement, and may make interim payments as provided for in Exhibit A.

4. Vendor or Subrecipient Determination.

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, DHS' determination is that:

- County is a subrecipient County is a vendor Not applicable

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Agreement: 93.643

5. County Data and Certification.

- a. County Information.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

County Name (exactly as filed with the IRS): _____
Clackamas, County of

Street address: _____
2051 Kaen Rd

City, state, zip code: _____
Oregon City, OR 97045

Email address: _____

Telephone: _____ () _____ Facsimile: _____ () _____

Proof of Insurance: County shall provide the following information upon submission of the signed Agreement, All insurance listed herein and required by Exhibit C, must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: _____ Safety National

Policy #: _____ SP 4059251 _____ Expiration Date: _____ 9/1/2020

- b. Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, the County hereby certifies under penalty of perjury that:
- (1) The County is in compliance with all insurance requirements in Exhibit C of this Agreement and notwithstanding any provision to the contrary, County shall deliver to the DHS Agreement Administrator (see page 1 of this Agreement) the required Certificate(s) of Insurance within 30 days of execution of this Agreement. By certifying compliance with all insurance as required by this Agreement, County acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. County may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;
 - (2) The County acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the County and that pertains to this Agreement or to the project for which the Agreement work is being performed. The County certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. County further acknowledges that in addition to the remedies under this Agreement, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney

General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the County.

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

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

COUNTY: YOU WILL NOT BE PAID FOR WORK PERFORMED PRIOR TO NECESSARY STATE APPROVALS

6. Signatures. This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

Clackamas County

By:

Authorized Signature

Printed Name

Title

Date

State of Oregon, acting by and through its Department of Human Services

By:

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Not Required per OAR 137-045-0030(1)(a)

Department of Justice

Date

EXHIBIT A

Part 1 Statement of Work

The purpose of this Agreement is to increase understanding regarding the complex issues associated with child abuse and family violence. This will be done by providing training for professionals who work in the areas of investigations, interviewing, assessment, prosecution and treatment of child abuse, neglect and domestic violence.

1. Desired outcomes

This Agreement supports the increased understanding of issues surrounding child abuse and domestic violence.

2. Description of allowable activities and any restrictions that may apply

This Agreement will provide funding to support the training and professional development. This will be provided through the implementation of the three-day, 2019 Child Abuse and Family Violence Summit. The training will be held in Portland, Oregon at the Red Lion Hotel and Conference Center on the River, April 17-20, 2019, with a pre-conference day on Monday, April 16, 2019.

3. Reporting Requirements

Recipient shall submit a final report to the Jennifer Wynhausen at Jennifer.wynhausen@dhsosha.state.or.us, no later than June 30, 2019. This report shall contain the following information.

- a) The number of Summit attendees
- b) The number of scholarships provided
- c) Speaker topics related to CJA priorities
- d) Summary information collected from attendee evaluations.
 - a. The evaluations shall include information related to the general training evaluation and for sessions directly related to CJA priorities.
 - b. The evaluation should concentrate on whether participants will be able to use the tools and information they learned in the session in their current roles, how effective the instruction was, whether the presenter was knowledgeable in the subject matter presented.
 - c. The evaluation should also specifically request ideas and needs for future training.

4. Performance expectations

The goal of the training is to educate professionals by broadening the knowledge base in multiple areas, and to increase understanding of rolls and responsibilities of other agencies who may work alongside each other during the process.

EXHIBIT A

Part 2 Payment and Financial Reporting

1. Payment Provisions.

- a. County shall send all invoices to Jennifer.wynhausen@dhsosha.state.or.us or to any other address as DHS may indicate in writing to County. County's claims to DHS for overdue payments on invoices are subject to ORS 293.462.

Invoices must include the following:

- 1) Agreement number
- 2) County's name and address
- 3) The County's contact person, along with phone and email address
- 4) The date of the invoice
- 5) Description of how funds were used

2. Travel and Other Expenses.

DHS will not reimburse County for any additional expenses under this Agreement that do not support the program described in Exhibit A, Part 1. Statement of Work.

EXHIBIT A

Part 3 Special Terms and Conditions

1. Confidentiality of Client Information.

- a. All information as to personal facts and circumstances obtained by the County on the client shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Agreement. Nothing prohibits the disclosure of information in summaries, statistical, or other form, which does not identify particular individuals.
- b. The use or disclosure of information concerning clients shall be limited to persons directly connected with the administration of this Agreement. Confidentiality policies shall be applied to all requests from outside sources.
- c. DHS, County and any subcontractor will share information as necessary to effectively serve DHS clients.

2. Amendments.

- a. DHS reserves the right to amend or extend the Agreement under the following general circumstances:
 - (1) DHS may extend the Agreement for additional periods of time up to a total Agreement period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on DHS' satisfaction with performance of the work or services provided by the County under this Agreement.
 - (2) DHS may periodically amend any payment rates throughout the life of the Agreement proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if DHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature.
- b. DHS further reserves the right to amend the Statement of Work for the following:
 - (1) Programmatic changes/additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Agreement or previous amendments to the Agreement;
 - (2) Implement additional phases of the Work; or
 - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules which, in part or in combination, govern the provision of services provided under this Agreement.

- c. Upon identification, by any party to this Agreement, of any circumstance which may require an amendment to this Agreement, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Agreement before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B, Section 22 "Amendments" of this Agreement.

3. County Requirements to Report Abuse of Certain Classes of Persons.

- a. County shall comply with, and cause all employees to comply with, the applicable laws for mandatory reporting of abuse for certain classes of persons in Oregon, including:
 - (1) Children (ORS 419B.005 through 419B.045);
 - (2) Elderly Persons (ORS 124.055 through 124.065);
 - (3) Residents of Long Term Care Facilities (ORS 441.630 through 441.645);
 - (4) Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
 - (5) Abuse of Individuals Living in State Hospitals (OAR 943-045-0400 through 945-045-0520)
- b. County shall make reports of suspected abuse of persons who are members of the classes established in Section 3.a. above to Oregon's Statewide Abuse Reporting Hotline: 1-855-503-SAFE (7233), as a requirement of this Agreement.
- c. County shall immediately report suspected child abuse, neglect or threat of harm to DHS' Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 through 419B.045). If law enforcement is notified, the County shall notify the referring DHS caseworker within 24 hours. County shall immediately contact the local DHS Child Protective Services office if questions arise as to whether or not an incident meets the definition of child abuse or neglect.
- d. If known, the abuse report should contain the following:
 - (1) The name and address of the abused person and any people responsible for their care;
 - (2) The abused person's age;
 - (3) The nature and the extent of the abuse, including any evidence of previous abuse;
 - (4) The explanation given for the abuse;
 - (5) The date of the incident; and
 - (6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

4. Background Checks for Employees and Volunteers.

- a. The Contractor shall ensure that all employees and volunteers who perform work related to this Contract or who have access to any information about clients served under this Contract, are approved by the Department of Human Services Background Check Unit (BCU) in accordance with Oregon Administrative Rules 407-007-0200 through 407-007-0370.
- b. In addition to potentially disqualifying conditions under OAR 407-007-0290, the following is a potentially disqualifying condition: abuse as determined from child protective services investigation reports held by the Department regardless of the date of initial report or outcome which have an outcome of founded, substantiated, or valid and in which the Subject Individual (SI) is determined to have been responsible for the abuse.
- c. An employee or volunteer may be hired on a preliminary basis, in accordance with the requirements and limits described in OAR 407-007-0315, prior to being approved by DHS's Background Check Unit. An employee or volunteer hired on a preliminary basis may not have unsupervised contact with individuals receiving services under this Contract and may only participate in the limited activities described in OAR 407-007-0315. An employee or volunteer hired on a preliminary basis must be actively supervised at all times as described in OAR 407-007-0315.
- d. Any current employee or volunteer hired for a new position with the Contractor must be approved by the BCU at the time the employee or volunteer accepts the new position. Notwithstanding the requirements of paragraph b. of this section, a current employee or volunteer who accepts a new position with the Contractor may be hired for a new position on a preliminary basis without active supervision in accordance with the limits and requirements described in OAR 407-007-0315.
- e. There are only two possible outcomes of a background check: approval or denial. If the employee or volunteer is denied, she or he may not have contact with DHS clients referred for service under this Contract and may not have access to information about DHS clients. Employees or volunteers who are denied do have the right to contest the denial. The process for contesting a denial is described in OARs 407-007-0330 and 407-007-0335.
- f. For purposes of compliance with OAR 407-007-0200 through 407-007-0370, the Contractor is a "Qualified Entity", as that term is defined in OAR 407-007-0210, and must comply with all the provisions pertaining to

Qualified Entities contained in OAR 407-007-0200 through 407-007-0370.

5. Nondiscrimination.

- a.** The County must provide services to DHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language and other special needs of clients.

9. Federal Whistleblower Protection. County shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Pilot Program for Enhancement of Employee Whistleblower Protection.

EXHIBIT B

Standard Terms and Conditions

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.
2. **Compliance with Law.** Both parties shall comply with laws, regulations, and executive orders to which they are subject and which are applicable to the Agreement or to the Work. Without limiting the generality of the foregoing, both parties expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations; (b) all state laws requiring reporting of client abuse; (c) ORS 659A.400 to 659A.409, ORS 659A.145 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the Work. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. All employers, including County and DHS, that employ subject workers who provide services 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. Nothing in this Agreement shall require County or DHS to act in violation of state or federal law or the Constitution of the State of Oregon.
3. **Independent Contractors.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that County is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Representations and Warranties.**
 - a. County represents and warrants as follows:
 - (1) **Organization and Authority.** County is a political subdivision of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. County has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

- (2) Due Authorization. The making and performance by County of this Agreement (a) have been duly authorized by all necessary action by County and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of County's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which County is a party or by which County may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by County of this Agreement.
- (3) Binding Obligation. This Agreement has been duly executed and delivered by County and constitutes a legal, valid and binding obligation of County, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- (4) County has the skill and knowledge possessed by well-informed members of its industry, trade or profession and County will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in County's industry, trade or profession;
- (5) County shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Work; and
- (6) County prepared its proposal related to this Agreement, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. DHS represents and warrants as follows:

- (1) Organization and Authority. DHS has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder.
- (2) Due Authorization. The making and performance by DHS of this Agreement (a) have been duly authorized by all necessary action by DHS and (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which DHS is a party or by which DHS may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or

performance by DHS of this Agreement, other than approval by the Department of Justice if required by law.

(3) **Binding Obligation.** This Agreement has been duly executed and delivered by DHS and constitutes a legal, valid and binding obligation of DHS, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

c. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

5. Funds Available and Authorized Clause.

a. The State of Oregon's payment obligations under this Agreement are conditioned upon DHS receiving funding, appropriations, limitations, allotment, or other expenditure authority sufficient to allow DHS, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. County is not entitled to receive payment under this Agreement from any part of Oregon state government other than DHS. Nothing in this Agreement is to be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. DHS represents that as of the date it executes this Agreement, it has sufficient appropriations and limitation for the current biennium to make payments under this Agreement.

b. **Payment Method.** Payments under this Agreement will be made by Electronic Funds Transfer (EFT) and shall be processed in accordance with the provisions of OAR 407-120-0100 through 407-120-0380 or OAR 410-120-1260 through OAR 410-120-1460, as applicable, and any other Oregon Administrative Rules that are program-specific to the billings and payments. Upon request, County shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. County shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Agreement. County shall provide this designation and information on a form provided by DHS. In the event that EFT information changes or the County elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the County shall provide the changed information or designation to DHS on a DHS-approved form. DHS is not required to make any payment under this Agreement until receipt of the correct EFT designation and payment information from the County.

6. Recovery of Overpayments. If billings under this Agreement, or under any other Agreement between County and DHS, result in payments to County to which County is not entitled, DHS, after giving to County written notification and an opportunity to object, may withhold from payments due to County such amounts, over such periods of time, as are necessary to recover the amount of the overpayment. Prior to withholding, if

County objects to the withholding or the amount proposed to be withheld, County shall notify DHS that it wishes to engage in dispute resolution in accordance with Section 19 of this Agreement.

7. **Reserved.**

8. **Ownership of Intellectual Property.**

a. **Definitions.** As used in this Section 8 and elsewhere in this Agreement, the following terms have the meanings set forth below:

- (1) "County Intellectual Property" means any intellectual property owned by County and developed independently from the Work.
- (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than DHS or County.

b. Except as otherwise expressly provided herein, or as otherwise required by state or federal law, DHS will not own the right, title and interest in any intellectual property created or delivered by County or a subcontractor in connection with the Work. With respect to that portion of the intellectual property that the County owns, County grants to DHS a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to (1) use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the intellectual property, (2) authorize third parties to exercise the rights set forth in Section 8.b.(1) on DHS' behalf, and (3) sublicense to third parties the rights set forth in Section 8.b.(1).

c. If state or federal law requires that DHS or County grant to the United States a license to any intellectual property, or if state or federal law requires that DHS or the United States own the intellectual property, then County shall execute such further documents and instruments as DHS may reasonably request in order to make any such grant or to assign ownership in the intellectual property to the United States or DHS. To the extent that DHS becomes the owner of any intellectual property created or delivered by County in connection with the Work, DHS will grant a perpetual, worldwide, non-exclusive, royalty-free and irrevocable license, subject to any provisions in the Agreement that restrict or prohibit dissemination or disclosure of information, to County to use, copy, distribute, display, build upon and improve the intellectual property.

d. County shall include in its subcontracts terms and conditions necessary to require that subcontractors execute such further documents and instruments as DHS may reasonably request in order to make any grant of license or assignment of ownership that may be required by federal or state law.

9. **County Default.** County shall be in default under this Agreement upon the occurrence of any of the following events:

a. County fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;

- b. Any representation, warranty or statement made by County herein or in any documents or reports relied upon by DHS to measure the delivery of Work, the expenditure of payments or the performance by County is untrue in any material respect when made;
- c. County (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
- d. A proceeding or case is commenced, without the application or consent of County, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of County, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of County or of all or any substantial part of its assets, or (3) similar relief in respect to County under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against County is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

10. DHS Default. DHS shall be in default under this Agreement upon the occurrence of any of the following events:

- a. DHS fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein; or
- b. Any representation, warranty or statement made by DHS herein or in any documents or reports relied upon by County to measure performance by DHS is untrue in any material respect when made.

11. Termination.

- a. **County Termination.** County may terminate this Agreement:
 - (1) For its convenience, upon at least 30 days advance written notice to DHS;
 - (2) Upon 45 days advance written notice to DHS, if County does not obtain funding, appropriations and other expenditure authorizations from County's governing body, federal, state or other sources sufficient to permit County to satisfy its performance obligations under this Agreement,

longer meets requirements to perform the Work. This termination right may only be exercised with respect to the particular part of the Work impacted by loss of necessary licensure or certification; or

- (6) Immediately upon written notice to County, if DHS determines that County or any of its subcontractors have endangered or are endangering the health or safety of a client or others in performing work covered by this Agreement.

- c. **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such time as the parties may agree in the written consent.

12. Effect of Termination.

a. Entire Agreement.

- (1) Upon termination of this Agreement, DHS shall have no further obligation to pay County under this Agreement.
- (2) Upon termination of this Agreement, County shall have no further obligation to perform Work under this Agreement.

- b. **Obligations and Liabilities.** Notwithstanding Section 12.a., any termination of this Agreement shall not prejudice any obligations or liabilities of either party accrued prior to such termination.

13. Limitation of Liabilities. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

14. Insurance. County shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.

15. Records Maintenance; Access. County shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, County shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of County, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document County's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of County whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." County acknowledges and agrees that DHS and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. County shall retain and keep accessible all Records for a minimum of six years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit,

as determined by County in the reasonable exercise of its administrative discretion;

- (3) Upon 30 days advance written notice to DHS, if DHS is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as County may specify in the notice; or
- (4) Immediately upon written notice to DHS, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement.

b. DHS Termination. DHS may terminate this Agreement:

- (1) For its convenience, upon at least 30 days advance written notice to County;
- (2) Upon 45 days advance written notice to County, if DHS does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to meet the payment obligations of DHS under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion. Notwithstanding the preceding sentence, DHS may terminate this Agreement, immediately upon written notice to County or at such other time as it may determine if action by the Oregon Legislative Assembly or Emergency Board reduces DHS' legislative authorization for expenditure of funds to such a degree that DHS will no longer have sufficient expenditure authority to meet its payment obligations under this Agreement, as determined by DHS in the reasonable exercise of its administrative discretion, and the effective date for such reduction in expenditure authorization is less than 45 days from the date the action is taken;
- (3) Immediately upon written notice to County if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that DHS no longer has the authority to meet its obligations under this Agreement or no longer has the authority to provide payment from the funding source it had planned to use;
- (4) Upon 30 days advance written notice to County, if County is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as DHS may specify in the notice;
- (5) Immediately upon written notice to County, if any license or certificate required by law or regulation to be held by County or a subcontractor to perform the Work is for any reason denied, revoked, suspended, not renewed or changed in such a way that County or a subcontractor no

controversy or litigation arising out of or related to this Agreement, whichever date is later. County shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

- 16. Information Privacy/Security/Access.** If the Work performed under this Agreement requires County or its subcontractor(s) to have access to or use of any DHS computer system or other DHS Information Asset for which DHS imposes security requirements, and DHS grants County or its subcontractor(s) access to such DHS Information Assets or Network and Information Systems, County shall comply and require all subcontractor(s) to which such access has been granted to comply with OAR 407-014-0300 through OAR 407-014-0320, as such rules may be revised from time to time. For purposes of this section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
- 17. Force Majeure.** Neither DHS nor County shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of DHS or County, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. DHS may terminate this Agreement upon written notice to the other party after reasonably determining that the delay or breach will likely prevent successful performance of this Agreement.
- 18. Assignment of Agreement, Successors in Interest.**

 - a.** County shall not assign or transfer its interest in this Agreement without prior written approval of DHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions as DHS may deem necessary. No approval by DHS of any assignment or transfer of interest shall be deemed to create any obligation of DHS in addition to those set forth in the Agreement.
 - b.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
- 19. Alternative Dispute Resolution.** The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the 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.
- 20. Subcontracts.** County shall not enter into any subcontracts for any of the Work required by this Agreement without DHS' prior written consent. In addition to any other provisions DHS may require, County shall include in any permitted subcontract under this Agreement provisions to require that DHS will receive the benefit of subcontractor performance as if the subcontractor were the County with respect to Sections 1, 2, 3, 4, 8, 15, 16, 18, 21, and 23 of this Exhibit B. DHS' consent to any subcontract shall not relieve County of any of its duties or obligations under this Agreement.
- 21. No Third Party Beneficiaries.** DHS and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. The parties agree that County's

performance under this Agreement is solely for the benefit of DHS to assist and enable DHS to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

- 22. Amendments.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and, when required, the Department of Justice. Such amendment, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given.
- 23. Severability.** The parties agree that 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 and 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.
- 24. Survival.** Sections 1, 4, 5, 6, 8, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 25, 26, 28, 29, 30 and 31 of this Exhibit B shall survive Agreement expiration or termination as well as those the provisions of this Agreement that by their context are meant to survive. Agreement expiration or termination shall not extinguish or prejudice either party's right to enforce this Agreement with respect to any default by the other party that has not been cured.
- 25. Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to County or DHS at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day if transmission was outside normal business hours of the recipient. Notwithstanding the forgoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

DHS: Office of Contracts & Procurement
635 Capitol Street NE, Suite 350
Salem, OR 97301
Telephone: 503-945-5818
Facsimile: 503-378-4324

- 26. Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

27. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
28. **Reserved.**
29. **Contribution.** 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 a party (the "Notified Party") with respect to which the other party ("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. Either 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 the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the County (or would be if joined in the Third Party Claim), the State 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 County in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the County 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 State on the one hand and of the County 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 State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the County is jointly liable with the State (or would be if joined in the Third Party Claim), the County 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 State in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the State 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 County on the one hand and of the State 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 County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

- 30. Indemnification by Subcontractors.** County shall take all reasonable steps to cause its contractor(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 and its officers, employees and agents (“Indemnitee”) 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 County’s contractor or any of the officers, agents, employees or subcontractors of the contractor (“Claims”). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.
- 31. Stop-Work Order.** DHS may, at any time, by written notice to the County, require the County to stop all, or any part of the work required by this Agreement for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, County shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, DHS shall either:
- a. Cancel or modify the stop work order by a supplementary written notice; or
 - b. Terminate the work as permitted by either the Default or the Convenience provisions of Section 11. Termination.

If the Stop Work Order is canceled, DHS may, after receiving and evaluating a request by the County, make an adjustment in the time required to complete this Agreement and the Agreement price by a duly executed amendment.

EXHIBIT D

Federal Terms and Conditions

General Applicability and Compliance. Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, County shall comply and, as indicated, require all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Agreement, to County, or to the Work, or to any combination of the foregoing. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

- 1. Miscellaneous Federal Provisions.** County shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the delivery of Work. Without limiting the generality of the foregoing, County expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, as amended, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (j) all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
- 2. Equal Employment Opportunity.** If this Agreement, including amendments, is for more than \$10,000, then County shall comply and require all subcontractors to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- 3. Clean Air, Clean Water, EPA Regulations.** If this Agreement, including amendments, exceeds \$100,000 then County shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and

Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to DHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. County shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this section.

4. **Energy Efficiency.** County shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
5. **Truth in Lobbying.** By signing this Agreement, the County certifies, to the best of the County's knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the County shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c. The County shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
 - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - e. No part of any federal funds paid to County under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or

video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.

- f. No part of any federal funds paid to County under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g. The prohibitions in subsections (e) and (f) of this section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to County under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

6. Resource Conservation and Recovery. County shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.

7. Audits.

- a. County shall comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law.
- b. If County expends \$750,000 or more in federal funds (from all sources) in a federal fiscal year, County shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to DHS within 30 days of

completion. If County expends less than \$750,000 in a federal fiscal year, Recipient is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, "Records Maintenance, Access".

8. **Debarment and Suspension.** County shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
9. **Drug-Free Workplace.** County shall comply and require all subcontractors to comply with the following provisions to maintain a drug-free workplace: (i) County certifies that it will provide a drug-free workplace by publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, except as may be present in lawfully prescribed or over-the-counter medications, is prohibited in County's workplace or while providing services to DHS clients. County's notice shall specify the actions that will be taken by County against its employees for violation of such prohibitions; (ii) Establish a drug-free awareness program to inform its employees about: The dangers of drug abuse in the workplace, County's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations; (iii) Provide each employee to be engaged in the performance of services under this Agreement a copy of the statement mentioned in paragraph (i) above; (iv) Notify each employee in the statement required by paragraph (i) above that, as a condition of employment to provide services under this Agreement, the employee will: abide by the terms of the statement, and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; (v) Notify DHS within ten (10) days after receiving notice under subparagraph (iv) above from an employee or otherwise receiving actual notice of such conviction; (vi) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted as required by Section 5154 of the Drug-Free Workplace Act of 1988; (vii) Make a good-faith effort to continue a drug-free workplace through implementation of subparagraphs (i) through (vi) above; (viii) Require any subcontractor to comply with subparagraphs (i) through (vii) above; (ix) Neither County, or any of County's employees, officers, agents or subcontractors may provide any service required under this Agreement while under the influence of drugs. For purposes of this provision, "under the influence" means: observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the County or County's employee, officer, agent or subcontractor has used a controlled substance, prescription or non-prescription medication that impairs the County or County's employee, officer, agent or

subcontractor's performance of essential job function or creates a direct threat to DHS clients or others. Examples of abnormal behavior include, but are not limited to: hallucinations, paranoia or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to: slurred speech, difficulty walking or performing job activities; and (x) Violation of any provision of this subsection may result in termination of this Agreement.

10. **Pro-Children Act.** County shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).
11. **Medicaid Services.** County shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
 - a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a(a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 subpart I.
 - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. County shall acknowledge County's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Agreement and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a)(68).
12. **Agency-based Voter Registration.** If applicable, County shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
13. **Disclosure.**
 - a. 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address

(including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- b. 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- c. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last 10 years.
- d. County shall make the disclosures required by this Section 13. to DHS. DHS reserves the right to take such action required by law, or where DHS has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

14. Federal Intellectual Property Rights Notice. The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Agreement, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. The County agrees that it has been provided the following notice:

- a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or agreement under a grant or subgrant; and

- (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
- b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
- c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or agreement under a grant or subgrant.

Confidential
CONTRACTOR TAX IDENTIFICATION INFORMATION
For Accounting Purposes Only

The State of Oregon requires contractors to provide their Federal Employer Identification Number (FEIN) or Social Security Number (SSN). This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(2). Social Security numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws. The State of Oregon may report this information to the Internal Revenue Service (IRS). Contractors must keep this information current at all times. Contractors are required to notify the State of Oregon contract administrator within 10 business days if this information changes. The State of Oregon reserves the right to ask contractors to update this information at any time during the document term.

Document number: _____

Legal name *(tax filing)*: Clackamas, County of

DBA name *(if applicable)*: _____

Billing address: 2051 Kaen Rd

City: Oregon City State: OR Zip: 97045

Phone: _____

FEIN: 93-6002286

- OR -

SSN: _____



Dave Cummings
Chief Information Officer

Technology Services

121 Library Court Oregon City, OR 97045

April 4, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for a Service Level Agreement with Oregon City School District

Purpose/Outcomes	Clackamas Broadband eXchange (CBX) is looking for approval for a Service Level Agreement (SLA) with the Oregon City School District (OCSD) for the lease of dark fiber.
Dollar Amount and Fiscal Impact	OCSD will pay a recurring lease fee of \$50,508.00 annually for the connections.
Funding Source	The dark fiber connections already exist. No new funds will be expended to complete the dark fiber connections for OCSD.
Duration	Effective upon signature by the board the SLA is effective for ten (10) years.
Previous Board Action	Board has previously approved similar school bids like Lake Oswego School District and North Clackamas School District.
Strategic Plan Alignment	<ol style="list-style-type: none">1. Build a strong infrastructure.2. Build public trust through good government.
Contact Person	Dave Devore (503)723-4996

BACKGROUND:

CBX is requesting a renewal of a SLA with the Oregon City School District for the lease of dark fiber. CBX provided a response to the Oregon City School District request for proposals from the school district for the lease of dark fiber connections. The Oregon City School District must request proposals to be eligible for reimbursement through the e-rate process from the Universal Service Administrative Company (USAC).

RECOMMENDATION:

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

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

Sincerely,

Dave Cummings
CIO Technology Services

Clackamas County

FIBER OPTIC SERVICE LEVEL AGREEMENT

Oregon City School District #62

(Customer Name)

1. Recitals

WHEREAS, Clackamas County (County) desires to provide to Oregon City School District #62 (Customer) the Services set forth in this Agreement, between the specified Customer sites listed in Appendix A, and at the price contained in Appendix A; and

WHEREAS, Customer desires to use the Services; and

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

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

2. Fiber Optic Network Description

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

3. Service Description

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

4. Construction and Installation Requirements

- a. County, when installing fiber optic cables on the property of Customer, shall do so in a neat and professional manner. Routing and location of these cables shall be mutually agreed upon between the parties.
- b. Customer shall secure any easements, leases, permits or other agreements necessary to allow County to use existing pathways to, into and within each site to the demarcation point for service. Customer shall provide a path for the fiber optic cable from the point of entry into the site to the termination panel that complies with all applicable building, electrical, fire and related codes.
- c. Subject to the terms of this Agreement, and at no cost to County, Customer shall

provide adequate environmentally controlled space and electricity required for installation, operation, and maintenance of the County's fiber optic cables used to provision the service within each site.

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

5. Term of Agreement

At such time as County completes installation and connection of the necessary facilities and equipment to provide service herein, County shall then certify and notify Customer in writing that the service is available for use, and the date of such notice shall be called the "Service Start Date." Unless terminated this Agreement shall remain in effect for a period of ten (10) years beyond the "Service Start Date."

6. Rates

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

7. Payment Options

a. Annual Payments

County shall provide an invoice for twelve months of service (July 1 through

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

b. **Alternative Payment Frequency**

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

8. **Fiber Maintenance**

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

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

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

9. **Confidentiality**

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

10. **Content Control and Privacy**

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

Fiber.

11. Assignment and Successors

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

12. Damage

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

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

13. Force Majeure

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

14. Consequential Damages

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHETHER FORSEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, TRANSMISSION INTERRUPTIONS OR DEGRADATION, INCLUDING BUT NOT LIMITED TO DAMAGE OR LOSS OF PROFITS OR EQUIPMENT, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, COST OF REPLACEMENT SERVICES OR CLAIMS OF CUSTOMERS, WHETHER

OCCASIONED BY ANY REPAIR OR MAINTENANCE PERFORMED BY OR FAILED TO BE PERFORMED BY A PARTY, OR ANY OTHER CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR STRICT LIABILITY.

15. Public Contracting Provisions

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

16. Non-Appropriation or Change in Law

Notwithstanding any other provisions of this Agreement, the parties hereby agree and understand that if either party fails to receive expenditure authority sufficient to allow that party, in the exercise of its reasonable administrative discretion, to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that a party is prohibited from performing under this Agreement, the Agreement shall terminate and Customer shall pay County any remaining pro rata fees for services due to the date of such termination payable pursuant to Section 7 of this Agreement.

17. Compliance with Laws

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

18. Taxes and Assessments

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

19. Termination

- a) Either party may terminate this Agreement for convenience following 90 day's written

notice to the other party.

- b) In the event Customer terminates this Agreement based upon County's default or failure to perform as described in this Agreement, County shall reimburse to Customer the pro rata amounts paid on the unexpired term of this Agreement.
- c) If Customer terminates this Agreement for any reason other than County's default or failure to perform, County shall be entitled to 5% of the remaining contract amount for the unexpired term of this Agreement.

20. Default

1. Either of the following events shall constitute a default:

- a. Failure to perform or comply with any material obligation or condition of this Agreement by any party; or
- b. Failure to pay any sums due under this Agreement.

2. Any defaulting party shall have thirty (30) days in which to cure following written notice of default by the non-defaulting party.

21. Amendment

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

22. No recourse Against the Grantor

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

23. Notice

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

Notice to the County

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

with a copy to

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

Notice to the Customer

Susan Dodd, CFO
Oregon City School District #62
1417 12th St
Oregon City, OR 97045
503-657-2518

with a copy to

David Klusmann, IT Coordinator
Oregon City School District #62-Technology
19761 S Beaver Creek Rd
Oregon City OR 97045

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

24. Debt Limitations

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

25. No Attorney Fees

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

26. Governing Law

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

Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit must be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

27. Whole Contract

THIS CONTRACT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL PRIOR AGREEMENTS OF PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS CONTRACT. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT WILL BE BINDING ON EITHER PARTY EXCEPT AS A WRITTEN ADDENDUM SIGNED BY AUTHORIZED AGENTS OF BOTH PARTIES.

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

Clackamas County

By (signature): _____

Name: _____

Title: _____

Date: _____

Customer

Oregon City School District #62
(Customer Name)

By (signature): Susan Dodd

Name (print): Susan Dodd

Title: CFO

Date: 7-27-2019

APPENDIX A

SERVICE AND RATE SCHEDULE

1. Specified Services and Rates

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

2. Construction, Installation and Activation

For construction, installation and activation work and provision of fiber optic network components, the County shall charge Customer nonrecurring charge(s) as specified in Section 5 of Appendix A.

3. Service Changes and Conversions

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

4. Annual Recurring Charges

	From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Monthly Rate (\$)
1	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Oregon City High School 19761 Beaver creek Rd. Oregon City, Oregon 97045	One Pair (two) dark fibers	\$255.00
2	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Candy Lane Elementary School 5901 SE Hull St. Milwaukie, Oregon 97267	One Pair (two) dark fibers	\$255.00
3	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Jennings Lodge Elementary School 18521 SE River Rd. Milwaukie, Oregon 97267	One Pair (two) dark fibers	\$255.00
4	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Ogden Middle School 14133 S Donovan Rd Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
5	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Gardiner Middle School 180 Ethel St Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00

6	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	John McLoughlin Elementary 19230 South End Rd Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
7	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	King Elementary 995 South End Rd Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
8	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Holcomb Elementary 14625 Holcomb Blvd Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
9	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Park Place Elementary 16075 Front St Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
10	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Marylhurst Early Childhood Center 817 12 th St Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
11	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Oregon City High Jackson Campus 1306 12 th St Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
12	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Gaffney Lane Elementary 13521 Gaffney Ln Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
13	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Eastham Elementary 1404 7 th St Oregon City, OR 97045	One Pair (two) dark fibers	\$255.00
14	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Beavercreek Elementary 21944 South Yeoman Rd Beavercreek, OR 97004	One Pair (two) dark fibers	\$255.00
15	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Redland Elementary 18131 S Redland Rd Oregon City, OR 97045	One Pair (two) dark fibers	\$505.00

5. Nonrecurring Charges

	From (Connecting Point A:Site Name & Address)	To (Connecting Point B:Site Name & Address)	Service	Amount (\$)
1	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Construction	\$0
2	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Candy Lane Elementary School 5901 SE Hull St. Milwaukie, Oregon 97267	Construction	\$0
3	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Jennings Lodge Elementary School 18521 SE River Rd. Milwaukie, Oregon 97267	Construction	\$0

4	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Ogden Middle School 14133 S Donovan Rd Oregon City, OR 97045	Construction	\$0
5	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Gardiner Middle School 180 Ethel St Oregon City, OR 97045	Construction	\$0
6	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	John McLoughlin Elementary 19230 South End Rd Oregon City, OR 97045	Construction	\$0
7	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	King Elementary 995 South End Rd Oregon City, OR 97045	Construction	\$0
8	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Holcomb Elementary 14625 Holcomb Blvd Oregon City, OR 97045	Construction	\$0
9	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Park Place Elementary 16075 Front St Oregon City, OR 97045	Construction	\$0
10	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Marylhurst Early Childhood Center 817 12 th St Oregon City, OR 97045	Construction	\$0
11	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Oregon City High Jackson Campus 1306 12 th St Oregon City, OR 97045	Construction	\$0
12	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Gaffney Lane Elementary 13521 Gaffney Ln Oregon City, OR 97045	Construction	\$0
13	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Eastham Elementary 1404 7 th St Oregon City, OR 97045	Construction	\$0
14	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Beavercreek Elementary 21944 South Yeoman Rd Beavercreek, OR 97004	Construction	\$0
15	Clackamas Education Service District 13455 SE 97th Ave. Clackamas, Oregon 97015	Redland Elementary 18131 S Redland Rd Oregon City, OR 97045	Construction	\$0

6. Late Payment Interest

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

7. Annual Consumer Price Index (CPI) Adjustments

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

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APPENDIX B

MAINTENANCE AND OPERATIONS SPECIFICATIONS AND PROCEDURES

1. Defined Terms

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

2. General

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

3. Fiber Optic Network

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

4. Restoration

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

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

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APPENDIX C

FIBER SPLICING AND TESTING STANDARDS AND PROCEDURES

1. Fiber and Connector Standards

a. **Connector Standards**

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

b. **Field Splice Standards**

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

c. **Span Loss**

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

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

A = Attenuation per KM at 1550 nm

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

N = Number of splices in a span

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

Remainder of this page intentionally left blank.



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

April 4, 2019

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement for Right of Way Services
with the Oregon Department of Transportation for the CRC Mobility Improvement Project

Purpose/Outcomes	This agreement memorializes roles and responsibilities as agreed to by both parties related to right of way acquisition for the Clackamas Regional Center Mobility Improvement Project.
Dollar Amount and Fiscal Impact	The Agency will reimburse ODOT up to \$8,000 for ODOT expenditures related to right of way acquisition.
Funding Source	Clackamas County Development Agency: Clackamas Town Center Urban Renewal District.
Duration	This Agreement will be in effect until December 18, 2021
Previous Board Action	The Board approved proceeding with design and construction of the project at a Study Session on April 11, 2017
Strategic Plan Alignment	Ensure Safe, Healthy and Secure Communities Build a Strong Infrastructure
Contact Person	David Queener, Program Supervisor, Clackamas County Development Agency – (503) 742-4322

BACKGROUND:

The Agency will begin construction of the Clackamas Regional Center Mobility Improvement Project in the summer 2019. In order to construct the project, it is necessary to acquire right of way.

This agreement between the County and ODOT memorializes the roles and responsibilities of each party as it relates to right of way acquisition.

The Agreement will remain in effect until December 18, 2021 and commits the Agency to reimburse ODOT for expenditures related to the right of way acquisition process.

County Counsel has reviewed and approved this Agreement.

RECOMMENDATION:

Staff recommends the Board approve and authorize the Chair to sign the Intergovernmental Agreement for Right of Way Services with Oregon Department of Transportation for the CRC Mobility Improvement project

Respectfully submitted,

David Queener, Program Supervisor
Development Agency

**INTERGOVERNMENTAL AGREEMENT
FOR RIGHT OF WAY SERVICES
CRC Mobility Improvements**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and COUNTY OF CLACKAMAS, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.
2. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. That certain portions of SE 82nd Avenue and SE Sunnyside Road right of way will be acquired by Agency for relinquishment to STATE. The terms of this agreement shall pertain only to those rights of way acquired by Agency within the project limits that are to be relinquished to STATE. That certain portions of the project are under the jurisdiction and control of Agency and Agency may enter into an agreement for the acquisition of real property.

Highway 68, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC).

4. This Agreement shall define roles and responsibilities of the Parties regarding the real property to be used as part of right of way for road, street or construction of public improvement. The scope and funding is further described in IGA Agreement number 32508. Hereinafter, all acts necessary to accomplish services in this Agreement shall be referred to as "Project."
5. As of this time there are no local public agencies (LPAs) certified to independently administer federal-aid projects for right of way services. Therefore, State is ultimately responsible for the certification and oversight of all right of way activities under this Agreement (except as provided under "Agency Obligations" for LPAs in State's certification program for consultant selection).

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, to accomplish the objectives in Agreement No. 32508, State and Agency agree to perform certain right of way activities shown in Special Provisions - Exhibit A, attached hereto and by this reference made a part hereof. For the right of way services State performs on behalf of the Agency, under no conditions shall Agency's obligations exceed a maximum of \$8,000, including all expenses, unless agreed upon by both Parties.
2. The work shall begin on the date all required signatures are obtained and shall be completed no later than December 18, 2021, on which date this Agreement automatically terminates unless extended by a fully executed amendment.
3. The process to be followed by the Parties in carrying out this Agreement is set out in Exhibit A.
4. It is further agreed both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual."

STATE OBLIGATIONS

1. State shall perform the work described in Special Provisions - Exhibit A.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. State shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
4. State's right of way contact person for this Project is David Mendelson, Right of Way Project Manager, 123 NW Flanders Street, Portland, OR 97209, 503-731-8451), or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact changes during the term of this Agreement.

AGENCY OBLIGATIONS

1. Agency shall perform the work described in Special Provisions - Exhibit A.
2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of current budget. Agency is willing and able to finance all, or its pro-rata share of all, costs and expenses incurred in the Project up to its maximum.

3. Agency's needed right of way services, as identified in Exhibit A, may be performed by qualified individuals from any of the following sources:
 - a. Agency staff,
 - b. State staff,
 - c. Staff of another local public agency, as described in ODOT's Right of Way Manual and approved by the State's Region Right of Way Office;
 - d. Consultants from State's Full Service Architectural and Engineering (A&E) Price Agreement 2 Tier Selection Process. Tier 2 procurements must be requisitioned through State's Local Agency Liaison (LAL) with solicitation process administered by State Procurement Office. Forms and procedures for Tier 2 process are located at: <http://www.oregon.gov/ODOT/CS/OPO/docs/fs/tier2guide.doc>;
 - e. *Appraiser services procured by Agency from State's Qualified Appraiser List (on line at <http://www.oregon.gov/ODOT/HWY/ROW/Pages/index.aspx>);
 - f. *Other right of way related services procured by Agency from any source of qualified contractors or consultants.

* Selections may be based on price alone, price and qualifications, or qualifications alone followed by negotiation. **Federally funded procurements** by Agency for right of way services must be conducted under State's certification program for consultant selection and must comply with requirements in the [LPA A&E Requirements Guide](#) (and must use the State's standard [A&E Contract Template for LPAs](#) which may be modified to include State-approved provisions required by Agency). **State and local funded procurements** by Agency must be in conformance with applicable State rules and statutes for A&E "Related Services" (and Agency may use its own contract document).

4. If Agency intends to use Agency staff, staff of another local public agency, consultants (except for consultants on State's Qualified Appraiser List), or contractors to perform right of way services scheduled under this Agreement, Agency must receive prior written approval from State's Region Right of Way Office.
5. The LPA A&E Requirements Guide and A&E Contract Template referenced above under paragraph 3 are available on the following Internet page: [http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx#Local Public Agency \(LPA\) Consultant Templates and Guidance Docs](http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx#Local_Public_Agency_(LPA)_Consultant_Templates_and_Guidance_Docs).
6. Agency or its subcontractor will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual."
7. Agency represents that this Agreement is signed by personnel authorized to do so on behalf of Agency.
8. Agency's right of way contact person for this Project is Sharan Hams-LaDuca Right of Way Program Manager, Clackamas County Department of Transportation, 150 Beaver Creek Road, Suite 325 Oregon City, Oregon 97045, 503-742-4675, shamsladuca@co.clackamas.or.us, or assigned designee upon individual's absence.

Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

PAYMENT FOR SERVICES AND EXPENDITURES:

1. In consideration for the services performed by State (as identified in the attached Exhibit A), Agency agrees to pay or reimburse State a maximum amount of \$8,000. Said maximum amount shall include reimbursement for all expenses, including travel expenses. Travel expenses shall be reimbursed to State in accordance with the current Oregon Department of Administrative Services' rates. Any expenditure beyond federal participation will be from, or reimbursed from, Agency funds. Payment in Agency and/or federal funds in any combination shall not exceed said maximum, unless agreed upon by both Parties.
2. State shall upon execution of this Agreement, forward to Agency either: 1) a request to sign an irrevocable limited power of attorney to access the Local Government Investment Pool account of the Agency, or 2) a letter of request for an advance deposit. Agency shall make any advance deposit to the State's Financial Services Branch, in an amount equal to the estimate of costs to be incurred by State for the Project. The preliminary estimate of costs is \$8,000. Additional deposits, if any, shall be made as needed upon request from State and acceptance by Agency. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete Project.
 - a. Agency agrees to pay or reimburse all salaries and payroll reserves of State employees working on Project, direct costs, costs of rental equipment used, and per-diem expenditures, plus 10 percent surcharge on salary costs to cover administrative costs of Right of Way Section.
 - b. State shall present invoices for 100 percent of actual costs incurred by State on behalf of the Project directly to Agency's right of way contact for review and approval. Such invoices shall be in a form identifying the Project, the agreement number, invoice number or account number, and shall itemize all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one (1) month duration, based on actual expenses incurred.
 - c. Upon completion of right of way acquisition and receipt from State of a final itemized statement, Agency shall pay an amount which, when added to said advance deposit, will equal 100 percent of the final total actual cost. Any portion of deposits made in excess of the final total costs of Project shall be refunded to Agency.

GENERAL PROVISIONS:

1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person, under any of the following conditions:
 - a. If either Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If either Party fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with

its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.

- c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 3. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this 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 State.
 4. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
 5. All employers 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. Both Parties shall ensure that each of its subcontractors complies with these requirements.
 6. 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 State or Agency 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.

7. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State 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 Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of 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 State on the one hand and of 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. State'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 State had sole liability in the proceeding.
8. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency 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 State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State 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 Agency on the one hand and of State 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. 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.
9. 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.
10. When federal funds are involved in this Agreement, Exhibits B and C are attached hereto and by this reference made a part of this Agreement, and are hereby certified to by Agency.
11. When federal funds are involved in this Agreement, Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold

harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

12. The Parties hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
13. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
14. This Agreement and attached exhibits and Agreement No. 32508 constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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.

Signature Page to Follow

COUNTY OF CLACKAMAS, by and through its elected officials

By _____

Date _____

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____

Date _____

Agency Contact:

Sharan Hams-LaDuca
Right of Way Program Manager,
Clackamas County Department of
Transportation, 150 Beaver Creek Road,
Suite 325 Oregon City, Oregon 97045
503-742-4675
shamsladuca@co.clackamas.or.us

State Contact:

David Mendelson
123 NW Flanders Street , Portland, Oregon
97209
503-731-8451
David.Mendelson@odot.state.or.us

STATE OF OREGON, by and through its Department of Transportation

By _____
State Right of Way Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region 1 Right of Way Manager

Date _____

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By (insert N/A if not applicable)
Assistant Attorney General

Date _____

APPROVED

(If Litigation Work Related to Condemnation is to be done by State)

By (insert N/A if not applicable)
Chief Trial Counsel

Date _____

SPECIAL PROVISIONS EXHIBIT A
Right of Way Services

THINGS TO BE DONE BY STATE OR AGENCY

1. Pursuant to this Agreement, the work performed on behalf of the Agency can be performed by the Agency, the Agency's consultant, the State or a State Flex Services consultant, as listed under Agency Obligations, paragraph 3 of this Agreement. The work may be performed by Agency staff or any of these representatives on behalf of Agency individually or collectively provided they are qualified to perform such functions and after receipt of approval from the State's Region Region 1 Right of Way Manager.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.

Instructions: Insert either: State, Agency, or N/A on each line.

A. Preliminary Phase

1. Agency shall provide preliminary cost estimates.
2. Agency shall make preliminary contacts with property owners.
3. Agency shall gather and provide data for environmental documents.
4. Agency shall develop access and approach road list.
5. Agency shall help provide field location and Project data.

B. Acquisition Phase

1. General:
 - a. When doing the Acquisition work, as described in this Section, Agency shall provide State with a status report of the Project monthly.
 - b. Title to properties acquired shall be in the name of the Agency.
 - c. The Agency shall adopt a resolution of intention and determination of necessity in accord with ORS 35.235 and ORS 35.610, authorizing acquisition and condemnation, such approval will be conditioned on passage of a resolution by Agency substantially in the form attached hereto as Exhibit D, and by this reference made a part hereof. If the Oregon Department of Justice is to handle condemnation work, prior approval evidenced by Chief Trial Counsel, Department of Justice, signature on this Agreement is required; and authorization for such representation

shall be included in the resolution adopted by the Agency. Prior approval by Oregon Department of Justice is required.

2. Legal Descriptions:

- a. Agency shall provide sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.
- b. Agency shall provide construction plans and cross-section information for the Project.
- c. Agency shall write legal descriptions and prepare right of way maps. If the Agency acquires any right of way on a State highway, the property descriptions and right of way maps shall be based upon centerline stationing and shall be prepared in accordance with the current "ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide" and the "Right of Way Engineering Manual." The preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by the State.
- d. Agency shall specify the degree of title to be acquired (e.g., fee, easement).

3. Real Property and Title Insurance:

- a. Agency shall provide preliminary title reports, if State determines they are needed, before negotiations for acquisition commence.
- b. Agency shall determine sufficiency of title (taking subject to). If the Agency acquires any right of way on a State highway, sufficiency of title (taking subject to) shall be determined in accordance with the current "State Right of Way Manual" and the "ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide." Agency shall clear any encumbrances necessary to conform to these requirements, obtain Title Insurance policies as required and provide the State copies of any title policies for the properties acquired.
- c. Agency shall conduct a Level 1 Initial Site Assessment, according to State Guidance, within Project limits to detect presence of hazardous materials on any property purchase, excavation or disturbance of structures, as early in the Project design as possible, but at a minimum prior to property acquisition or approved design.
- d. Agency shall conduct a Level 2 Preliminary Site Investigation, according to State Guidance, of sufficient scope to confirm the presence of contamination, determine impacts to properties and develop special provisions and cost estimates, if the Level 1 Initial Site Assessment indicates the potential presence of contamination that could impact the properties.

- If contamination is found, a recommendation for remediation will be presented to State.
 - e. Agency) shall be responsible for proper treatment and cost of any necessary remediation.
 - f. Agency shall conduct asbestos, lead paint and other hazardous materials surveys for all structures that will be demolished, renovated or otherwise disturbed. Asbestos surveys must be conducted by an AHERA (asbestos hazard emergency response act) certified inspector.
4. Appraisal:
- a. Agency shall conduct the valuation process of properties to be acquired.
 - b. Agency shall perform the Appraisal Reviews to set Just Compensation.
 - c. Agency shall recommend Just Compensation, based upon a review of the valuation by qualified personnel.
5. Negotiations:
- a. Agency shall tender all monetary offers to land-owners in writing at the compensation shown in the appraisal review. Agency shall have sole authority to negotiate and make all settlement offers. Conveyances taken for more or less than the approved Just Compensation will require a statement justifying the settlement. Said statement will include the consideration of any property trades, construction obligations and zoning or permit concessions.
 - b. State and Agency shall determine a date for certification of right of way and agree to cosign the State's Right of Way Certification form. State and Agency agree possession of all right of way shall occur prior to advertising for any construction contract, unless exceptions have been agreed to by Agency and State.
 - c. Agency agrees to file all Recommendations for Condemnation at least seventy (70) days prior to the right of way certification date if negotiations have not been successful on those properties.
6. Relocation:
- a. Agency shall perform any relocation assistance, make replacement housing computations, and do all things necessary to relocate any displaced parties on the Project.
 - b. Agency shall make all relocation and moving payments for the Project.

- c. Agency shall facilitate the relocation appeal process.

C. Closing Phase

1. Agency shall close all transactions. This includes drawing of deeds, releases and satisfactions necessary to clear title, obtaining signatures on release documents, and making all payments. If State is working as a consultant for the Agency, State shall submit all signed Final Report packets, information required by the Uniform Act, and agreements to the Agency.
2. Agency shall record conveyance documents, only upon acceptance by appropriate agency.

D. Property Management

1. Agency shall take possession of all the acquired properties. There shall be no encroachments of buildings or other private improvements allowed upon the State highway right of way.
2. Agency shall dispose of all improvements and excess land consistent with State prevailing laws and policies.

E. Condemnation

1. Agency may offer mediation if the Agency and property owners have reached an impasse.
2. Agency shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.
3. Agency shall perform all legal and litigation work related to the condemnation process. Agency is responsible for passage of a resolution substantially in the form attached hereto as Exhibit D, and by this reference made a part hereof, specifically identifying the property being acquired.
4. When State shall perform legal or litigation work related to the condemnation process, Agency acknowledges, agrees and undertakes to assure that no member of Agency's board or council, nor Agency's mayor, when such member or mayor is a practicing attorney, nor Agency's attorney nor any member of the law firm of Agency's attorney, board or council member, or mayor, will represent any party, except Agency, against the State of Oregon, its employees or contractors, in any matter arising from or related to the Project which is the subject of this Agreement.

F. Transfer of Right of Way to State

When right of way is being acquired in Agency's name, Agency agrees to transfer and State agrees to accept all right of way acquired on the State highway. The specific method of

conveyance will be determined by the Agency and the State at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. Agency agrees to provide the State all information and file documentation the State deems necessary to integrate the right of way into the State's highway system. At a minimum, this includes: copies of all recorded conveyance documents used to vest title in the name of the Agency during the right of way acquisition process, and the Agency's Final Report or Summary Report for each acquisition file that reflects the terms of the acquisition and all agreements with the property owner(s).

G. Transfer of Right of Way to Agency

When right of way is being acquired in State's name, State agrees to transfer and Agency agrees to accept all right of way acquired on the Agency's facility, subject to concurrence from FHWA at the time of the transfer. The specific method of conveyance will be determined by the State and the Agency at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. If requested, State agrees to provide Agency information and file documentation associated with the transfer.

RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN EXHIBIT D
Right of Way Services

WHEREAS (insert title of agency) may exercise the power of eminent domain pursuant to (Agency's charter) (statutes conferring authority) and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by the (insert title of agency)'s governing body to accomplish public purposes for which (insert title of agency) has responsibility;

WHEREAS (insert title of agency) has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public;

WHEREAS the project or projects known as (insert Project name) have been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in "Exhibit A," attached to this resolution and, by this reference incorporated herein; now, therefore

BE IT HEREBY RESOLVED by (Agency's Council, Commission, or Board)

1. The foregoing statements of authority and need are, in fact, the case. The project or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;
2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law;
3. The (insert title of agency)'s staff and the (Agency's Attorney, Counsel, or District's Counsel (or) (The Oregon Department of Transportation and the Attorney General) are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the (Agency's Council, Commission, or Board).
4. (insert title of agency) expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

DATED this ____ day of _____, 20__



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

April 4, 2019

Development Agency Board
Board of County Commissioners
Clackamas County

Members of the Board:

Execution of a Property Line Adjustment with Pat Murphy and Dyan Murphy to Adjust Approximately 0.145 Acres on Property Located on Capps Road West of SE 120th Avenue

Purpose/Outcomes	Execute a property line adjustment in order to facilitate development of the CIAO site
Dollar Amount and Fiscal Impact	None identified
Funding Source	N/A
Duration	Permanent
Previous Board Action	Approval of a Property Exchange Agreement on January 10, 2019
Strategic Plan Alignment	1. Build public trust through good government.
Contact Person	David Queener, 503-742-4322
Contract No.	<i>None</i>

BACKGROUND:

As part of the pending sale of a portion of the Clackamas Industrial Area Opportunity (CIAO) property to Bottling Group, LLC, the Development Agency is obligated to address certain encumbrances affecting title to the property. One such encumbrance is a potential adverse possession claim by the property owners to the north. Over the course of the last several months, the Development Agency, representatives from Bottling Group, LLC, and the property owners to the north, Patrick and Dyan Murphy, have negotiated a solution that would resolve the title encumbrance issue and provide Bottling Group, LLC the access it needs to properly develop the site.

More specifically, Patrick and Dyan Murphy would transfer any claim they have to an area approximately 0.27 acres in size along the common north south border of the two parcels. In exchange, the Development Agency would transfer approximately 0.145 acres adjacent to a common property line, to Patrick and Dyan Murphy.

To facilitate transfer of the properties, a property line adjustment is necessary. By executing attached property line adjustment deed, the Agency will transfer 0.145 acres to Patrick and Dyan Murphy.

County Counsel has reviewed and approved this Deed

RECOMMENDATION:

Staff recommends the Board execute the attached Property Line Adjustment Deed.

Respectfully submitted,

David Queener
Development Agency Program Supervisor

MAIL TAX STATEMENTS TO:

No Change

AFTER RECORDING RETURN TO:

Clackamas County Development Agency
Development Services Building
150 Beaver creek Rd.
Oregon City, Oregon 97045

GRANTOR'S ADDRESS:

Clackamas County Development Agency
Development Services Building
150 Beaver creek Rd.
Oregon City, Oregon 97045

GRANTEE'S ADDRESS:

Clackamas County Development Agency
Development Services Building
150 Beaver creek Rd.
Oregon City, Oregon 97045

PROPERTY LINE ADJUSTMENT DEED

The Clackamas County Development Agency, the Urban Renewal Agency of Clackamas County, Oregon ("**Grantor**"), is the owner of real property located in Clackamas County, Oregon, referred to herein as "**Tract 1**," and more particularly described on **Exhibit "A**," which is attached hereto and by this reference incorporated herein. Grantor obtained its interest in Tract 1 as evidenced in the Bargain and Sale Deed recorded in the Clackamas County real property records as Document #2018-013894. **Patrick L. Murphy and Dyan M. Murphy** ("**Grantees**"), are the owner of real property located in Clackamas County, Oregon, referred to herein as "**Tract 2**," more particularly described on **Exhibit "B**," which is attached hereto and by this reference incorporated herein. Grantee obtained its interest in Tract 2 as evidenced in the Statutory Warranty Deed recorded in the Clackamas County real property records as Document #2009-015937.

The purpose of this Property Line Adjustment Deed (the "**Deed**") is to effect a property line adjustment between Tract 1 and Tract 2 such that Tract 1 will be decreased in size by approximately 0.145 acres and will hereafter consist of only the land described on **Exhibit "D**," which is attached hereto and incorporated herein by this reference, and Tract 2 will be increased in size by approximately 0.145 acres and will hereafter consist of the land more particularly described on **Exhibit "E**," which is attached hereto and incorporated herein by this reference.

NOW THEREFORE, in order to effect the property line adjustment and to create the reconfigured lots as described on **Exhibits "D**" and **"E**," Grantor does hereby grant, transfer, and convey unto Grantees, all of that certain real property situated in Clackamas County, Oregon, described on **Exhibit "C**" which is attached hereto and by this reference incorporated herein.

The true and actual consideration for this transfer, stated in terms of dollars is \$0; however the actual consideration consists of other property or values which is the whole consideration. The purpose of this Deed is to effect a property line adjustment, and the two parcels are to remain separate and distinct.

“BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336, AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.”

This Property Line Adjustment Deed is executed this _____ day of _____, 20 ____.

GRANTOR
Clackamas County Development Agency

Chair

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20____, by _____,
Chair of the Clackamas County Development Agency.

Before me:

Notary Public for Oregon
My Commission Expires: _____

GRANTEES:
Patrick L. Murphy
Dyan M. Murphy

Patrick L. Murphy

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20____, by Patrick L. Murphy, Owner.

Notary Public for Oregon
My Commission Expires: _____

Dyan M. Murphy

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20____, by Dyan M. Murphy, Owner.

Notary Public for Oregon
My Commission Expires: _____

Exhibit A

Capps Industrial Area
January 11, 2019
Development Agency

Map No. 22E 15A 01200
Page 1 of 1

Record Legal Description 22E 15A 01200

A part of the Northeast one-quarter of Section 15, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at a point on the West boundary of a tract of land conveyed to D.D. Anderson by Deed recorded March 22, 1930 in Book 204, page 608, Deed Records, that is 793.5 feet East and 566.27 feet South of the one-quarter corner on the North boundary line of Section 15, Township 2 South, Range 2 East of the Willamette Meridian, from said point of beginning; thence South along the West boundary of the said Anderson tract, 422.73 feet to an iron pipe at the Northwest corner of a tract of land conveyed to John A. Kaslin, et ux, by Deed recorded August 1, 1962 in Book 608, page 1, Deed Records; thence Easterly along the North boundary of the said Kaslin tract the following courses and distances, South 82°25' East 95.6 feet, South 84°11' East 126.86 feet, North 79°13' East 182.4 feet to an iron pipe on the East boundary of the said Anderson tract, and the Northeast corner of the said Kaslin tract; thence North along the said East boundary of said Anderson tract 414.09 feet to a point that is 566.27 feet South of the North boundary line of said Section 15; thence West parallel with the said North boundary 400.15 feet to the point of beginning.

Exhibit B

Capps Industrial Area
January 11, 2019
Development Agency

Map No. 22E 15A 01300/01400
Page 1 of 2

Record Legal Description 22E 15A 01300 and 01400 (One legal lot)

PARCEL I:

A tract of land in Section 15, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at an iron pipe which is 793.5 feet East and 1318.63 feet South of the quarter section corner on the North line of Section 15 Township 2 South, Range 2 East of the Willamette Meridian; thence East, 400.15 feet; thence North 338.27 feet; thence South 79°13' West, 182.4 feet; thence North 84°11' West, 126.86 feet; thence North 82°25' West, 95.6 feet to a point which is North 329.63 feet from the point of beginning; thence South 329.63 feet to the point of beginning.

EXCEPTING THEREFROM the East 136 feet thereof as cut off by a line drawn parallel with the East line of said property.

TOGETHER WITH an Easement for ingress and egress over and across the South 40 feet of said East 136 feet.

TOGETHER WITH an Easement for road purposes and utility poles along one side of property being described as follows:

Part of Section 15, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at the intersection of the West line of the Hackett and Capps Road No. 88 with the South line of the Presley Welch Donation Land Claim; thence Westerly tracing the South line of said Donation Land Claim to a point 20 feet North of the most Northerly Northwest corner of that tract conveyed to Charles Edward Grant, et ux, by Deed recorded in Book 570, Page 90, Deed Records; thence continuing Westerly on said South boundary of the Welch Donation Land Claim, a distance of 125 feet; thence South a distance of 20 feet; thence Easterly parallel with the South boundary of said Welch Donation Land Claim to a point that is 20 feet South of the place of beginning; thence North a distance of 20 feet to the point of beginning.

PARCEL II:

The East 136 feet of the following described tract of land.

A tract of land in Section 15, Township 2 South, Range 2 East of the Willamette Meridian in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at an iron pipe which is 793.5 feet East and 1318.63 feet South of the quarter section corner of the North line of Section 15, Township 2 South, Range 2 East of the Willamette Meridian; thence East, 400.15 feet; thence North 338.27 feet; thence South 79°13' West, 182.4 feet; thence North 84°11' West, 126.86 feet; thence North 82°25' West, 95.6 feet to a point which is North 329.63 feet from the point of beginning; thence South 329.63 feet to the point of beginning.

TOGETHER WITH an Easement for road purposes and utility poles along one side of property being described as follows:

Part of Section 15, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Exhibit B

Capps Industrial Area
January 11, 2019
Development Agency

Map No. 22E 15A 01300/01400
Page 2 of 2

Beginning at the intersection of the West line of the Hackett and Capps Road No. 88 with the South line of the Presley Welch Donation Land Claim; thence Westerly tracing the South line of said Donation Land Claim to a point 20 feet North of the most Northerly Northwest corner of that tract conveyed to Charles Edward Grant et ux, by Deed Recorded in Book 570 Page 90, Deed Records; thence continuing Westerly on said South boundary of the Welch Donation Land Claim, a distance of 125 feet; thence South a distance of 20 feet; thence Easterly parallel with the South boundary of said Welch Donation Land Claim to a point that is 20 feet South of the place of beginning; thence North a distance of 20 feet to the point of beginning.

Exhibit C



1815 NW 169th Place, Suite 2090
Beaverton, OR 97006
Telephone: 503-848-2127
www.nwsrvy.com

Exchange Area

December 3, 2018

NWS Project Number 1821

Page 1 of 1

A tract of land being a portion of that property described as Parcel VII in a deed to Clackamas County Development Agency recorded on October 8, 2009 as Document Number 2009-071163, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the north one-quarter corner of said Section 15, said point being marked by a 3-1/4 inch bronze disk; Thence along the north line of the northeast one-quarter of said Section 15, North 89°50'46" East 662.95 feet to the northerly extension of the east line of that property conveyed to IPT Clackamas DC LLC by a deed recorded on December 19, 2014 as Document Number 2014-065094, Clackamas County Deed Records; Thence along said northerly extension and the east line of said IPT Clackamas DC LLC property, South 00°01'11" West 602.40 feet to a 5/8 inch iron rod located at the southwest corner of that property conveyed to Gabriel Enterprises, LLC by a deed recorded on August 14, 2008 as Document Number 2008-057309, Clackamas County Deed Records, said point also being an angle point on the northerly boundary of that property described as Tract B in a deed to Clackamas County Development Agency recorded October 12, 2018 as Document Number 2018-062874, Clackamas County Deed Records; Thence along the most northerly line of said Tract B, North 89°39'36" East 133.25 feet to the northeast corner thereof, also being an angle point on the westerly line of said Parcel VII; Thence along the westerly line of said Parcel VII, South 00°03'13" West 383.38 feet to a 3/4 inch iron pipe located at the southwest corner thereof and the Point of Beginning;

Thence North 88°50'16" East 400.29 feet to the southeast corner of said Parcel VII, said point being marked by 3/4 inch iron pipe; Thence along the southerly boundary of said Parcel VII, South 79°13'04" West 182.56 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence continuing along said southerly boundary, North 84°02'57" West 126.91 feet to a 3/4 inch iron pipe; Thence continuing along said southerly boundary, North 82°15'10" West 95.51 feet to the Point of Beginning.

The above described tract of land contains 0.145 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 15, 2002
CLINTON H. STUBBS JR.
55489LS

RENEWS: 08/30/20

Exhibit D



1815 NW 169th Place, Suite 2090
Beaverton, OR 97006
Telephone: 503-848-2127
www.nwsrvy.com

Tract 1

December 3, 2018

NWS Project Number 1821

Page 1 of 1

A tract of land being a portion of that property described as Parcel VII in a deed to Clackamas County Development Agency recorded on October 8, 2009 as Document Number 2009-071163, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the north one-quarter corner of said Section 15, said point being marked by a 3-1/4 inch bronze disk; Thence along the north line of the northeast one-quarter of said Section 15, North 89°50'46" East 662.95 feet to the northerly extension of the east line of that property conveyed to IPT Clackamas DC LLC by a deed recorded on December 19, 2014 as Document Number 2014-065094, Clackamas County Deed Records; Thence along said northerly extension and the east line of said IPT Clackamas DC LLC property, South 00°01'11" West 602.40 feet to a 5/8 inch iron rod located at the southwest corner of that property conveyed to Gabriel Enterprises, LLC by a deed recorded on August 14, 2008 as Document Number 2008-057309, Clackamas County Deed Records, said point also being an angle point on the northerly boundary of that property described as Tract B in a deed to Clackamas County Development Agency recorded October 12, 2018 as Document Number 2018-062874, Clackamas County Deed Records; Thence along the most northerly line of said Tract B, North 89°39'36" East 133.25 feet to the northeast corner thereof, also being an angle point on the westerly line of said Parcel VII and the Point of Beginning;

Thence along the westerly line of said Parcel VII, South 00°03'13" West 383.38 feet to a 3/4 inch iron pipe located at the southwest corner thereof; Thence North 88°50'16" East 400.29 feet to the southeast corner thereof, said point being marked by 3/4 inch iron pipe; Thence along the easterly boundary of said Parcel VII, North 00°02'02" East 412.02 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD" at the northeast corner thereof; Thence along the northerly line of said Parcel VII, South 89°50'03" West 400.02 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD" at the northwest corner thereof; Thence along the westerly boundary of said Parcel VII, South 00°07'28" West 35.60 feet to the Point of Beginning.

The above described tract of land contains 3.816 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.



Clinton H. Stubbs Jr.



RENEWS: 06/30/20

Exhibit E



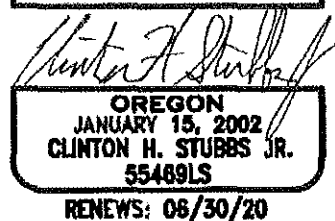
1815 NW 169th Place, Suite 2090
Beaverton, OR 97006

Tract 2

December 3, 2018

NWS Project Number 1821

Page 1 of 1



A tract of land being described in a deed to Patrick L. Murphy and Dyan M. Murphy recorded on March 12, 2009 as Document Number 2009-015937 and a portion of that property described as Parcel VII in a deed to Clackamas County Development Agency recorded on October 8, 2009 as Document Number 2009-071163, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the north one-quarter corner of said Section 15, said point being marked by a 3-1/4 inch bronze disk; Thence along the north line of the northeast one-quarter of said Section 15, North 89°50'46" East 662.95 feet to the northerly extension of the east line of that property conveyed to IPT Clackamas DC LLC by a deed recorded on December 19, 2014 as Document Number 2014-065094, Clackamas County Deed Records; Thence along said northerly extension and the east line of said IPT Clackamas DC LLC property, South 00°01'11" West 602.40 feet to a 5/8 inch iron rod located at the southwest corner of that property conveyed to Gabriel Enterprises, LLC by a deed recorded on August 14, 2008 as Document Number 2008-057309, Clackamas County Deed Records, said point also being an angle point on the northerly boundary of that property described as Tract B in a deed to Clackamas County Development Agency recorded October 12, 2018 as Document Number 2018-062874, Clackamas County Deed Records; Thence along the most northerly line of said Tract B, North 89°39'36" East 133.25 feet to the northeast corner thereof, also being an angle point on the westerly line of said Parcel VII; Thence along the westerly line of said Parcel VII, South 00°03'13" West 383.38 feet to a 3/4 inch iron pipe located at the southwest corner thereof and the Point of Beginning;

Thence North 88°50'16" East 400.29 feet to the southeast corner of said Parcel VII also being the northeast corner of said Murphy property, said point being marked by 3/4 inch iron pipe; Thence along the easterly boundary of said Murphy property, South 00°08'00" West 299.74 feet to the northwest corner of the right-of-way terminus of SE Capps Road; Thence along the westerly right-of-way terminus line of SE Capps Road, South 00°10'06" West 39.94 feet to a 5/8 inch iron rod at the southeast corner of said Murphy property; Thence along the southerly line of said Murphy property, South 89°58'02" West 400.25 feet to the southwest corner thereof; Thence along the westerly line of said Murphy property, North 00°08'50" East 331.80 feet to the Point of Beginning.

The above described tract of land contains 3.085 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

April 4, 2019

Development Agency Board
Board of County Commissioners
Clackamas County

Members of the Board:

Execution of a Property Line Adjustment with Pat Murphy and Dyan Murphy to Adjust Approximately 0.014 Acres on Property Located on Capps Road West of SE 120th Avenue

Purpose/Outcomes	Execute a property line adjustment in order to facilitate development of the CIAO site
Dollar Amount and Fiscal Impact	None identified
Funding Source	N/A
Duration	Permanent
Previous Board Action	Approval of a Property Exchange Agreement on January 10, 2019
Strategic Plan Alignment	1. Build public trust through good government.
Contact Person	David Queener, 503-742-4322
Contract No.	<i>None</i>

BACKGROUND:

As part of the pending sale of a portion of the Clackamas Industrial Area Opportunity (CIAO) property to Bottling Group, LLC, the Development Agency is obligated to address certain encumbrances affecting title to the property. One such encumbrance is a potential adverse possession claim by the property owners to the north. Over the course of the last several months, the Development Agency, representatives from Bottling Group, LLC, and the property owners to the north, Patrick and Dyan Murphy, have negotiated a solution that would resolve the title encumbrance issue and provide Bottling Group, LLC the access it needs to properly develop the site.

More specifically, Patrick and Dyan Murphy would transfer any claim they have to an area approximately 0.309 acres in size along the common north south border of the two parcels. In exchange, the Development Agency would transfer approximately 0.324 acres along their eastern border to Patrick and Dyan Murphy.

To facilitate transfer of the properties, a property line adjustment is necessary. By executing attached property line adjustment deed, the Agency will transfer a net increase of 0.014 acres to Patrick and Dyan Murphy.

County Counsel has reviewed and approved this Deed

RECOMMENDATION:

Staff recommends the Board execute the attached Property Line Adjustment Deed.

Respectfully submitted,

David Queener
Development Agency Program Supervisor

MAIL TAX STATEMENTS TO:

No Change

AFTER RECORDING RETURN TO:

Clackamas County Development Agency
Development Services Building
150 Beaver Creek Rd.
Oregon City, Oregon 97045

GRANTOR'S ADDRESS:

Clackamas County Development Agency
Development Services Building
150 Beaver Creek Rd.
Oregon City, Oregon 97045

GRANTEE'S ADDRESS:

Patrick L. Murphy &
Dyan M. Murphy
PO Box 442
Boring, Oregon 97009

PROPERTY LINE ADJUSTMENT DEED

The Clackamas County Development Agency, the Urban Renewal Agency of Clackamas County, Oregon ("**Property One Owner**"), is the owner of real property located in Clackamas County, Oregon, referred to herein as "**Tract 1**," and more particularly described on **Exhibit "A**," which is attached hereto and by this reference incorporated herein. The Property One Owner obtained its interest in Tract 1 as evidenced in the Bargain and Sale Deed recorded in the Clackamas County real property records as Document #2018-013894, and in the Property Line Adjustment Deed recorded in the Clackamas County real property records as Document #2019-_____. **Patrick L. Murphy and Dyan M. Murphy (collectively "Property Two Owners")**, are the owners of real property located in Clackamas County, Oregon, referred to herein as "**Tract 2**," more particularly described on **Exhibit "B**," which is attached hereto and by this reference incorporated herein. The Property Two Owners obtained their interest in Tract 2 as evidenced in the Statutory Warranty Deed recorded in the Clackamas County real property records as Document #2009-015937, and in the Property Line Adjustment Deed recorded in the Clackamas County real property records as Document #2019-_____.

The true and actual consideration for this transfer, stated in terms of dollars is \$0; however the actual consideration consists of other property or values which is the whole consideration. The purpose of this Deed is to effect a property line adjustment, and the two parcels are to remain separate and distinct.

The purpose of this Property Line Adjustment Deed (the "**Deed**") is to effect a property line adjustment between Tract 1 and Tract 2 such that Tract 1 will experience a net decrease in size by approximately 0.014 acres and will hereafter consist of only the land described on **Exhibit "D**," which is attached hereto and incorporated herein by this reference, and Tract 2 will experience a net increase in size by approximately 0.014 acres and will hereafter consist of the land more particularly described on **Exhibit "E**," which is attached hereto and incorporated herein by this reference.

NOW THEREFORE, in order to effect the property line adjustment and to create the reconfigured lots as described on **Exhibits "D" and "E**," **Property One Owner** does hereby grant, transfer, and convey

unto *Property Two Owners*, all of that certain real property situated in Clackamas County, Oregon, described on *Exhibit "C-2,"* which is attached hereto and by this reference incorporated herein.

Property Two Owners do hereby grant, transfer and convey unto *Property One Owner*, all of that certain real property situated in Clackamas County, Oregon, described on *Exhibit "C-1,"* which is attached hereto and by this reference incorporated herein.

"BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336, AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

This Property Line Adjustment Deed is executed this _____ day of _____, 20_____.

PROPERTY ONE OWNER:
Clackamas County Development Agency

Chair

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20_____, by _____,
Chair of the Clackamas County Development Agency.

Notary Public for Oregon
My Commission Expires: _____

PROPERTY TWO OWNERS:

Patrick L. Murphy

Dyan M. Murphy

Patrick L. Murphy

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20____, by Patrick L. Murphy, Owner.

Notary Public for Oregon
My Commission Expires: _____

Dyan M. Murphy

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20____, by Dyan M. Murphy, Owner.

Notary Public for Oregon
My Commission Expires: _____

Exhibit A

Capps Industrial Area
January 11, 2019
Development Agency

Map No. 22E 15A 01700
Page 1 of 2

Record Legal Description 22E 15A 01700

A tract of land being a portion of that property described as Tract 1 in a property line adjustment deed recorded May 23, 2017 as Document Number 2017-034564, Clackamas County Deed Records, and a portion of that property described as Parcel VIII in a deed to Clackamas County Development Agency recorded on October 8, 2009 as Document Number 2009-071163, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the north one-quarter corner of said Section 15, said point being marked by a 3-1/4 inch bronze disk; Thence along the north line of the northeast one-quarter of said Section 15, North 89°50'46" East 662.95 feet to the northerly extension of the east line of that property conveyed to IPT Clackamas DC LLC by a deed recorded on December 19, 2014 as Document Number 2014-065094, Clackamas County Deed Records; Thence along said northerly extension and the east line of said IPT Clackamas DC LLC property, South 00°01'11" West 620.00 feet to the southeast corner thereof, said point also being the most northerly northeast corner of said Tract 1 and being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most northerly line of said Tract 1, South 89°49'50" West 233.59 feet to the most northerly northwest corner thereof, said point being marked by 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most northerly west line of said Tract 1, South 00°05'09" West 363.74 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc" and the Point of Beginning;

Thence leaving said most northerly west line, South 89°54'51" East 367.03 feet to a 3/4 inch iron pipe located on the east line of said Parcel VIII; Thence along the east line of said Parcel VIII, South 00°08'50" West 331.80 feet to the southeast corner thereof, said point being marked by 5/8 inch iron rod and being on the northerly boundary of said Tract 1; Thence along the northerly boundary of said Tract 1, North 89°58'02" East 400.25 feet to a 5/8 inch iron rod on the westerly terminus line for the right-of-way of SE Capps Road; Thence along said westerly terminus line, South 00°10'06" West 20.06 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD" located on the southerly right-of-way line of SE Capps Road (30.00 feet southerly from the centerline thereof, when measured at right angles); Thence along said southerly right-of-way line, North 89°57'49" East 40.04 feet to the most easterly northeast corner of said Tract 1, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most southerly east line of said Tract 1,

Continued on Page 2

EXHIBIT A CONTINUED – Page 2 of 2
January 11, 2019
Development Agency

South $00^{\circ}27'26''$ West 758.60 feet to a 3/4 inch iron pipe at the southeast corner of said Tract 1; Thence along the southwesterly boundary of said Tract 1, North $59^{\circ}00'04''$ West 393.43 feet to an angle point thereon, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence continuing along the southwesterly boundary of said Tract 1, North $45^{\circ}37'07''$ West 822.82 feet to the most westerly northwest corner thereof, said point being marked by a 5/8 inch iron rod; Thence along the most westerly north line of said Tract 1, South $89^{\circ}57'56''$ East 124.46 feet to an angle point on the westerly boundary of said Tract 1, said point being marked by a 1/2 inch iron pipe; Thence along the most northerly west line of said Tract 1, North $00^{\circ}05'09''$ East 332.68 feet to the Point of Beginning.

The above described tract of land contains 11.964 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.

Exhibit B

Capps Industrial Area
January 11, 2019
Development Agency

Map No. 22E 15A 01300/01400
Page 1 of 1

Record Legal Description 22E 15A 01300 and 01400 (One legal lot)

A tract of land being described in a deed to Patrick L. Murphy and Dyan M. Murphy recorded on March 12, 2009 as Document Number 2009-015937 and a portion of that property described as Parcel VII in a deed to Clackamas County Development Agency recorded on October 8, 2009 as Document Number 2009-071163, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the north one-quarter corner of said Section 15, said point being marked by a 3-1/4 inch bronze disk; Thence along the north line of the northeast one-quarter of said Section 15, North 89°50'46" East 662.95 feet to the northerly extension of the east line of that property conveyed to IPT Clackamas DC LLC by a deed recorded on December 19, 2014 as Document Number 2014-065094, Clackamas County Deed Records; Thence along said northerly extension and the east line of said IPT Clackamas DC LLC property, South 00°01'11" West 602.40 feet to a 5/8 inch iron rod located at the southwest corner of that property conveyed to Gabriel Enterprises, LLC by a deed recorded on August 14, 2008 as Document Number 2008-057309, Clackamas County Deed Records, said point also being an angle point on the northerly boundary of that property described as Tract B in a deed to Clackamas County Development Agency recorded October 12, 2018 as Document Number 2018-062874, Clackamas County Deed Records; Thence along the most northerly line of said Tract B, North 89°39'36" East 133.25 feet to the northeast corner thereof, also being an angle point on the westerly line of said Parcel VII; Thence along the westerly line of said Parcel VII, South 00°03'13" West 383.38 feet to a 3/4 inch iron pipe located at the southwest corner thereof and the Point of Beginning;

Thence North 88°50'16" East 400.29 feet to the southeast corner of said Parcel VII also being the northeast corner of said Murphy property, said point being marked by 3/4 inch iron pipe; Thence along the easterly boundary of said Murphy property, South 00°08'00" West 299.74 feet to the northwest corner of the right-of-way terminus of SE Capps Road; Thence along the westerly right-of-way terminus line of SE Capps Road, South 00°10'06" West 39.94 feet to a 5/8 inch iron rod at the southeast corner of said Murphy property; Thence along the southerly line of said Murphy property, South 89°58'02" West 400.25 feet to the southwest corner thereof; Thence along the westerly line of said Murphy property, North 00°08'50" East 331.80 feet to the Point of Beginning.

The above described tract of land contains 3.085 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.

Exhibit C-1



1815 NW 169th Place, Suite 2090
Beaverton, OR 97006
Telephone: 503-848-2127
www.nwsrvy.com

Exchange Area 1

January 18, 2019

NWS Project Number 1821

A tract of land being a portion of that property described as Tract 2 in a deed to Clackamas County Development Agency recorded as Document Number 2019 _____, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the southeast corner of Parcel 2 of Partition Plat No. 1995-164, Clackamas County Plat Records, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "W.B. Wells & Assoc. Inc."; Thence along the south line of said Parcel 2 and continuing along the south line of Parcel 1 of said Plat, South 89°57'49" West 438.70 feet to the southwest corner of said Parcel 1, and the Point of Beginning;

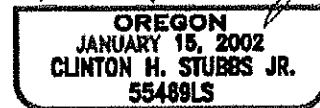
Thence along the west line of said Parcel 1, North 00°08'00" East 23.24 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence departing the west line of said Parcel 1, 31.02 feet along a non-tangent circular curve to the left with a radius of 58.00 feet, a delta angle of 30°38'34" and a long chord of South 51°15'53" West 30.65 feet to a point of reverse curvature marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence 20.74 feet along a tangent circular curve to the right with a radius of 22.00 feet, a delta angle of 54°01'13" and a long chord of South 62°57'13" West 19.98 feet to a point of tangency marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°57'49" West 4.09 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 00°02'11" East 2.94 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°58'02" West 354.54 feet to a point on the west line of said Tract 2; Thence along the west line of said Tract 2, South 00°08'50" West 32.00 feet to the southwest corner thereof, marked with a 5/8 inch iron rod; Thence along the south line of said Tract 2, North 89°58'02" East 400.25 feet to the southeast corner thereof, being on the west terminus line of the right-of-way of SE Capps Road; Thence along the terminus line of said right-of-way, North 00°10'06" East 39.94 feet to the Point of Beginning.

The above described tract of land contains 0.309 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.



A handwritten signature in black ink, appearing to read "Clinton H. Stubbs Jr.", written over the stamp.



RENEWS: 06/30/20

Exhibit C-2



1815 NW 169th Place, Suite 2090
Beaverton, OR 97006
Telephone: 503-848-2127
www.nwsrvy.com

Exchange Area 2

January 18, 2019

NWS Project Number 1821

A tract of land being a portion of that property described as Tract A in a deed to Clackamas County Development Agency recorded on October 12, 2018 as Document Number 2018-062874, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the southeast corner of Parcel 2 of Partition Plat No. 1995-164, Clackamas County Plat Records, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "W.B. Wells & Assoc. Inc."; Thence along the south line of said Parcel 2 and continuing along the south line of Parcel 1 of said Plat, South 89°57'49" West 438.70 feet to the southwest corner of said Parcel 1; Thence along the west line of said Parcel 1, North 00°08'00" East 23.24 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence departing the west line of said Parcel 1, 31.02 feet along a non-tangent circular curve to the left with a radius of 58.00 feet, a delta angle of 30°38'34" and a long chord of South 51°15'53" West 30.65 feet to a point of reverse curvature marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence 20.74 feet along a tangent circular curve to the right with a radius of 22.00 feet, a delta angle of 54°01'13" and a long chord of South 62°57'13" West 19.98 feet to a point of tangency marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°57'49" West 4.09 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 00°02'11" East 2.94 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°58'02" West 354.54 feet to a point on the west line of said Tract 2, and the Point of Beginning;

Thence continuing South 89°58'02" West 47.00 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence North 00°08'50" East 299.89 feet to a point on the most northerly line of said Tract A, marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence along the most northerly line of said Tract A, South 89°54'51" East 47.00 feet to the most northerly northeast corner of said Tract A, marked with a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the most northerly east line of said Tract A, South 00°08'50" West 299.80 feet to Point of Beginning.

The above described tract of land contains 0.324 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.

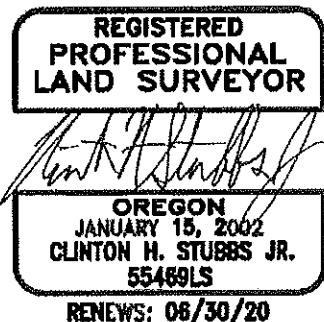


Exhibit D



1815 NW 169th Place, Suite 2090
Beaverton, OR 97006
Telephone: 503-848-2127
www.nwsrvy.com

Tract 1

January 18, 2019

NWS Project Number 1821

Page 1 of 2

A tract of land being a portion of that property described as Tract A in a deed to Clackamas County Development Agency recorded on October 12, 2018 as Document Number 2018-062874, Clackamas County Deed Records, and a portion of that property described as Tract 2 in a deed to Clackamas County Development Agency recorded as Document Number 2019 - _____, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the southeast corner of Parcel 2 of Partition Plat No. 1995-164, Clackamas County Plat Records, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "W.B. Wells & Assoc. Inc."; Thence along the south line of said Parcel 2 and continuing along the south line of Parcel 1 of said Plat, South 89°57'49" West 438.70 feet to the southwest corner of said Parcel 1 and the Point of Beginning;

Thence along the west line of said Parcel 1, North 00°08'00" East 23.24 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence departing the west line of said Parcel 1, 31.02 feet along a non-tangent circular curve to the left with a radius of 58.00 feet, a delta angle of 30°38'34" and a long chord of South 51°15'53" West 30.65 feet to a point of reverse curvature marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence 20.74 feet along a tangent circular curve to the right with a radius of 22.00 feet, a delta angle of 54°01'13" and a long chord of South 62°57'13" West 19.98 feet to a point of tangency marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°57'49" West 4.09 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 00°02'11" East 2.94 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°58'02" West 401.54 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence North 00°08'50" East 299.89 feet to a point on the most northerly line of said Tract A, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence along the most northerly line of said Tract A, North 89°54'51" West 320.03 feet to the most northerly northwest corner thereof, marked with a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence along the most northerly west line of said Tract A, South 00°05'09" West 332.68 feet to an angle point on the westerly boundary of said Tract A, marked with a 1/2 inch iron pipe; Thence along the westerly boundary of said Tract A, North 89°57'56" West 124.46 feet to the most westerly corner of said Tract A, marked with a bent 5/8 inch iron rod;

Continued on Page 2

Tract 1

January 18, 2019

NWS Project Number 1821

Page 2 of 2

Thence along the southwesterly boundary of said Tract A, South 45°37'07" East 822.82 feet to an angle point thereon, marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence continuing along said southwesterly boundary, South 59°00'04" East 393.43 feet to the southeast corner of said Tract A, being marked with a 3/4 inch iron pipe; Thence along the easterly boundary of said Tract A, North 00°27'26" East 758.60 feet to a point on the southerly right-of-way line of SE Capps Road marked with a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along said southerly right-of-way line, South 89°57'49" West 40.04 feet to the southwest corner of the terminus of said right-of-way being marked with a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the westerly terminus line of said right-of-way, North 00°10'06" East 60.00 feet to the Point of Beginning.

The above described tract of land contains 11.950 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.

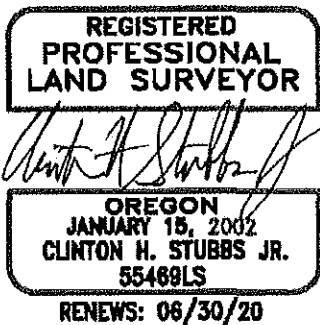


Exhibit E



1815 NW 169th Place, Suite 2090
Beaverton, OR 97006
Telephone: 503-848-2127
www.nwsrvy.com

Tract 2

January 18, 2019

NWS Project Number 1821

A tract of land being a portion of that property described as Tract A in a deed to Clackamas County Development Agency recorded on October 12, 2018 as Document Number 2018-062874, Clackamas County Deed Records, and a portion of that property described as Tract 2 in a deed to Clackamas County Development Agency recorded as Document Number 2019-_____, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

Commencing at the southeast corner of Parcel 2 of Partition Plat No. 1995-164, Clackamas County Plat Records, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "W.B. Wells & Assoc. Inc."; Thence along the south line of said Parcel 2 and continuing along the south line of Parcel 1 of said Plat, South 89°57'49" West 438.70 feet to the southwest corner of said Parcel 1; Thence along the west line of said Parcel 1, North 00°08'00" East 23.24 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc" and the Point of Beginning;

Thence departing the west line of said Parcel 1, 31.02 feet along a non-tangent circular curve to the left with a radius of 58.00 feet, a delta angle of 30°38'34" and a long chord of South 51°15'53" West 30.65 feet to a point of reverse curvature marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence 20.74 feet along a tangent circular curve to the right with a radius of 22.00 feet, a delta angle of 54°01'13" and a long chord of South 62°57'13" West 19.98 feet to a point of tangency marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°57'49" West 4.09 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 00°02'11" East 2.94 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°58'02" West 401.54 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence North 00°08'50" East 299.89 feet to a point on the most northerly line of said property described as Tract A, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence along the most northerly line of said Tract A, South 89°54'51" East 47.00 feet to the northwest corner of said Tract 2, marked with a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the north line of said Tract 2, North 88°50'16" East 400.29 feet to the northeast corner thereof, marked with a 3/4 inch iron pipe; Thence along the east line of said Tract 2, South 00°08'00" West 276.51 feet to the Point of Beginning.

The above described tract of land contains 3.099 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.



RENEWS: 06/30/20



DAN JOHNSON
MANAGER

DEVELOPMENT AGENCY

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

April 4, 2019

Development Agency Board
Board of County Commissioners
Clackamas County

Members of the Board:

**Acceptance of a Quitclaim Deed from Pat Murphy and Dyan Murphy Related to Property
Located on Capps Road West of SE 120th Avenue**

Purpose/Outcomes	Accept a quitclaim deed in order to resolve a boundary dispute and facilitate development of the CIAO site
Dollar Amount and Fiscal Impact	None identified
Funding Source	N/A
Duration	Permanent
Previous Board Action	Approval of a Property Exchange Agreement on January 10, 2019
Strategic Plan Alignment	1. Build public trust through good government.
Contact Person	David Queener, 503-742-4322
Contract No.	<i>None</i>

BACKGROUND:

As part of the pending sale of a portion of the Clackamas Industrial Area Opportunity (CIAO) property to Bottling Group, LLC, the Development Agency is obligated to address certain encumbrances affecting title to the property. One such encumbrance is a potential adverse possession claim by the property owners to the north. Over the course of the last several months, the Development Agency, representatives from Bottling Group, LLC, and the property owners to the north, Patrick and Dyan Murphy, have negotiated a solution that would resolve the title encumbrance issue and provide Bottling Group, LLC the access it needs to properly develop the site.

More specifically, Patrick and Dyan Murphy would transfer any claim they have to an area approximately 0.27 acres in size along the common north south border of the two parcels. In exchange, the Development Agency would transfer approximately 0.145 acres adjacent to a common property line, to Patrick and Dyan Murphy.

To settle any outstanding claims that Patrick and Dyan Murphy have to property currently owned by the Development Agency, they have agreed to execute a quitclaim deed to evidence their release

of any interest they may have in the subject property. The quitclaim deed will be recorded at closing along with the property line adjustment deeds described above. The property line adjustments, along with this quitclaim deed, will allow the Development Agency to convey to Bottling Group, LLC clean title to the property.

County Counsel has reviewed and approved this Deed

RECOMMENDATION:

Staff recommends the Board accept the attached Quitclaim Deed.

Respectfully submitted,

David Queener
Development Agency Program Supervisor

MAIL TAX STATEMENTS TO:

No Change

AFTER RECORDING RETURN TO:

Clackamas County Development Agency
Development Services Building
150 Beaver Creek Rd.
Oregon City, Oregon 97045

GRANTOR'S ADDRESS:

Patrick L. Murphy &
Dyan M. Murphy
PO Box 442
Boring, Oregon 97009

GRANTEE'S ADDRESS:

Clackamas County Development Agency
Development Services Building
150 Beaver Creek Rd.
Oregon City, Oregon 97045

STATUTORY QUITCLAIM DEED

Patrick L. Murphy and Dyan M. Murphy (collectively "Grantors") release and quitclaim to **the Clackamas County Development Agency**, the Urban Renewal Agency of Clackamas County, Oregon ("**Grantee**"), all right, title, and interest in the real property described in *Exhibit "A"*, which is attached hereto and incorporated herein.

The purpose of this quitclaim deed (the "*Deed*") is to resolve issues between the parties hereto, related to a claim of adverse possession by the Grantors as to a portion of the property described in Exhibit "A". The parties have since resolved the issue to the mutual satisfaction of the parties, and this Deed is further evidence that the Grantors release any interest that they may have had in any portion of the property described in Exhibit "A".

The true and actual consideration for this transfer, stated in terms of dollars is \$0; however the actual consideration consists of the Grantors' release of any claim or interest in any portion of the property described in Exhibit "A".

"BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336, AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED

IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.”

This Property Line Adjustment Deed is executed this _____ day of _____, 20_____.

GRANTORS:

Patrick L. Murphy

Dyan M. Murphy

Patrick L. Murphy

Dyan M. Murphy

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20____, by Patrick L. Murphy, Owner.

Notary Public for Oregon
My Commission Expires: _____

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20____, by Dyan M. Murphy, Owner.

Notary Public for Oregon
My Commission Expires: _____

Acknowledged By:

GRANTEE:
Clackamas County Development Agency

Chair

State of Oregon)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _____, 20____, by _____,
Chair of the Clackamas County Development Agency.

Notary Public for Oregon
My Commission Expires: _____

Exhibit A



1815 NW 169th Place, Suite 2090
Beaverton, OR 97006
Telephone: 503-848-2127
www.nwsrvy.com

Tract 1

January 18, 2019

NWS Project Number 1821

Page 1 of 2

A tract of land being a portion of that property described as Tract A in a deed to Clackamas County Development Agency recorded on October 12, 2018 as Document Number 2018-062874, Clackamas County Deed Records, and a portion of that property described as Tract 2 in a deed to Clackamas County Development Agency recorded as Document Number 2019 - _____, Clackamas County Deed Records, located in the northeast one-quarter of Section 15, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and more particularly described as follows:

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Thence along the west line of said Parcel 1, North 00°08'00" East 23.24 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence departing the west line of said Parcel 1, 31.02 feet along a non-tangent circular curve to the left with a radius of 58.00 feet, a delta angle of 30°38'34" and a long chord of South 51°15'53" West 30.65 feet to a point of reverse curvature marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence 20.74 feet along a tangent circular curve to the right with a radius of 22.00 feet, a delta angle of 54°01'13" and a long chord of South 62°57'13" West 19.98 feet to a point of tangency marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°57'49" West 4.09 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 00°02'11" East 2.94 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence South 89°58'02" West 401.54 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence North 00°08'50" East 299.89 feet to a point on the most northerly line of said Tract A, said point being marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence along the most northerly line of said Tract A, North 89°54'51" West 320.03 feet to the most northerly northwest corner thereof, marked with a 5/8 inch iron rod with a yellow plastic cap stamped "Northwest Surveying Inc"; Thence along the most northerly west line of said Tract A, South 00°05'09" West 332.68 feet to an angle point on the westerly boundary of said Tract A, marked with a 1/2 inch iron pipe; Thence along the westerly boundary of said Tract A, North 89°57'56" West 124.46 feet to the most westerly corner of said Tract A, marked with a bent 5/8 inch iron rod;

Continued on Page 2

Tract 1

January 18, 2019

NWS Project Number 1821

Page 2 of 2

Thence along the southwesterly boundary of said Tract A, South 45°37'07" East 822.82 feet to an angle point thereon, marked by a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence continuing along said southwesterly boundary, South 59°00'04" East 393.43 feet to the southeast corner of said Tract A, being marked with a 3/4 inch iron pipe; Thence along the easterly boundary of said Tract A, North 00°27'26" East 758.60 feet to a point on the southerly right-of-way line of SE Capps Road marked with a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along said southerly right-of-way line, South 89°57'49" West 40.04 feet to the southwest corner of the terminus of said right-of-way being marked with a 5/8 inch iron rod with a yellow plastic cap stamped "Clackamas Co. DTD"; Thence along the westerly terminus line of said right-of-way, North 00°10'06" East 60.00 feet to the Point of Beginning.

The above described tract of land contains 11.950 acres, more or less.

The bearings in this description are based on survey number 2017-092, Clackamas County Survey Records.

