

6:00 p.m. **WORK SESSION – Sky Lakes Update on Future Plans**

**AGENDA FOR COUNCIL MEETING
KLAMATH FALLS CITY COUNCIL
JUNE 6, 2016
7:00 P.M.**

Matters for Council consideration not scheduled on the Agenda can be addressed by the general public under the “Public Comment” section on the agenda. Testimony must be presented according to Council procedure. Items of a non-emergency nature may be scheduled for future Council determination in order to provide sufficient time to analyze the issue.

CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

1. CONSENT AGENDA

- a. Approval of June 6, 2016 agenda and May 16, 2016 regular meeting minutes
- b. Land Lease Agreement with Verizon Wireless for Placement of a Wireless Communication Tower on City-Owned Property
- c. Authorization to Execute a Contract with Henris Roofing & Supply for the South Portal Building Roof Repair Project in an Amount Not-to-Exceed \$27,171.50
- d. Authorization to Execute Fund Exchange Agreement No. 31279 with the State of Oregon for the 2015 Chip and Crack Seal Project
- e. Award of Contract to Ricoh USA, Inc. in the Total Amount of \$87,295.80 for City-Wide Five-Year Copier Lease

LAND USE PUBLIC HEARING - QUASI JUDICIAL - NONE

LAND USE PUBLIC HEARING – LEGISLATIVE

2. ORDINANCE AMENDING THE KLAMATH FALLS URBAN AREA TRANSPORTATION SYSTEM PLAN BY ADDING THE KLAMATH FALLS URBAN TRAIL MASTER PLAN – FIRST READING

- a. Report of Management Assistant
- b. Conduct a public hearing and take testimony
- c. Move to approve, deny or modify findings of the Planning Commission
- d. Move to introduce the Ordinance by title for first reading

GENERAL PUBLIC HEARING - NONE

LEGISLATIVE ACTION

- 3. REQUEST TO WAIVE SYSTEM DEVELOPMENT CHARGE (SDC) AND METER FEES FOR THE GOSPEL MISSION**
 - a. Report of Public Works Director
 - b. Council to provide direction

- 4. AUTHORIZATION TO ENTER INTO LOCAL AGENCY AGREEMENT NO. 30859 WITH THE OREGON DEPARTMENT OF TRANSPORTATION FOR THE BRETT WAY EXTENSION PROJECT**
 - a. Report of Public Works Director
 - b. Move to authorize the Mayor to sign on behalf of the City of Klamath Falls the Multimodal Transportation Enhance Program Agreement for Brett Way Extension

- 5. APPROVAL OF PROPOSAL TO UPGRADE CONTROL SYSTEMS FOR THE SPRING STREET SEWAGE TREATMENT PLANT AND WASTEWATER LIFT STATIONS**
 - a. Report of Maintenance Manager
 - b. Move to accept the proposal from North Coast Electric Company to upgrade the control systems for the Spring Street Sewage Treatment Plant and Wastewater Lift Stations in the amount of \$59,834 to allow staff to proceed immediately with all of the recommended improvements

- 6. ORDINANCE ADDING SECTION 5.700 TO AUTHORIZE CITY TO PETITION COURT FOR RECEIVERS TO ADDRESS RESIDENTIAL BLIGHT – FIRST READING**
 - a. Report of City Attorney
 - b. Take public comment
 - c. Move to introduce the Ordinance by title for first reading

7. ORDINANCE AMENDING KLAMATH FALLS CODE AMENDING SECTIONS 5.443, 5.446, 7.250 TO 7.255 AND ADDING SECTIONS 5.448 AND 5.449 REGARDING MEDICAL MARIJUANA FACILITIES – FIRST READING

- a. Report of City Attorney
- b. Take public comment
- c. Move to introduce the Ordinance by title for first reading

OTHER MATTERS

ADJOURNMENT to Executive Session-ORS 192.660(2)(d) Labor Negotiations

The City Council may recess/adjourn to Executive Session under ORS 192.660 as follows: ORS 192.660(2):

- (a) - Employment of Public Officers, Employees
- (b) - Discipline of Public Officers and Employees and Agents
- (d) - Labor Negotiations
- (e) - Real Property Transactions
- (f) - Exempt Public Records
- (g) - Trade Negotiations
- (h) - Consultation with Legal Counsel
- (i) - Performance Evaluations of Public Officers and Employees
- (i) - Public Investments

*****AMERICANS WITH DISABILITIES ACT NOTICE*****

Please contact the City Recorder's office, Klamath Falls City Hall, 500 Klamath Avenue, Klamath Falls, OR 97601, or call 541.883.5316 at least 48 hours prior to the scheduled meeting time if you need an accommodation to participate in the meeting. The City's TTY/TDD number is 541.883.5324

PROCLAMATION - POLICE WEEK AND PEACE OFFICERS MEMORIAL DAY. Mayor Kellstrom presented Police Chief Dave Henslee with a Proclamation declaring week of May 15 through 21, 2016 as Police Week and May 15, 2016 as Peace Officers Memorial Day. Chief Henslee provided his statement reinforcing the vision and directive of the Klamath Falls Police Department and acknowledged the accomplishments and efforts of the Department as follows:

“The Klamath Falls Police Department strives to reduce crime and increase the overall livability of Klamath Falls through proactive education, prevention and enforcement. The department is committed to maintaining a strong alliance with our community to understand and appreciate the needs and expectations of Klamath Falls.

In 2015, Klamath Falls Police Officers provided law enforcement services to thousands of citizens and responded to over 35,000 calls for service. Officers focused on accident mitigation, decreased property loss and enhanced personal protection through traffic education and enforcement. Last year, officers conducted 5,800 traffic stops to enhance driver compliance with traffic laws.

To further serve our community, the Klamath Falls Police Department provides investigative services through our Detective Unit and participates on the Klamath County Major Crimes Team. We have made it a priority to reduce illegal drug use and distribution in Klamath County and formed the Basin Interagency Narcotics Enforcement Team (BINET), along with Oregon State Police and the Klamath County District Attorney’s Office.

Our patrol division deploys two patrol K9 units to track and apprehend serious offenders, a narcotic canine to identify and locate illegal drugs, and maintain a highly competent Special Weapons and Tactics (SWAT) team to respond to major criminal events.

Our Records Unit is responsible for the management of department reports and records and provides services to the community through dissemination of accurate information in a timely manner. Our Records staff provide walk-in access with face-to-face interaction for crime reporting and referral services to other community partners.

Members of the department dedicate their time to the community in worthwhile events such as Shop With a Cop, and many charitable events such as Police vs. Fire Softball, Tip-a-Cop, the Polar Plunge, and the Law Enforcement Torch Run for Special Olympics.

The department utilizes a data driven policing model that we call iMPACT which stands for Mission Policing through the Analysis of Crime Trends (iMPACT). Through iMPACT, the department continually analyzes crime trends and identifies missions to swiftly mitigate criminal behaviors. The Klamath Falls Police Department is a proactive police department and embraces the motto, "Policing with Purpose."

Thank you, Mayor Kellstrom for reading the proclamation identifying May 16th through May 20th as Police Week and please join me in honoring the service and sacrifice police officers in Klamath Falls and around our great Nation make for their community on a daily basis."

Councilman Hart expressed his pleasure at the number of Police Officers in the audience and recognized the Volunteers in Policing (VIPs) who provide their time in support of the Police Department mission.

PRESENTATION OF SERVICE AWARDS. Mayor Kellstrom presented Kurt Wall of the Code Enforcement Division with a Certificate of Service in recognition of his 15 years of service to the City.

PUBLIC COMMENT

Mayor Kellstrom opened the public comment.

Marge Balsiger. Ms. Balsiger stated she found the Council meeting video from April 18, 2016 on the internet but was disappointed there was no discussion or comment whatsoever about public comment received at the onset of the meeting. The community was "riled up" about the Balsiger building but Council did not include the community at all in its decision. It was a foregone conclusion to demolish the Balsiger building and it was done. She asked if she had questions in the future if Public Comment was the time to bring them up or if there was a place or person people should

call. She further noted she was unable to watch the April 18, 2016 Council meeting video on her cable channel 182 and she wanted to watch it there.

Terry Kissel. Mr. Kissel readdressed what he suggested was a major problem with regard to demolition of the Balsiger building. It was a “done deal,” but as the community moved forward there were some things he would monitor such as whether Tokola Enterprises was in contact with the City with regard to coming down because he knew development was supposed to occur in 2016. He would also monitor the old garage, which would have been nice to have demolished along with the Balsiger and he was not sure if it could be incorporated into anything as it was not up to code in any respect. He referenced comments made at previous meetings with regard to people breaking into the Balsiger and when he walked around the back of the old garage there was a window open that people could enter at any time. He continued that there was a great deal of site development that had to be done as far as site removal and he was unsure what the cost would be to the City to get the site prepared for the developer to come in. He planned to make it his project to monitor the development since the City wanted to demolish the building and get it out of the way. He noted if Council would have gone down to the Balsiger site, they would have seen how well developed the property and building was. There was no twisting and turning of the building as previously stated.

Hearing or seeing no one further, Mayor Kellstrom closed the public comment.

1. CONSENT AGENDA. Councilman Hart moved to approve the Consent Agenda as follows: Approved the Consent Agenda for May 18, 2016; Approved the May 2, 2016 regular meeting minutes. Councilman Adams seconded. The motion carried unanimously with all Council members present voting aye.

LAND USE PUBLIC HEARING - QUASI JUDICIAL

There were no land use public hearing quasi-judicial matters.

LAND USE PUBLIC HEARING - LEGISLATIVE

There were no land use public hearing legislative matters.

GENERAL PUBLIC HEARING

2. RESOLUTION APPROVING THE ISSUANCE OF REVENUE AND REFUNDING BONDS, SERIES 2016 IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$60,000,000 THROUGH THE KLAMATH FALLS INTERCOMMUNITY HOSPITAL AUTHORITY (HA). City Manager Nathan Cherpeski reviewed his written report and noted the original Agenda Report and draft Resolution read \$58,000,000; however, Sky Lakes notified staff after the Agenda was finalized that the amount had changed to \$60,000,000 and referenced a revised draft Resolution reflecting the revised dollar amount. Councilman Adams asked why Council had not had a Work Session on the proposal to be advised on what was to take place rather than be expected to “rubber stamp” \$60 million worth of debt for the hospital. He found it frustrating that the hospital did not consult or talk to Council with no other explanation other than what was published in the local newspaper. He further stated it did not “thrill” him to approve the item when really the Council had no say over what would happen with the funds.

Councilman Hart stated he did not understand the reason for refunding or why the hospital was rolling over debt because he understood it was quite expensive to rollover the debt with bond counsel fees and the reissuance of the bonds. He further asked what the hospital planned to do with the funds because it had not been addressed what exactly the additional money was going to be used for. Mr. Cherpeski stated there was approximately \$20 million for a new project, then \$36 million to \$38 million for refunding. He explained that, in his experience, the only reason to refund a bond would be for a better interest rate even though bond counsel was paid as well. The bonds were originally issued in 2006 and the interest rate climate, while it was not bad in 2006, was better now for the bonds. The projects he was aware of were a parking structure and a facility that would then also house people from OHSU's new rural medicine campus and programs from Oregon Tech. He did not know if that would be the entire \$20 million or not.

Councilman Tofell explained a large portion of the funds were for refinancing as it would save them millions of dollars in interest plus they would have a new building and new parking structure, in conjunction with the new hospital out of Portland. He did not know how many new jobs it would bring to the community but there would be new doctors, etc. and more people living in Klamath Falls, which he saw as a positive. Councilman Hart asked Councilman Tofell if the amount they were refunding was the amount they had already spent. Councilman Tofell responded the City had already approved the funds previously; they were refinancing to get a lower rate on that money.

Mayor Kellstrom opened the public hearing.

Barbara DiIaconi, Esq. P.C. Ms. DiIaconi stated that, in addition to a new building and parking structure, the hospital was in need of a new MRI machine and new nuclear medicine imaging equipment at approximately \$2 million. There would also be replacement of old, aging equipment at approximately \$13 million. Councilman Adams asked if Council was being asked to approve it, why the hospital or its representatives did not come to Council to discuss what was to take place. Ms. DiIaconi responded that was the way the statute and the Hospital Authority worked. Councilman Adams stated he had asked before for a Work Session or presentation from the hospital but they seemed to ignore Council as far as he was concerned. Ms. DiIaconi stated she did not know how to respond as it was not something she was responsible for.

Hearing or seeing no one further, Mayor Kellstrom closed the public hearing.

Councilman Adams read his statement into the record as follows:

"I believe I owe the citizens of our community an explanation for my no vote on bonds for Sky Lakes Medical Center. Certainly they continue to do good things for our community. They are the County's largest employer but because they are non-profit they pay no property tax on the majority of their holdings. They will pay no property taxes on this \$50 million dollar expansion. Also how much property have they acquired over the last 10 years that has gone off the tax rolls? To me they don't feel like a non-profit when they charge some of the highest fees, if not the highest fees of any hospital in our state. Have you tried going to a doctor or medical provider in our community lately? They are almost all Sky Lakes employees and offices. This feels more like a monopoly on medical services than a

non-profit organization. I haven't seen a salary list for officers in their operation. They are not obligated to provide one like we are at the City. I do not feel comfortable approving these bonds that are equal to \$3,000 for every citizen of Klamath Falls. I have brought some of these thoughts forward during previous bond votes and never had anyone from the Hospital willing to come forward and explain their operation and answer any questions. The only response I get is this is all legal and this is how we do it. Is it right just because it is legal? It would be really nice if a hospital spokesman would step forward and answer some questions instead of just saying it is good for the community."

Councilman Hart stated he would vote in favor but he knew several people in the community were disturbed about centralization of medical facilities all under the roof of Sky Lakes. There was a tendency around the country to have mega consolidation and his personal experience had been that it was harder to work now with the doctors who were now employees of Sky Lakes instead of, for instance, Klamath Medical Clinic. It seemed that with everything centralized it was harder to access records and was not as friendly under the big corporation as it was when it was a small community clinic.

Councilman Tofell stated he was going to vote in favor of the item although he agreed with previous comments but noted it was a much larger problem than Councilman Adams, Councilman Hart or he could address with the rising cost of medical care, with insurance companies going broke because of Obamacare and the overwhelming issues the City was facing and would continue to face with insurance costs for employees but he was not sure they all pertained to the issue for discussion. He noted it was a good opportunity to build a partnership with OHSU.

Councilman Dodson stated he would vote in favor also because it was a great opportunity for Sky Lakes to partner with another agency and he did not know if Council/the City should probe the "ins and outs of hospital workings" but it would be nice to have a presentation from them so Council and staff could speak in an educated manner about what the hospital was doing but from what he had read in the papers it was a bond worth doing.

Councilman Tofell **moved to introduce the Resolution by title.** Councilman Dodson seconded. The motion carried unanimously with all Council members present voting aye. City Manager Nathan Cherpeski read the Resolution by tile.

Councilman Tofell moved to approve the Resolution and Authority's actions. Councilman Dodson seconded. On Roll Call, Resolution No. 16-05 was approved with Councilman Tofell, Councilman Dodson, and Councilman Hart voting aye. Councilman Adams voted no.

3. REQUEST FOR (1) SPECIAL EVENTS AUTHORIZATION, AND (2) A WAIVER OF CITY CODE SECTIONS 5.438 AND 7.620 FOR THE KLAMATH FALLS DOWNTOWN ASSOCIATION IN CONJUNCTION WITH THE CELEBRATE THE BLUES SUMMER KICKOFF EVENT. City Engineer Scott Souders reviewed his written report. Councilman Adams stated in the area where the proposed alcohol dispensaries were to be located, there were three to four (maybe five) establishments that already served alcohol. He asked if those establishments had been contacted regarding the proposal and what their thoughts were about the area they normally served in being encroached upon. He noted he would not like it if somebody from across town set up a booth right outside his business' door. Mr. Souders responded he would assume the Downtown Association had been in contact with those businesses. Councilman Adams stated when the City permitted events in the parks, Council had waived alcohol code restrictions but in the proposed item there were already several establishments in that area and asked if Council needed to allow outside alcohol sales with those businesses already in place. There was no response.

Mayor Kellstrom opened the public hearing.

Kendall Bell, President Downtown Business Association. Ms. Bell stated there were only a few bars in the proposed area that had evening alcohol sales. One business the Association worked with was the Creamery, which had a strong membership and due to their location, were unable take advantage of downtown events very often. What she had heard from the bars was there was room for other opportunities as the event was on a peak night for their businesses and the outside locations were limiting the drinks to a two drink maximum. She further stated the outside alcohol locations were small areas, were not family areas and there would be a small demographic that would end up in either area. She further stated her constituents across the state had fantastic results in similar types of events and the event would be a fundraiser. She had done a great deal of research on similar events and hoped the event would be a fun, safe event for

everyone.

Hearing or seeing no one further, Mayor Kellstrom closed the public hearing.

Councilman Dodson **moved to allow the Celebrate the Blues Summer Kick Off Event and waive City Code Sections 5.438 and 7.620 within the two designated areas on Main Street.** Councilman Tofell seconded. The motion carried with Councilman Tofell, Councilman Dodson, and Councilman Hart voting aye. Councilman Adams voted no.

LEGISLATIVE ACTION

4. AUTHORIZATION TO EXECUTE A CONSTRUCTION SERVICES CONTRACT WITH BOB'S EXCAVATING, INC. FOR THE MELROSE STREET UTILITIES IMPROVEMENT PROJECT IN AN AMOUNT NOT-TO-EXCEED \$205,630.00. City Engineer Scott Souders reviewed his written report.

Councilman Adams **moved to authorize a Construction Services Contract with Bob's Excavating, Inc. for the Melrose Street Utilities Improvement Project in amount not-to-exceed \$205,630.00.** Councilman Dodson seconded. The motion carried unanimously with all Council members present voting aye.

5. ADOPTION OF THE CHANGE OF USE GRANT AND FAÇADE GRANT PROGRAMS TO ASSIST DOWNTOWN BUILDING REDEVELOPMENT. City Manager Nathan Cherpeski reviewed his written report. Councilman Dodson declared a potential conflict of interest and stated he did not think he had any plans of redoing a façade but if there were programs in place such as the proposed, then he might. Councilman Adams declared the same potential conflict of interest. City Attorney Joanna Lyons-Antley stated they could potentially benefit but were welcome to contribute to the conversation as well as the vote on the matter.

Councilman Dodson stated part of the eligible exterior façade improvements included signage and he asked if signs should be included. Mr. Cherpeski responded the City did not necessarily want backlit cabinets but in looking at historic photographs, there were a large number of signs and current code would say the City did not want that but it looked "kind

of cool." It was up to Council to decide that and it could be stricken or revised. Councilman Adams stated he would like to see neon signs working again with the VFW as a classic example.

Councilman Dodson referenced reimbursement read, "Properties that receive grants in excess of \$5,000 must execute a trust deed to ensure payment within three years of reimbursement. If the property is sold or transferred within that time period a portion of the award will be deducted from the proceeds of the sale. A property sold or transferred within one year will require repayment of the full amount, within two years 66% and within three years 33%." He stated he understood the City trying to protect its investment at some level but asked what was to be accomplished with that language. Mr. Cherpeski responded the idea was that if somebody was to sell a property that would be a condition of a sale for the City to step in and protect the investment. The intent of the program was not to provide funding to aid in helping "flip" a building or development but to aid in investment in a building. He noted staff looked at what other communities had done and there were not many in Oregon, but the language was a fairly common way to protect the City's investment.

Councilman Dodson asked Mr. Cherpeski if, based on his experience in other communities that had programs similar to this, the programs were successful. Mr. Cherpeski responded yes and stated what was proposed was a pilot program because he did not know how well it would work. He had shifted some things financially in order to do the proposed program. At his last City where this type of program was done, the first year was very slow but in years two, three and four there were waiting lists. He noted the programs were not funded at quite the same amount but offered some funds to push private investment back into downtown.

Councilman Hart stated he appreciated Councilman Dodson's questions and stated what was before Council was adopting the policies but he did not think there was any intent to lock anything in that could not be changed as the City moved through the budget process. He noted if it was a pilot project to expect at the end of the first year to see significant changes and analysis of what worked and what did not that could be "fine-tuned."

Councilman Hart **moved to adopt the presented policies.** Councilman Adams seconded. The motion carried unanimously with all Council members present voting aye.

6. APPOINTMENT OF ATTORNEYS MIKA BLAIN AND NOEL KERSEY AS MUNICIPAL COURT PRO TEM JUDGES. Support Services Director Susan Kirby reviewed her written report.

Councilman Tofell **moved to appoint attorneys Mike Blain and Noel Kersey as Municipal Court Pro Tem Judges.** Councilman Dodson seconded. The motion carried unanimously with all Council members present voting aye.

7. RESOLUTION ADOPTING A TRANSFER OF APPROPRIATIONS FOR FISCAL YEAR 2015/2016 WITHIN THE GENERAL FUND. Support Services Director Susan Kirby reviewed her written report. Councilman Dodson asked how staff did not know what the principle payment on the bonds would be. Ms. Kirby responded it was a budgeting error.

Councilman Dodson **moved to introduce the Resolution by title.** Councilman Hart seconded. The motion carried unanimously with all Council members present voting aye. City Manager Nathan Cherpeski read the Resolution by title.

Councilman Dodson **moved to approve the Resolution.** Councilman Hart seconded. On **Roll Call, Resolution No. 16-06** was approved with Councilman Tofell, Councilman Dodson, Councilman Hart, and Councilman Adams voting aye.

8. ORDINANCE AMENDING SECTION 6.645 RELATING TO PARKING ENFORCEMENT ON PARKING LOTS OPERATED BY THE CITY - SECOND AND FINAL READING.

Councilman Hart **moved to pass the Ordinance by title for second and final reading.** Councilman Adams seconded. The motion carried unanimously with all Council members present voting aye. City Manager Nathan Cherpeski read the Ordinance by title.

Councilman Hart **moved to adopt the Ordinance.** Councilman Adams seconded. On Roll Call, Ordinance No. 16-03 was adopted with Councilman Tofell, Councilman Dodson, Councilman Hart, and Councilman Adams voting aye.

OTHER MATTERS

Housing Authority Cost of Construction Update. Councilman Dodson stated he spoke with Diana Otero of the Housing Authority to address issues on construction costs for Victory Commons. The price per unit was less than he speculated because, as Ms. Otero pointed out, the overhead on getting a project going using the funding mechanism they were using was approximately \$400,000, which was a substantial amount of the cost. There was also the cost of constructing such a small number of units, a two bedroom facility and a common area. In total it would probably exceed new construction costs but would be much more reasonable and the cost "per door" for construction was a little less than he had speculated at the previous Council meeting.

ADJOURNMENT

Councilman Adams **moved to adjourn the meeting.** Councilman Tofell seconded. The motion carried unanimously with all Council members present voting aye. The meeting was adjourned at 8:00 p.m.

Kristina Buckley
Assistant to the City Recorder

**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 16

Date: June 6, 2016

Department: City Manager
Staff Presenter: Joe Wall
City Manager Review: 

Contact/Title: Joe Wall, Management Assistant
Telephone No.: 541-883-5272
Email: jwall@klamathfalls.city

TITLE: Land Lease Agreement with Verizon Wireless for Placement of a Wireless Communication Tower on City-Owned Property

SUMMARY AND BACKGROUND:

City staff was contacted by Vinculums Services on behalf of Verizon Wireless to locate a wireless communication tower on City-owned Ogden Street property. The subject site, located outside City limits on the eastern side of Ogden Street approximately 1,000' north of Shasta Way, is utilized as a City water facility and developed with a water storage tank and associated infrastructure. Though developed for City utility use, the approximately two acre property is largely vacant, which allows for additional site utilization and revenue opportunity.

The wireless communication tower, as approved by County Planning through a Conditional Use Permit, is to be a 63' monopole tower painted in a non-reflective color. The tower will be located within a leased 20'x 40', 800 sq. ft. fenced area accessed by a gravel road. Per discussion with City Water Division staff, all wireless communication structures will be at least 8' from any City infrastructure.

Klamath County Planning's Final Order approval, noting proposed facility detail and site plans has been incorporated into the Land Lease Agreement as Exhibit B.

FINANCIAL IMPACT:

In the first year, the City is to receive \$25,440 per year with 3% annual rent increases.

COUNCIL OPTIONS:

- Approve, deny, or modify the Land Lease Agreement with Verizon Wireless
- Provide staff with further direction

16

DOCUMENTS ATTACHED:

- Proposed Land Lease Agreement

REQUESTED MOTION/ACTION:

- Move to approve the Land Lease Agreement with Verizon Wireless

NOTICE SENT TO:

Vinculums Services

1b

LAND LEASE AGREEMENT

This Agreement, made this _____ day of _____, 2016, between the City of Klamath Falls, with its principal offices located at 500 Klamath Ave., Klamath Falls, Oregon 97601, hereinafter designated LESSOR and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated LESSEE. The LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. PREMISES. LESSOR hereby leases to LESSEE a portion of that certain parcel of property (the entirety of LESSOR's property is referred to hereinafter as the Property), located at the end of Ogden Street, Klamath Falls, County of Klamath, State of Oregon, and being described as a 20' by 40' parcel containing 800 square feet (the "Land Space"), together with the non-exclusive right (the "Rights of Way") for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks over or along a twenty (20') foot wide right-of-way extending from the nearest public right-of-way, Ogden Street, to the Land Space, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way from the Land Space, said Land Space and Rights of Way (hereinafter collectively referred to as the "Premises") being substantially as described herein in Exhibit "A" attached hereto and made a part hereof.

The Land Space shall be located a minimum of 8 feet from any and all LESSOR's above and below-ground infrastructure. In the event any public utility is unable to use the Rights of Way, the LESSOR hereby agrees to grant an additional right-of-way either to the LESSEE or to the public utility at no cost to the LESSEE.

2. SURVEY. LESSOR also hereby grants to LESSEE the right to survey the Property and the Premises, and said survey shall then become Exhibit "B" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by the LESSEE.

3. TERM; RENTAL.

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of \$25,440.00, to be paid in equal monthly installments on the first day of the month, in advance, to LESSOR or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 23 below. The Agreement shall commence based upon the date LESSEE commences installation of the equipment on the Premises. In the event the date LESSEE commences installation of the equipment on the

Premises falls between the 1st and 15th of the month, the Agreement shall commence on the 1st of that month and if the date installation commences falls between the 16th and 31st of the month, then the Agreement shall commence on the 1st day of the following month (either the "Commencement Date"). LESSOR and LESSEE agree that they shall acknowledge in writing the Commencement Date. LESSOR and LESSEE acknowledge and agree that initial rental payment(s) shall not actually be sent by LESSEE until thirty (30) days after a written acknowledgement confirming the Commencement Date. By way of illustration of the preceding sentence, if the Commencement Date is January 1 and the written acknowledgement confirming the Commencement Date is dated January 14, LESSEE shall send to the LESSOR the rental payments for January 1 and February 1 by February 13.

Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

b. LESSOR hereby agrees to provide to LESSEE certain documentation (the "Rental Documentation") evidencing LESSOR's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to LESSEE in LESSEE's reasonable discretion, evidencing LESSOR's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, or equivalent, in a form acceptable to LESSEE, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by LESSEE in LESSEE's reasonable discretion. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. The Rental Documentation shall be provided to LESSEE in accordance with the provisions of and at the address given in Paragraph 23. Delivery of Rental Documentation to LESSEE shall be a prerequisite for the payment of any rent by LESSEE and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments until Rental Documentation has been supplied to LESSEE as provided herein.

Within fifteen (15) days of obtaining an interest in the Property or this Agreement, any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall provide to LESSEE Rental Documentation in the manner set forth in the preceding paragraph. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, any assignee(s) or transferee(s) of LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. Delivery of Rental Documentation to LESSEE by any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall be a prerequisite for the payment of any rent by LESSEE to such party and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments to any assignee(s), transferee(s) or other successor(s) in interest of LESSOR until Rental Documentation has been supplied to LESSEE as provided herein.

4. EXTENSIONS. This Agreement shall automatically be extended for four (4) additional five (5) year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

5. ANNUAL RENTAL INCREASES. The annual rental for the second (2nd) year of the initial term and for each year thereafter including any and all extension terms shall be equal to 103% of the annual rental payable with respect to the immediately preceding year.

6. ADDITIONAL EXTENSIONS. If at the end of the fourth (4th) five (5) year extension term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term. Annual rental for each such additional five (5) year term shall be equal to the annual rental payable with respect to the immediately preceding five (5) year term. The initial term and all extensions shall be collectively referred to herein as the "Term".

7. TAXES. LESSEE shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property which is the result of LESSEE's use of the Premises and/or the installation, maintenance, and operation of the LESSEE's improvements, and any sales tax imposed on the rent (except to the extent that LESSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property which LESSOR demonstrates arises from the LESSEE's improvements and/or LESSEE's use of the Premises. LESSOR and LESSEE shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LESSOR or LESSEE at the Property. Notwithstanding the foregoing, LESSEE shall not have the obligation to pay any tax, assessment, or charge that LESSEE is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making LESSEE liable for any portion of LESSOR's income taxes in connection with any Property or otherwise. Except as set forth in this Paragraph, LESSOR shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.

LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a

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reduction, credit or repayment received by the LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

8. USE; GOVERNMENTAL APPROVALS. LESSOR hereby grants LESSEE the right to erect on the Premises a 60-foot monopole tower with associated support equipment as described herein in the Klamath County Planning Department Final Order, Exhibit "C," attached hereto and made a part hereof. LESSEE shall use the Premises for the purpose of constructing, maintaining, repairing and operating a communications facility and uses incidental thereto, consistent with the Klamath County Planning Department Final Order. A security fence consisting of chain link construction or similar but comparable construction may be placed around the perimeter of the Premises at the discretion of LESSEE (not including the access easement). All improvements, equipment, antennas and conduits shall be at LESSEE's expense and their installation shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, antennas, conduits or frequencies are specified or not on any exhibit attached hereto, during the Term. It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LESSEE. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner; (iv) LESSEE determines that any soil boring tests are unsatisfactory; (v) LESSEE determines that the Premises is no longer technically compatible for its use, or (vi) LESSEE, in its sole discretion, determines that the use of the Premises is obsolete or unnecessary, LESSEE shall have the right to terminate this Agreement. Notice of LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by LESSEE, or upon such later date as designated by LESSEE. All rentals paid to said termination date shall be retained by LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the LESSEE shall have no further obligations for the payment of rent to LESSOR.

9. INDEMNIFICATION. Subject to Paragraph 10 below, each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying

Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents.

10. INSURANCE.

- a. LESSEE will maintain at its own cost;
 - i. Commercial General Liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence.
 - ii. Commercial Auto Liability insurance on all owned, non-owned and hired automobiles with a minimum combined limit of not less than one million (\$1,000,000) per occurrence.
 - iii. Workers Compensation insurance providing the statutory benefits and not less than one million (\$1,000,000) of Employers Liability coverage.

LESSEE will include the LESSOR as an additional insured on the Commercial General Liability and Auto Liability policies.

b. LESSOR will maintain at its own cost commercial general liability with limits of one million (\$1,000,000) each occurrence for bodily injury and property damage and two million (\$2,000,000) policy aggregate including premises operations, including X (explosion), C (collapse), U (underground), and personal and advertising injury. All coverage shall be on an occurrence basis and not on a claims-made basis. LESSOR will include LESSEE as an additional insured as their interest may appear under the Agreement.

11. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 9 and 29, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

12. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder beyond applicable notice and cure periods, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of the Commencement Date provided that three (3) months prior notice is given to LESSOR.

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13. INTERFERENCE. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. LESSOR will be entitled to terminate this Agreement if LESSEE fails to remedy the interference issue, after written notice and reasonable time is given by LESSOR. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then existing industry standards to the then existing equipment of LESSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

14. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna structure(s) (including footings), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable Laws (as defined in Paragraph 33 below). If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

15. HOLDOVER. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 14 herein, unless the Parties are negotiating a new lease or lease extension in good faith. In the event that the Parties are not in the process of negotiating a new lease or lease extension in good faith, LESSEE holds over in violation of Paragraph 14 and this Paragraph 15, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 14 shall be equal to the rent applicable during the month immediately preceding such expiration or earlier termination.

16. RIGHT OF FIRST REFUSAL. If LESSOR elects, during the Term (i) to sell or otherwise transfer all or any portion of the Property, whether separately or as part of a larger parcel of which the Property is a part, or (ii) to grant to a third party by easement or other legal

instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, with or without an assignment of this Agreement to such third party, LESSEE shall have the right of first refusal to meet any bona fide offer of sale or transfer on the same terms and conditions of such offer. If LESSEE fails to meet such bona fide offer within thirty (30) days after written notice thereof from LESSOR, LESSOR may sell or grant the easement or interest in the Property or portion thereof to such third person in accordance with the terms and conditions of such third party offer. For purposes of this Paragraph, any transfer, bequest or devise of LESSOR's interest in the Property as a result of the death of LESSOR, whether by will or intestate succession, or any conveyance to LESSOR's family members by direct conveyance or by conveyance to a trust for the benefit of family members shall not be considered a sale of the Property for which LESSEE has any right of first refusal.

17. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Property to a purchaser other than LESSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder under the terms of this Agreement. To the extent that LESSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Property occupied by LESSEE for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of this Agreement.

18. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

19. TITLE. LESSOR represents and warrants to LESSEE as of the execution date of this Agreement, and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

20. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties or in a

written acknowledgment in the case provided in Paragraph 3. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

21. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

22. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LESSEE without any approval or consent of the LESSOR to the LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LESSOR, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of LESSEE shall constitute an assignment hereunder. LESSEE may sublet the Premises within its sole discretion, upon notice to LESSOR. Any sublease that is entered into by LESSEE shall be subject to the provisions of this Agreement and shall be binding upon the successors, assigns, heirs, and legal representatives of the respective Parties hereto. Notwithstanding the foregoing, any tenant that may desire to sublet space upon LESSEE's communications facilities shall be required to obtain a separate agreement for Premises access from LESSOR and shall be required to lease separate ground space directly from LESSOR for placement of any ancillary equipment at the Property in order that LESSOR may have the opportunity to achieve a separate agreement with that entity related to any associated use of LESSOR's property.

23. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: City of Klamath Falls
222 S. Sixth Street
Klamath Falls, Oregon 97601
Attention: City Manager
Telephone: (541) 883-5316

LESSEE: Verizon Wireless (VAW) LLC
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

24. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

25. SUBORDINATION AND NON-DISTURBANCE. LESSOR shall obtain not later than fifteen (15) days following the execution of this Agreement, a Non-Disturbance Agreement, as defined below, from its existing mortgagee(s), ground lessors and master lessors, if any, of the Property. At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property or right-of-way; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will (1) honor all of the terms of the Agreement, (2) fulfill LESSOR's obligations under the Agreement, and (3) promptly cure all of the then-existing LESSOR defaults under the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the

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payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

26. RECORDING. LESSOR agrees to execute a Memorandum of this Agreement which LESSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

27. DEFAULT.

a. In the event there is a breach by LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LESSOR shall give LESSEE written notice of such breach. After receipt of such written notice, LESSEE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided LESSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSOR may not maintain any action or effect any remedies for default against LESSEE unless and until LESSEE has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSEE fails, within five (5) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSEE if the failure to perform such an obligation interferes with LESSOR's ability to conduct its business on the Property; provided, however, that if the nature of LESSEE's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

b. In the event there is a breach by LESSOR with respect to any of the provisions of this Agreement or its obligations under it, LESSEE shall give LESSOR written notice of such breach. After receipt of such written notice, LESSOR shall have thirty (30) days in which to cure any such breach, provided LESSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSEE may not maintain any action or effect any remedies for default against LESSOR unless and until LESSOR has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSOR fails, within five (5) days after receipt of written notice of such breach, to perform an

obligation required to be performed by LESSOR if the failure to perform such an obligation interferes with LESSEE's ability to conduct its business on the Property; provided, however, that if the nature of LESSOR's obligation is such that more than five (5) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such five (5) day period and thereafter diligently pursued to completion.

28. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located; provided, however, LESSOR shall use reasonable efforts to mitigate its damages in connection with a default by LESSEE. If LESSEE so performs any of LESSOR's obligations hereunder, the full amount of the reasonable and actual cost and expense incurred by LESSEE shall immediately be owing by LESSOR to LESSEE, and LESSOR shall pay to LESSEE upon demand the full undisputed amount thereof with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws. Notwithstanding the foregoing, if LESSOR does not pay LESSEE the full undisputed amount within thirty (30) days of its receipt of an invoice setting forth the amount due from LESSOR, LESSEE may offset the full undisputed amount, including all accrued interest, due against all fees due and owing to LESSOR until the full undisputed amount, including all accrued interest, is fully reimbursed to LESSEE.

29. ENVIRONMENTAL.

a. LESSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the specific activities of LESSEE in the Premises.

b. LESSOR shall hold LESSEE harmless and indemnify LESSEE from and assume all duties, responsibility and liability at LESSOR's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) failure to comply with

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any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such non-compliance results from conditions caused by LESSEE; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Property or activities conducted thereon, unless such environmental conditions are caused by LESSEE.

30. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired.

31. CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Property, LESSEE, in LESSEE's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, LESSEE may, at LESSEE's option, to be exercised in writing within fifteen (15) days after LESSOR shall have given LESSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LESSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by

reason of such condemnation, LESSOR shall promptly repair any damage to the Premises caused by such condemning authority.

32. SUBMISSION OF AGREEMENT/PARTIAL INVALIDITY/AUTHORITY. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

33. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (a) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by LESSEE in the Premises.

34. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

35. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR: City of Klamath Falls

By: _____

Name: _____

Title: _____

Date: _____

**LESSEE: Verizon Wireless (VAW) LLC
d/b/a Verizon Wireless**

By: _____

Name: _____

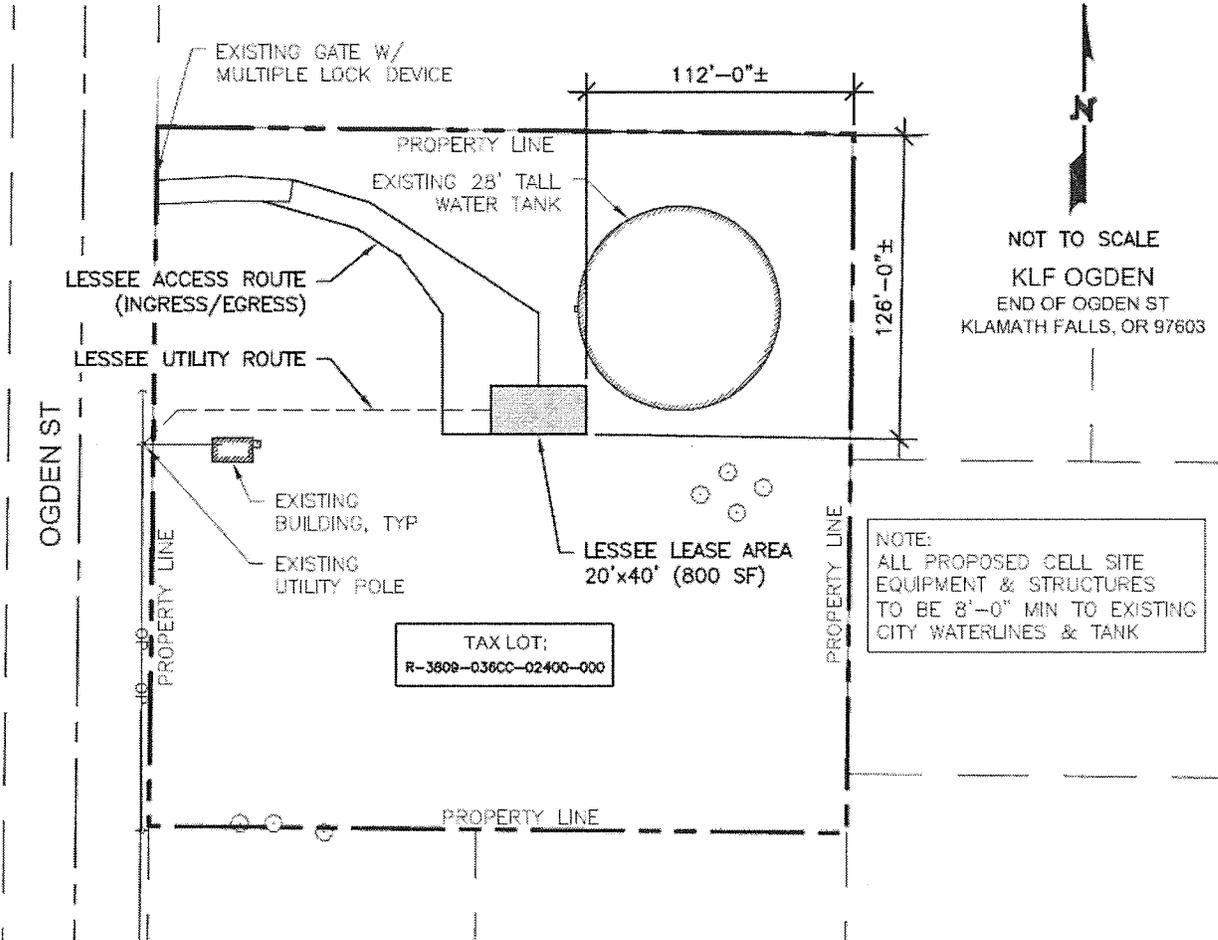
Title: _____

Date: _____

EXHIBIT "A" (Page 1 of 2)
Legal Description

Lots 14 and 15 in Block 2 of Shasta View Tracts, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

EXHIBIT "A" (Page 2 of 2)
Description of Premises



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Exhibit "B"
Survey

[May be attached at a later date]

Exhibit "C"
Planning Department Final Order (12 pages)



Klamath County Planning Department

*Klamath County Government Center
305 Main Street, Klamath Falls, Oregon 97601*

*Phone 1-541-882-5121 Option #4
Toll Free in Oregon 1-800-426-9763*

**CONDITIONAL USE PERMIT
Wireless Communication Tower**

FINAL ORDER

FILE NO: CUP 4-16

APPLICANT: Vinculums Services, Inc.

REQUEST: A conditional use permit (CUP) for a new 60 foot monopole wireless communication tower, with a 3 foot antenna on top, within a 20 x 40 foot fenced compound with associated support equipment.

REVIEW CRITERIA: Article 44, 51.5, 62 & 63 of the Klamath County Land Development Code.

GENERAL LOCATION: The subject property is located on the east side of Ogden Street approximately 1000 feet north of Shasta Way on the city water reservoir site.

MAP DESCRIPTION: R-3809-036CC-02400

ZONE DESIGNATION: Suburban Residential (RS)

CONTACT: Mark Gallagher, Planning Director
305 Main St.
Klamath Falls, OR 97601
(541) 851-3668
mgallagher@co.klamath.or.us

1. BACKGROUND/PROPOSAL

The applicant proposes to place a 60 foot tall monopole wireless communication tower on the property with a 3 foot antenna on top within a 20'x40' fenced compound. The compound will include associated ground equipment.

2. FINDINGS

Public notice of the application review was properly noticed consistent with Article 32 of the Land Development Code and the required amount of time to respond has been provided.

This application has been found to meet the applicable criteria, listed below from Article 44.030(A-C) – Conditional Use Permit Criteria and Article 51.530 – Conditional Uses - Suburban Residential Zone of the Klamath County Land Development Code, as demonstrated in the application submittals.

KCLDC Article 51.730 – Conditional Uses in RM Zone

F. Extensive Impact Services and Utilities.

Finding

Wireless communication towers are considered "Extensive Impact Services and Utilities" which are listed as a conditional use in the Suburban Residential Zone. The proposed project, with a conditional use permit, is found to be consistent with the zoning.

KCLDC Article 44.030(A-C)

A. The use complies with policies of the Comprehensive Plan.

Finding

This criterion requires compliance with the Klamath County Comprehensive Plan, however, Oregon State Land Use Board of Appeals case Bennett vs. City of Dallas (LUBA No. 88-078) states that "Where plan policies use non-mandatory language and express a general framework and general principles which guide the city in adopting and amending its land use regulations, they are not approval criteria..." The County has not designated any specific Comprehensive Plan language as decisional criteria for any specific application types, therefore, this criterion is inapplicable.

B. The use is in conformance with all other required standards and criteria of this code.

C. The location, size, design, and operating characteristics of the proposed use will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.

Finding

The application has been found to meet all of the above criteria as demonstrated in the attached Burden of Proof (Exhibit 2).

3. CONCLUSION AND FINDING

The applicant has addressed the applicable criteria in Klamath County Land Development Code including Article 44.030(A-C) – Conditional Use Permit Criteria and all other pertinent requirements and the proposed project has been found to be consistent with the requirements.

4. ORDER

Therefore, it is ordered that the request is **APPROVED** subject to Klamath County Land Development Code and County Ordinances and subject to the following conditions of approval:

CONDITIONS OF APPROVAL

1. All standard Building Permits must be obtained after Planning approval of the Land Use Compatibility Statement (LUCS).
2. Prior to issuance of the LUCS by Planning, a bond, in the amount of \$5000, shall be provided for the eventual removal of the facility.

3. If the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year, the facility shall be removed by the applicant within thirty days of being declared abandoned.
4. At the request of the City of Klamath Falls (property owner), all wireless communication structures, including the fence shall be at least 8 feet from any of the City infrastructure; both the tank and underground waterlines. The wireless communication, whether Verizon or other co-located facility on the tower, shall not interfere with the City's SCADA communications system in any manner.

Note: The applicant submitted a letter from the Oregon Dept. of Aviation indicating they had no concern with the tower relative to the proximity to the airport.

APPROVED this 4th day of MARCH, 2016



 Mark Gallagher, Planning Director

This application will expire on March 4, 2017 unless the activity has commenced or a time extension is requested.

Exhibits

Application	Exhibit 1
Burden of Proof	Exhibit 2
Site Plan	Exhibit 3
Response from City of Klamath Falls	Exhibit 4
Response from Oregon Dept. of Aviation	Exhibit 5

This approval is for Klamath County purposes only and does not release the applicant/property owner from meeting all other County, State and Federal laws.

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NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Klamath County Board of County Commissioners. Notice of intent to appeal a decision rendered under the procedures of the Klamath County Land Development Code shall be filed no later than 12 days following mailing of the final order (ORS 215.427). Failure to do so in a timely manner may affect your rights. Notice shall be in the form of a signed letter, shall state the name(s) of the party or parties appealing the decision, and must be received by the Planning Department before the close of business on the twelfth day. The fee established by the Board of County Commissioners shall accompany the notice of appeal.

KCLDC ARTICLE 33.040 - STATEMENT OF APPEAL

No later than 7 days following the filing of a notice of appeal, pursuant to Section 33.030, the appellant shall file with the Planning Department a written statement of grounds for the appeal explaining:

- A. How the Comprehensive Plan, Klamath County Land Development Code, or applicable State law was incorrectly interpreted or applied in the decision; or
- B. What information in the record of decision was pertinent to the decision, but was not considered by the review body

For more information, please contact:
Klamath County Planning Department
305 Main Street, Klamath Falls, Oregon 97601
(541) 883-5121



Klamath County Planning Dept. Land Use Application Form

Conditional Use Permit Application (All Zones Except EFU and Forestry)

Filing Fee: 1000.00
File No. 1000-10

Applicant

Name: Frank Mandt, Vinculumms Services, Inc. Phone#1 425-941-0410
Address: 3301 Burke Avenue N, Suite 100 Phone #2
City: Seattle State: WA Zip: 98103
E-mail: fmandt@vinculumms.com

Property Owner (if different than above)

Name: City of Klamath Falls, Attn: Joe Wall Phone#1 541-883-5272
Address: 500 Klamath Avenue Phone #2
City: Klamath Falls State: OR Zip: 97601
E-mail: jwall@klamathfalls.city

Property Description

Assessor's Map & Tax Lot Number: R-3809-036CC-02400-000
Township Range Section Tax Lot(s)
Street Address: Ogden Street (no number on file), Klamath Falls, OR 97603
Acreage 1.58 (approx) Zoning Medium Density Residential
Current use(s) of the property City of Klamath Falls water tank
List all adjoining properties under the same ownership:
N/A

Signatures

I hereby certify that I am the legal owner(s), or authorized agent for the owner(s), of the above noted property; that the information contained herein is accurate to the best of my knowledge; and that the requested land use permit will not violate any deed restrictions attached to the property.

[Signature] 2/5/2015
Owner/Authorized Agent Date

See attached
Owner/Authorized Agent Date

If an Agent is acting on behalf of the Legal Property Owner, a notarized AGENT FOR OWNER AUTHORIZATION FORM must be submitted with this application.



Burden of Proof

KLF Ogden
Verizon Wireless
Conditional Use Permit Application
at City of Klamath Falls Water Storage Facility
Ogden Street, Klamath Falls, OR 97603
APN: R-3809-036CC-02400-000

Article 44.030 - Conditional Use Criteria

A. Not Applicable

B. Explain how the proposed use is in conformance with all required standards and criteria of the County code. (For example: structural setbacks to property lines, rural wildland fire safety standards or special standards that may apply in significant resource areas as defined in the Land Development Code.)

The proposed use is in conformance with Article 63, Wireless Facilities of the Klamath County code. The proposal includes a 60' monopole with an antenna tip height of 63'. This is setback from all property lines more than 63', hence meeting the required standards in the Land Development Code.

C. Explain how the location, size, design, and operating characteristics of the proposed use will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.

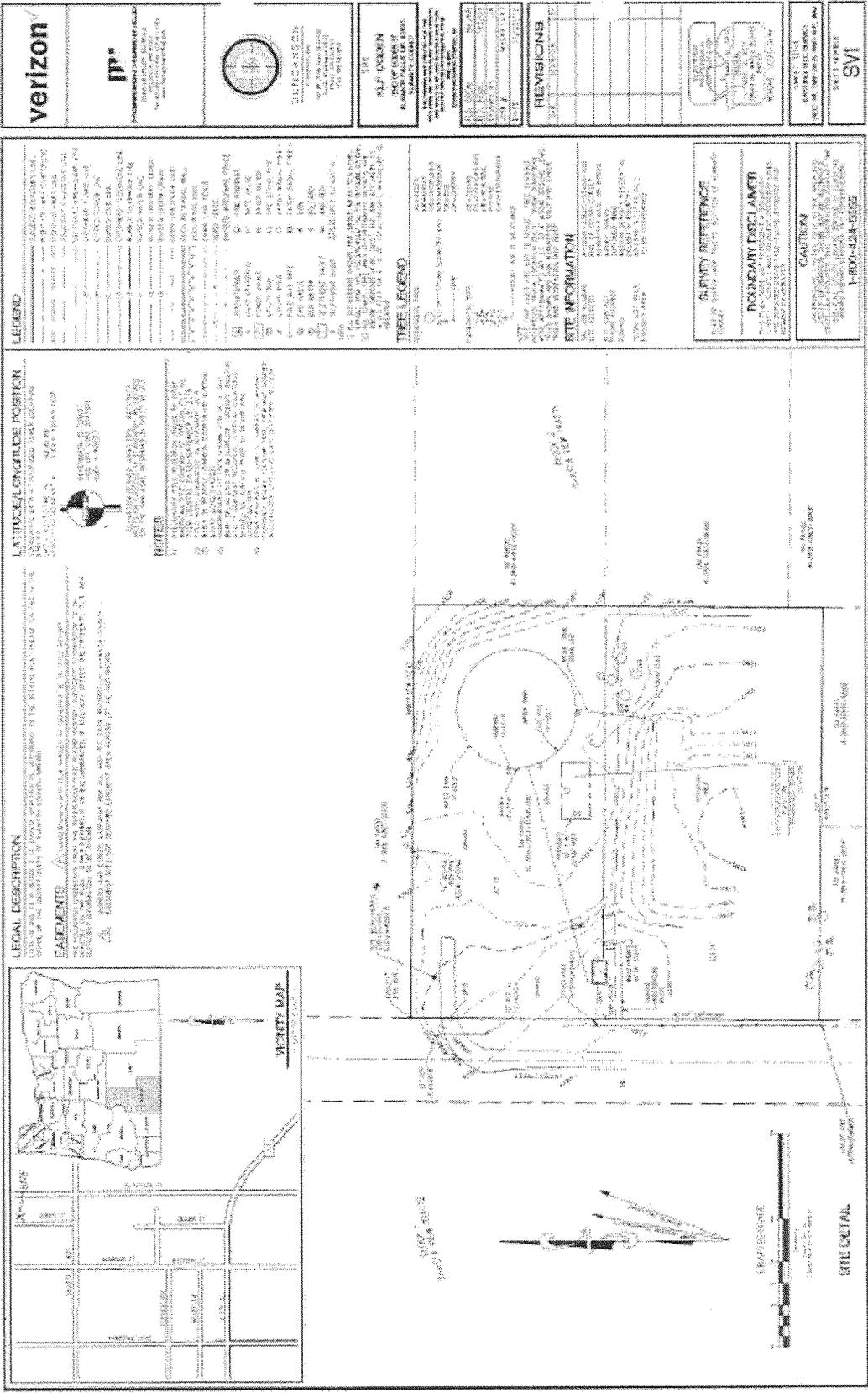
The wireless facility was sited in a manner that will make it least intrusive to the neighborhood. The monopole will be painted with a non-reflective color. While it will be visible, we believe that its location on an existing utility property lessens its impact on the surrounding area. We do not anticipate a requirement to add lights to the monopole.

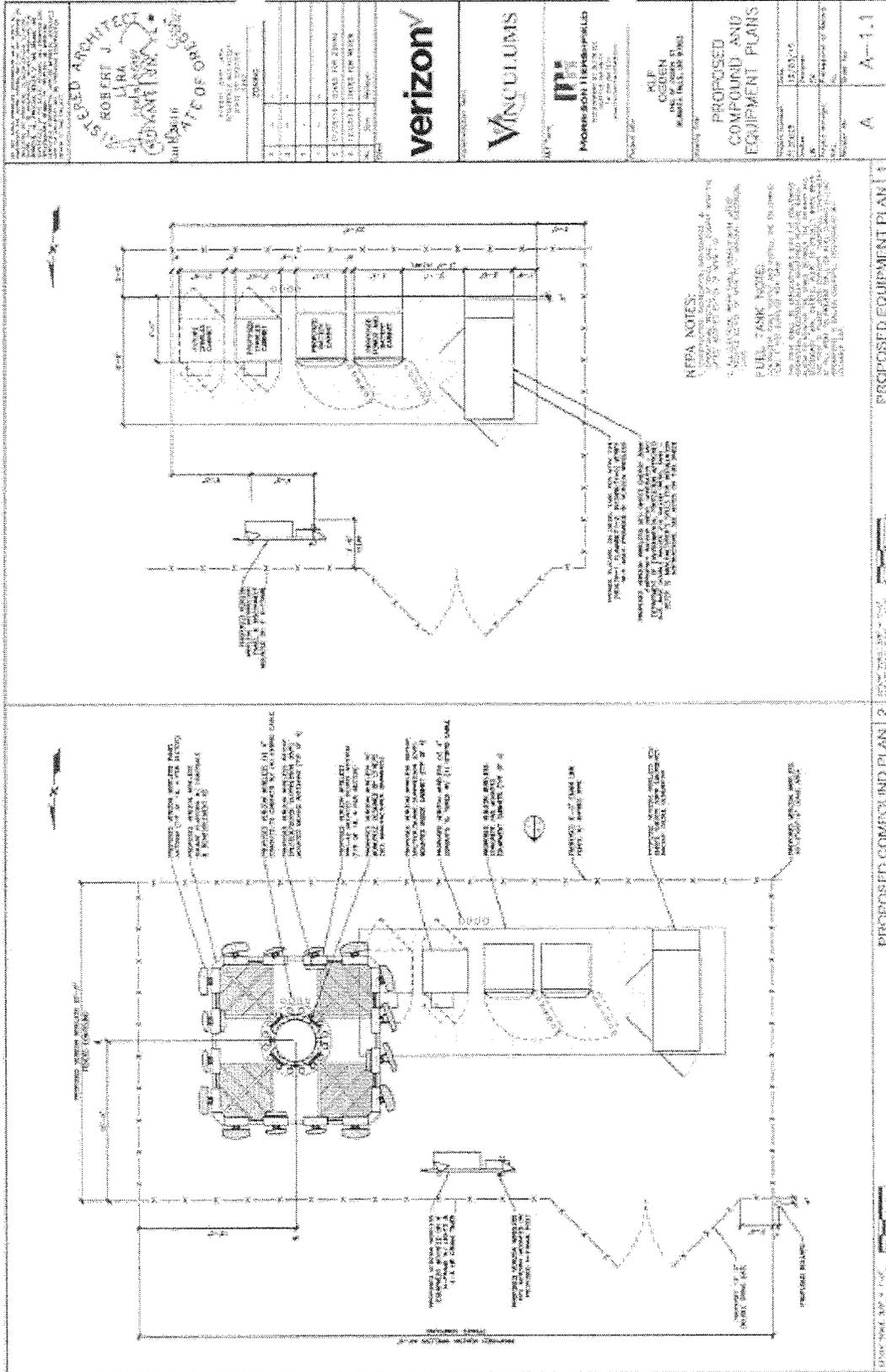
The site area itself will not be very visible to neighboring properties. It will be surrounded by a six (6) foot chain link fence, to which slats can be added to obscure the infrastructure within the site area from view. It will not adversely impact the livability, value, or appropriate development of abutting properties and the surrounding area. It will not prevent other development on surrounding properties. The addition of the wireless facility will benefit the community by enhancing wireless communications coverage.

The site will be unstaffed, with a technician visit less than once a month. It will not generate additional traffic, nor will it require water or sewage services.



16





Mark Gallagher

From: Ray Schoenemann <Ray@klamathfalls.city>
Sent: Monday, February 29, 2016 1:39 PM
To: Mark Gallagher
Cc: Scott Souders
Subject: City Comments for County CUP 4-16: Proposed Communication Tower @ City's Ogden St. Water Reservoir Property

Hello Mark,

City staff has had the opportunity to review this CUP. Following are our comments:

All wireless communication structures, including the fence shall be at least 8 feet from any of the City infrastructure; both the tank and the underground waterlines. The wireless communication, whether Verizon or another co-inhabitant on the tower shall not interfere with the City's SCADA communications system in any manner.

Thanks,

Ray Schoenemann
Plans Examiner
Construction Inspector
APWA: CPII
Office: 541-883-5291
Fax: 541-883-5287

1



28

KLF OGDEN
5/31/2016
DWT 29013728v5 0052051-000032

16



Oregon

Kate Brown, Governor

RECEIVED
FEB 27 2016
PLANNING DIVISION
KLANATH COUNTY



3040 26th Street, SE
Salem, OR 97302-1125
Phone: (503) 378-4880
Toll Free: (800) 874-0102
FAX: (503) 373-1666

February 19, 2016

Mr. Mark Gallagher
Planning Director
Klamath County Planning Division
305 Main Street
Klamath Falls, Oregon 97601

SUBJECT: CUP 4-16 – 60-foot Wireless Communication Facility

Dear Mr. Gallagher:

The Oregon Department of Aviation (ODA) appreciates the opportunity to review and comment on the proposed wireless communication facility on Ogden Street, specifically located on tax map 38-09-3600-2400. The Oregon Department of Aviation has the following comments and recommendations for your consideration:

- Prior to issuance of a building permit the applicant must file and receive a determination from the Oregon Department of Aviation on FAA Form 7460-1 Notice of Proposed Construction or Alteration to determine if this monopole is a hazard to aviation safety. A subsequent submittal to the FAA may also be required.

Thank you for allowing ODA to comment on this development proposal. If you have any questions or need further information please feel free to contact me at 503-378-2529 or Jeff.Caines@aviation.state.or.us or Heather Peck – Projects and Planning Manager at 503-378-3168 or Heather.Peck@aviation.state.or.us.

Sincerely,

Jeff Caines, AICP
Aviation Planner

EXHIBIT 5
FILE # CUP 4-16

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FILED FOR RECORD AT REQUEST OF
AND WHEN RECORDED RETURN TO:
Davis Wright Tremaine LLP
Attn: C. Eng
777 108th Avenue NE, Suite 2300
Bellevue, WA 98004-5149

Space above this line is for Recorder's use.

Memorandum of Land Lease Agreement

Grantor: City of Klamath Falls

Grantee: Verizon Wireless (VAW) LLC d/b/a Verizon Wireless

Legal Description: **County of Klamath, State of Oregon**
Official legal description attached as Exhibit A

Assessor's Tax Parcel ID#: R-3809-036CC-02400-000

Reference # (if applicable):

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MEMORANDUM OF LAND LEASE AGREEMENT

THIS MEMORANDUM OF LAND LEASE AGREEMENT evidences that a Land Lease Agreement ("Agreement") was entered into as of _____, 201____, by and between the City of Klamath Falls ("Lessor"), and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless ("Lessee"), for certain real property located at the end of Ogden Street, Klamath Falls, County of Klamath, State of Oregon, within the property of Lessor which is described in Exhibit "A" attached hereto ("Legal Description"), together with a right of access and to install and maintain utilities, for an initial term of five (5) years commencing as provided for in the Agreement, which term is subject to Lessee's rights to extend the term of the Agreement as provided in the Agreement.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Memorandum of Land Lease Agreement as of the day and year last below written.

LESSOR: City of Klamath Falls

By: _____
Name: _____
Title: _____
Date: _____

LESSEE: Verizon Wireless (VAW) LLC d/b/a Verizon Wireless

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A – Legal Description

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LESSOR ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss.

On this ____ day of _____, 201__, before me, a Notary Public in and for the State of _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that He/She was authorized to execute the instrument, and acknowledged it as the _____ of the City of Klamath Falls, to be the free and voluntary act and deed of said party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of____,
residing at _____
My appointment expires _____
Print Name _____

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STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201____, before me, a Notary Public in and for the State of Washington, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, to be the free and voluntary act and deed of said party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of _____,
residing at _____
My appointment expires _____
Print Name _____

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EXHIBIT "A"
LEGAL DESCRIPTION

Lots 14 and 15 in Block 2 of Shasta View Tracts, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 1c

Date: June 6, 2016

Department: Public Works

Contact/Title: Andrew Lakey/Associate Engineer

Staff Presenter: Andrew Lakey

Telephone No.: 541-883-5283

City Manager Review: 

Email: alakey@klamathfalls.city

TOPIC: Authorization to Execute a Contract with Henris Roofing & Supply for the South Portal Building Roof Repair Project in an Amount Not-to-Exceed \$27,171.50

SUMMARY AND BACKGROUND:

The City owns and maintains the South Portal building located at 205 Riverside Drive. In 2010, the southerly portion of the building underwent a significant remodel. At that time, a new membrane roofing system was installed over the remodeled portion of the structure. The northerly portion of the structure, approximately 6500 ft², was not included with the remodel and is now in need of replacement.

The existing roof consists of three layers of asphaltic roofing material, which is the maximum allowed per building code. To replace the existing roof and bring the structure to current codes, the three layers of roofing material must be removed and a new layer of Dens Deck Roof Boards must be installed to ensure proper fire rating. Due to the age of the current asphaltic roofing material, two samples were taken and sent to a lab for asbestos testing. The lab reported back a negative reading for asbestos which allows for less expensive material removal and disposal. This Contract includes all materials and services to remove the existing three layers of asphaltic roofing material, to place the required Dens Deck Roof Boards for fire protection, and to install a new 60-Mil DuroLast Thermoplastic Roofing System. The new roof will include a 20 year manufacturer's warranty.

An informal request for quotes was prepared and delivered to three local roofing contractors and two roofing contractors from the Medford area. Due to limited roof access, a mandatory pre-quote meeting was held on April 21, 2016, where contractors had the opportunity to visit the site, take measurements, and discuss the project with staff. Three local roofing contractors attended the mandatory pre-quote meeting and were eligible to submit a quote by the May 12, 2016 deadline. One contractor, Linkville Roofing, submitted their sealed quote prior to Addenda #2 being issued. Linkville Roofing was given the opportunity to take back their sealed quote and revise per Addenda #2. At the specified due date for quotes, the City only received one quote from Henris Roofing & Supply.

Staff reviewed the quote from Henris Roofing & Supply and identified an incomplete calculation in the quote schedule. Unit prices were not identified, only the total quote price per each line

1c

item. There was also an oversight with quote item #2 and the total quote price did not accurately reflect the estimated quantity value requested in the solicitation. Staff discussed this oversight with the Quoter and determined it was in the best interest of the City to correct the quote with Henris Roofing & Supply's acknowledgement. The total corrected amount increased the original quote by \$812.50, bringing the revised total quote to \$27,171.50, which is less than the Engineer's Estimate of \$47,000.

A Notice of Intent to Award was sent to all bidders on May 13, 2016.

FINANCIAL IMPACT:

Design Phase and Bid Phase expenditures to date total \$1,014. Staff anticipates an additional allowance of \$1,000 for project oversight during construction. The total anticipated project expenditure equals \$29,200. Refer to the attached Budget Analysis Form for further detail.

Funds for this project are available in the City's FY 2015-16 Adopted Budget in the Downtown Urban Renewal Fund. A \$50,000 allowance from this fund was allocated for the South Portal Building roof replacement.

COUNCIL OPTIONS:

1. Approve a Contract with Henris Roofing & Supply in an amount not-to-exceed \$27,171.50.
2. Reject a Contract with Henris Roofing & Supply, modify the project scope and rebid the project.
3. Reject a Contract with Henris Roofing & Supply and postpone the project.

DOCUMENTS ATTACHED:

- Informal Solicitation Record
- Budget Analysis Form
- Notice of Intent to Award
- Sample Contract

RECOMMENDED MOTION/ACTION:

Move to approve Option 1 and authorize a Contract with Henris Roofing & Supply for the South Portal Building Roof Repair Project in an amount not-to-exceed \$27,171.50.

NOTICE SENT TO:

- Henris Roofing & Supply

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**CONTRACTS/PURCHASES
INFORMAL SOLICITATION RECORD**

The City's Public Contracting Regulations allow, in lieu of a formal bidding process, the obtaining of a minimum of three (3) competitive quotes for the following contracts/purchases:

- "Public Improvements" between \$5,000 and \$100,000
- General Contracts/Purchases between \$5,000 and \$150,000

Contracts/Purchases in excess of these amounts require formal bid.

Please use this form to record the quotes. [A refusal to bid does not count as a quote. If three offers cannot be obtained, a lesser number may be approved if a written record of efforts to obtain the quote is made.] If written quotes are obtained, please attach copies.

PROJECT: 278916 South Portal Roof Repair Project

JUSTIFICATION: Public Improvements between \$5,000 and \$100,000

DEPARTMENT: Maintenance

PERSON OBTAINING QUOTES: Andrew Lakey DATE: May 12, 2016

Date	Firm Name	Quote	Comments
05-12-16	Henris Roofing & Supply	\$26,359.00	Negotiated price and discussed math error with Contractor. Agreed on corrected Quote price of \$27,171.50
05-12-16	Cummings Roofing	\$0	Did not submit Quote
05-12-16	Linkville Roofing	\$0	Submitted sealed Quote prior to Addenda #2 being issued. Sealed Quote was returned to Contractor. Contractor did not re-submit Quote after Addenda #2 was issued.

RECOMMENDATION: Accept Quote from Henris Roofing & Supply in the amount not to exceed \$27,171.50

APPROVED [Signature]
Department Director

5/17/16
Date

Legal Review:
Complies with Policies: Yes No
Requires Exemption from competitive bidding: Qotesok Yes No
Contract Needed: Yes No

If Contract needed, who draws contract:
Department
Legal
Council Authorization: Yes No

Finance PO/REQ needed: Yes (if over \$5,000)

[Signature]
City Attorney

5/14/16
Date

[Signature]
Finance

5/16/16
Date

[Signature]
City Manager

5/18/16
Date

NOTE: Contracts/purchases for more than TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) require City Council authorization.

Revised 03/2016

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The name of the Company who is submitting this Quote is:

Henris Roofing + Supply of Oregon, inc.
doing business at 410 Adams st
(Street Address)
Klamath Falls Klamath Oregon
City County State

which address is the address to which all communications concerning this Quote and Contract shall be sent.

I (We), acknowledge that **Addenda numbers** 1 **through** 2 have been received and have been examined as part of the Contract Documents. (If none have been received, write "none" in the above space.) The President's Executive Order 11246, the Certification of Nonsegregated Facilities and the Certification of Nondiscrimination in Employment contained herein and executed by the Quoter are hereby made a part of this Quote.

The Contractor and/or each Subcontractor, in preparing the Quote submitted, shall pay each employee an amount not less than the applicable prevailing rate of wage for an hour's work in the same trade or occupation in the locality where such labor is performed. Any employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work to be performed.

The name(s) of the principal officers of the corporation or members of the partnership, or individual submitting this Quote are:

Eric Baker, Barbara Baker
Mike Bray

The name of the Quoter is: Henris Roofing + Supply of OR inc.

Anyone signing the Quote, other than an individual sole proprietor, shall attach to the Quote legal evidence of signing authority.

168479
Contractor Board License Number

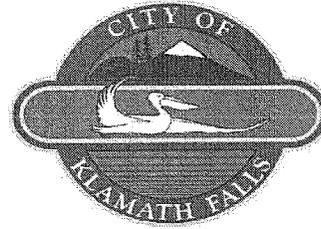
[Signature]
Signature of Quoter (attach proof of signing authority)

Title: President

Date: 5-12-16

1c

**CITY OF KLAMATH FALLS
PUBLIC WORKS ENGINEERING/CAPITAL PROJECTS
CIP PROJECT
DESIGN / BID PHASE BUDGET ANALYSIS FORM**



Date: 26-May-16

Prepared By: Andrew Lakey Associate Engineer/Project Manager

Pre-Bid Post-Bid (check one)

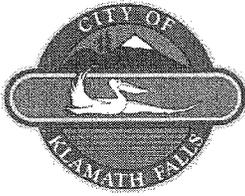
Project Name: South Portal Building Roof Repair Project

Project No: 278916-103-21-7201

Project Engineer: Andrew Lakey

	<u>Expenditure to Date</u>	<u>Projected Future Expenditure</u>	<u>Total Current + Projected Expenditure</u>
<u>DESIGN PHASE AND BID PHASE</u>			
Design Consultant Costs	\$ -	\$ -	\$ -
Engineering Staff Costs	\$ 718	\$ 82	\$ 800
Western States Environmental (Asbestos Testing)	\$ 214	-	\$ 214
Bidding advertisement	\$ -	\$ -	-
SUBTOTAL =	\$ 932	\$ 82	\$ 1,014
<u>CONSTRUCTION PHASE</u>			
Construction Contract: <input type="checkbox"/> Estimate <input checked="" type="checkbox"/> Bid (check one)	\$ -	\$ 27,172	\$ 27,172
Consultant Construction Inspection	\$ -	\$ -	\$ -
Materials Testing	\$ -	\$ -	\$ -
Maintenance Division	\$ -	\$ 500	\$ 500
Engineering Division	\$ -	\$ 500	\$ 500
SUBTOTAL =	\$ -	\$ 28,172	\$ 28,172
<u>OTHER COSTS</u>			
	\$ -	\$ -	\$ -
TOTAL =	\$ 932	\$ 28,254	\$ 29,186
<u>Budgeted Funds</u>			
Downtown Urban Renewal Fund			\$ 50,000

lc



City of Klamath Falls
Public Works Department – Development Services
PO Box 237, Klamath Falls, OR 97601
Capital Projects Section – 226 South 5th St
TEL (541) 883-5368; FAX (541) 883-5390

Date: 05-13-16

To: All parties who submitted quotes for the City's South Portal Building Roof Repair Project

From: Andrew Lakey

CC: Mark Willrett; Elisa Olson; Scott Souders; Kelly Brennan; Kenny Driessen; Joe Wall

Re: Notice of Intent to Award

Thank you for your interest and submitting a quote on this project. In accordance with the City of Klamath Falls policies and procedures for awarding contracts, the City is hereby notifying all parties who submitted a quote for the South Portal Building Roof Repair Project of intent to award.

The City of Klamath Falls intends to award a construction services contract to Henris Roofing & Supply Inc. for the South Portal Building Roof Repair Project in the not to exceed amount of \$27,171.50 at the City's June 6, 2016 City Council meeting.

If you have any questions or comments please contact me during regular business hours at 541-883-5283.

Respectfully,

A handwritten signature in black ink, appearing to read "A. Lakey", is written over a horizontal line.

Andrew Lakey, PE
Associate Engineer/Project Manager

Page 1

1c

CONTRACT AGREEMENT
CONSTRUCTION SERVICES
HENRIS ROOFING & SUPPLY OF OREGON, INC.
SOUTH PORTAL ROOF REPAIR PROJECT
PROJECT #278916

THIS AGREEMENT executed on the date last signed below, by and between the CITY OF KLAMATH FALLS, a municipal corporation, herein referred to as "CITY," and HENRIS ROOFING & SUPPLY OF OREGON, INC., herein referred to as "CONTRACTOR."

In consideration of the mutual promises set forth herein, CITY and CONTRACTOR agree as follows:

1. Description of Work. CONTRACTOR agrees to perform the services set forth Informal Quote Request, incorporated herein by this reference. Time is of the essence in completing this Contract and CONTRACTOR agrees to complete the services set forth in in the Informal Quote Request within the time frame(s) provided. Contractor also agrees to complete the work as described in the general conditions, plans, bid specifications/requirements, addendum(s), all of which are incorporated herein by this reference and made a part of this Contract.
2. Payment. CITY agrees to pay CONTRACTOR a sum not to exceed \$27,171.50 for the work to be performed under this Contract. Payment is to be made within thirty (30) days of receipt of CONTRACTOR'S billings. The "retainage provisions" of ORS 279C.550 through 279C.570 shall apply to these payment terms.
3. Relationship of the Parties. The parties intend that an independent contractor relationship will be created by this Contract. CITY is interested only in the results to be achieved, and the conduct and control of the work will lie solely with CONTRACTOR. CONTRACTOR is not to be considered an agent or employee of CITY for any purpose, and the employees of CONTRACTOR are not entitled to any of the benefits that CITY provides for CITY's employees. It is understood that CITY does not agree to use CONTRACTOR exclusively. It is further understood that CONTRACTOR is free to contract for similar services to be performed for other persons while they are under contract with CITY.
4. Indemnity. CONTRACTOR hereby agrees to defend, indemnify and save harmless City of Klamath Falls, its elected officials, employees, agents, and volunteers against any and all loss, damage, liability, claims, demands, or costs resulting from injury or harm to persons or property (including, without limitation, CONTRACTOR'S employees or property) to the extent arising out of or in any way connected with CONTRACTOR'S negligent performance hereof.
5. Insurance. The work to be performed under this Contract will be performed entirely at CONTRACTOR'S risk. CONTRACTOR shall not commence work under this Contract until it has furnished CITY with proof of insurance coverage issued by an insurance company licensed to do business in the State of Oregon and a certificate satisfactory to the CITY, as specified below:
 - 5.1. Workers' compensation coverage as required by law and to include employer's liability with limits of not less than \$500,000 per occurrence; or, alternatively,

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Henris Roofing & Supply of Oregon, Inc.
South Portal Roof Repair Project, #278916

CONTRACTOR shall provide documentation establishing that CONTRACTOR is exempt from workers' compensation coverage pursuant to ORS Chapter 656.

- 5.2. General commercial liability coverage for damages as a result of death or bodily injury (including personal injury) to any person's destruction or damage to any property with limits of not less than \$1,000,000 each occurrence, \$2,000,000 policy aggregate. Such coverage shall include, but is not limited to the following: commercial general liability coverage, products liability including completed operations, premises operations including X (explosion), C (collapse), U (underground), and personal injury. All coverage shall be on an occurrence basis and not on a claim made basis.
- 5.3. If CONTRACTOR uses automobiles to complete the contract, automobile liability insurance as a result of death or bodily injury to any persons, or destruction of or damage to any property arising out of the ownership, maintenance or use of any owned, non-owned or hired motor vehicle with limits of not less than \$500,000 per occurrence. All coverage shall be on an occurrence basis.
- 5.4. CONTRACTOR shall maintain an excess/umbrella liability policy of not less than \$2,000,000 each occurrence and aggregate that will provide excess limits of liability over the commercial general liability, automobile liability, and employer's liability.
- 5.5. The following inclusions to CONTRACTOR'S certificate of insurance shall be made:
 - 5.5.1. Waiver of transfer of rights of recovery against others to City of Klamath Falls;
 - 5.5.2. The insurance is primary to and non-contributory with any insurance maintained by City of Klamath Falls;
 - 5.5.3. All required coverage shall be written with companies that have at least an AmBest rating of A-;
 - 5.5.4. The insurance shall provide a 30 day notice of cancellation or material change; and
 - 5.5.5. The insurance certificate shall include endorsements for additional insured, naming "City of Klamath Falls, its elected officials, employees, agents, and volunteers" as an additional insured. The additional insured endorsement shall be attached to the certificate of insurance. The additional insured shall contain a severability of interest provision in favor of City of Klamath Falls and a waiver of subrogation in favor of City of Klamath Falls.

6. Compliance with Oregon Public Improvement Rules and Regulations. CONTRACTOR shall comply with the following Oregon laws and regulations relating to public improvements:

- 6.1. CONTRACTOR shall make payment promptly, as due, to all persons supplying to CONTRACTOR labor or material for the performance of the work to be performed under this Contract. CONTRACTOR shall not permit any lien or claim to be filed or prosecuted against the CITY on account of any labor or material furnished. [ORS 279C.505(1)(a) & (c)]
- 6.2. CONTRACTOR shall pay all contributions or amounts due the Industrial Accident Fund from CONTRACTOR, or any subcontractor, incurred in the performance of this Contract. [ORS 279C.505(1)(b)]
- 6.3. CONTRACTOR shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. [ORS 279C.505(1)(d)]
- 6.4. CONTRACTOR shall comply with the overtime and maximum hours of labor provisions of ORS 279C.520 and 279C.540.
- 6.5. If the CONTRACTOR fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the CONTRACTOR or a subcontractor by any

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Henris Roofing & Supply of Oregon, Inc.
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person, or the assignee of the person in connection with this Contract as the claim becomes due, CITY may, at its option, pay such claim and charge the amount of payment against funds due or to become due CONTRACTOR by reason of this Contract. [ORS 279C.515(1)]

- 6.6. If the CONTRACTOR or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this Contract within 30 days after receipt of payment from the CITY, the CONTRACTOR or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the CONTRACTOR or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the CONTRACTOR, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived. If the CONTRACTOR or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The payment of a claim in the manner authorized in this section does not relieve the CONTRACTOR or CONTRACTOR's surety from obligation with respect to any unpaid claims. [ORS 279C.515(2), (3) & (4)]
- 6.7. CONTRACTOR shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to employees of CONTRACTOR, of all sums that the CONTRACTOR agrees to pay for the services and all moneys and sums that the CONTRACTOR collected or deducted from the wages of the CONTRACTOR'S employees under any law, contract or agreement for the purpose of providing or paying for the services. [ORS 279C.530(1)]
- 6.8. CONTRACTOR shall demonstrate to the reasonable satisfaction of CITY that an employee drug testing program is in place. [ORS 279C.505(2)]
- 6.9. CONTRACTOR shall, if feasible and cost-effective, salvage or recycle all construction and demolition debris. [ORS 279C.510]
- 6.10. CONTRACTOR and all subcontractors must have a "Public Works" bond in an amount of not less than \$30,000 filed with the Construction Contractors Board before starting work under this Contract, unless otherwise exempt under ORS 279C.836. This provision must be contained in all subcontracts. CONTRACTOR shall provide a copy of said bond to CITY before starting the project. [ORS 279C.830(3)]
- 6.11. CONTRACTOR warrants that it has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. CONTRACTOR agrees it will continue to comply with the tax laws of this state or a political subdivision of this state during the term of the public contract. CONTRACTOR'S failure to comply with the tax laws of this state or a political subdivision of this state is a default for which CITY may terminate the contract and seek damages and other relief available under the terms of the contract or under applicable law.

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South Portal Roof Repair Project, #278916

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7. Prevailing Wage. CITY has determined that this Contract is subject to Oregon prevailing wage, and CONTRACTOR must comply with the prevailing wage rate requirements of ORS 279C.800 through 279C.870. These requirements include, without limitation, that CONTRACTOR shall, in compliance with ORS 279C.840, pay each worker in each trade or occupation employed either by the CONTRACTOR, subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on this contract: i) not less than the state minimum hourly prevailing rate of wage [ORS 279C.830 and .838]; and ii) overtime as required by ORS 279C.540. [ORS 279C.830] Workers must be paid not less than the applicable state or federal prevailing wage rate, whichever is higher. [ORS 279C.830(1)(c); OAR 839-025-0020(3)]

8. Provisions Concerning Environmental and Natural Resources Laws. Contractor shall comply with ORS 279C.525 concerning public improvements:

- 8.1. If the CONTRACTOR is delayed or must undertake additional work by reason of existing ordinances, rules or regulations of agencies not cited in this Contract or the bid specifications, or due to the enactment of new or the amendment of existing statutes, ordinances, rules or regulations relating to the prevention of environmental pollution and the preservation of natural resources occurring after the submission of the successful bid, the CITY may: terminate the Contract; complete the work itself; use non-agency forces already under contract with the CITY; require that the underlying property owner be responsible for cleanup; solicit bids for a new contractor to provide the necessary services under the CITY's competitive bid requirements; or issue the CONTRACTOR a change order setting forth the additional work that must be undertaken.
- 8.2. If the CONTRACTOR encounters a condition not referred to in the solicitation documents, not caused by the CONTRACTOR and not discoverable by a reasonable pre-bid visual site inspection, and the condition requires compliance with the ordinances, rules or regulations referred to under section 9.1, the CONTRACTOR shall immediately give notice of the condition to the contracting agency.
- 8.3. Except in the case of an emergency and except as may otherwise be required by any environmental or natural resource ordinance, rule or regulation, CONTRACTOR may not commence work nor incur any additional job site costs in regard to the condition encountered and described in section 9.2 without written direction from the CITY.
- 8.4. Upon request by the CITY, the CONTRACTOR shall estimate the emergency or regulatory compliance costs as well as the anticipated delay and costs resulting from the encountered condition. This cost estimate shall be promptly delivered to the CITY for resolution.
- 8.5. Within a reasonable period of time following delivery of an estimate under subsection 9.4, the CITY may: terminate the contract; complete the work itself; use non-agency forces already under contract with the CITY; require that the underlying property owner be responsible for cleanup; solicit bids for a new contractor to provide the necessary services under the CITY's competitive bid requirements; or issue the CONTRACTOR a change order setting forth the additional work that must be undertaken.
- 8.6. The following provisions apply to this Contract:
 - 8.6.1. If the CITY chooses to terminate this Contract under section 9.1 or 9.5, the CONTRACTOR shall be entitled to all costs and expenses incurred up to the date of termination, including overhead and reasonable profits, on the percentage of

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Henris Roofing & Supply of Oregon, Inc.
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the work completed. The CITY shall have access to the CONTRACTOR's bid documents when making the CITY's determination of the additional compensation due to the CONTRACTOR.

- 8.6.2. If the CITY causes work to be done by another contractor for conditions under section 9.1 or 9.5, the CONTRACTOR may not be held liable for actions or omissions of the other contractor.
 - 8.6.3. The change order under subsection included in section 9.1 or 9.5 shall include the appropriate extension of contract time and compensate to the CONTRACTOR for all additional costs, including overhead and reasonable profits, reasonably incurred as a result of complying with the applicable statutes, ordinances, rules or regulations. The CITY shall have access to the CONTRACTOR's bid documents when making the CITY's determination of the additional compensation due to the CONTRACTOR.
- 8.7. Notwithstanding section 9.1 to 9.6:
- 8.7.1. All or a portion of the known environmental and natural resource risks may have been allocated to the CONTRACTOR by the listing of such environmental and natural resource risks with specificity in the solicitation documents.
 - 8.7.2. In a local improvement district, all or a portion of the known and unknown environmental and natural resource risks may have been allocated to the CONTRACTOR by so stating in the solicitation documents.
 - 8.7.3. The allocation of known environmental and natural resources risks set forth in the solicitation documents prevail over the general provisions set forth in section 9.1 through 9.6.

9. Relations with Subcontractors. CONTRACTOR shall include the following provisions in each subcontract for property or services entered into by the CONTRACTOR and a first-tier subcontractor, including a material supplier, for the purposes of performing this construction contract pursuant to ORS 279C.580:

- 9.1. A payment clause that obligates CONTRACTOR to pay the first-tier subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the CONTRACTOR by the CITY under the Contract; and
- 9.2. An interest penalty clause that obligates the CONTRACTOR, if payment is not made within 30 days after receipt of payment from the CITY, to pay to the first-tier subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract under section 10.1. The CONTRACTOR or first-tier subcontractor may not be obligated to pay an interest penalty if the only reason that the CONTRACTOR or first-tier subcontractor did not make payment when payment was due is that the CONTRACTOR or first-tier subcontractor did not receive payment from the CITY or CONTRACTOR when payment was due. The interest penalty shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and computed at the rate specified in ORS 279C.515 (2).
- 9.3. A provision requiring the first-tier subcontractor to include a payment clause and an interest penalty clause conforming to the standards of subsections 10.1 and 10.2 in each of the first-tier subcontractor's subcontractors and to require each of the first-tier subcontractor's subcontractors to include clauses in their subcontracts with each lower-tier subcontractor or supplier.

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10. Warranty, Responsibility of CONTRACTOR. The CONTRACTOR warrants to CITY that materials and equipment furnished under this Contract will be of good quality and new unless otherwise required or permitted by CITY, and that all workmanship is in accordance with the standards of the trade. CONTRACTOR shall perform the services set forth herein in an efficient, expeditious and professional manner in accordance with all applicable laws governing such work. CONTRACTOR shall be responsible for the professional quality, technical adequacy and accuracy, and timely completion of work and services to be performed by CONTRACTOR under this Contract.

11. Asbestos & Recycling. It is CITY's policy to avoid, to the maximum extent possible, the use of materials containing asbestos in CITY improvement and construction projects. No materials containing asbestos shall be furnished as part of this Contract without the prior written approval of the CITY. CONTRACTOR shall make reasonable efforts to ensure, to the maximum extent economically feasible, the utilization of materials that may be recycled or reused when discarded. [ORS 279B.025] If this Contract involves demolition, CONTRACTOR shall salvage or recycle construction and demolition debris, if feasible and cost-effective. [ORS 279C.510(1)]

12. Equal Employment Opportunity/Affirmative Action/Minority Business Enterprises.

12.1. Throughout the term of this Contract, CONTRACTOR shall fully comply with the equal employment opportunity requirements of federal, state and local law and shall maintain a policy that all employment decisions, practices and procedures are based on merit and ability without discrimination on the basis of an individual's race, color, religion, age, sex, national origin, or physical or mental disability. CONTRACTOR's policy shall apply to all employment actions including advertising, recruiting, hiring, promotion, transfer, disciplinary action, lay-off and termination.

12.2. CONTRACTOR shall carry out its equal employment opportunity policy by making a determined and good-faith effort at affirmative action to employ, and advance in employment, women, minorities, the physically and mentally disabled and other disadvantaged groups.

12.3. CONTRACTOR shall make a determined and good faith effort to utilize minority and female business enterprises in its contracted expenditures, including without limitation contracts for the acquisition of goods, services, materials, supplies and equipment used in the performance of this Contract.

12.4. CONTRACTOR may not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055. By executing this Contract, CONTRACTOR certifies that CONTRACTOR has not discriminated and will not discriminate, in violation of this subsection, against any minority, women or emerging small business enterprise in obtaining any required subcontract. If the CONTRACTOR violates this certification, the CITY may regard the violation as a breach of contract that permits: (a) termination of the Contract; or (b) the CITY to exercise any remedies for breach of contract that are reserved or allowed in this Contract. [ORS 279A.110]

13. Assignment. The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party shall

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assign, sublet or transfer any interest in this Agreement without written authorization of the other.

14. Notices. All written notices given to the CITY by CONTRACTOR shall be addressed to and filed with the City Manager at City of Klamath Falls, P.O. Box 237, Klamath Falls, Oregon 97601, or by facsimile at 541-883-5399. All written notices from the CITY to CONTRACTOR shall be addressed to Henris Roofing & Supply of Oregon, Inc., 410 Adams Street, Klamath Falls, OR 97601, unless notice of change of address is received by the CITY.

15. Legal Actions.

- 15.1. This Agreement shall be enforceable in Klamath County, Oregon, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Klamath County Circuit Court.
- 15.2. If suit or action is taken to enforce any of the provisions of this Agreement, the party prevailing therein shall be entitled to recover from the other such sum as the Court may adjudge reasonable as attorney fees therein, including any appeal thereof, in addition to all other sums provided by law.

16. Termination. This Contract may be terminated at any time by mutual written consent of the parties. Upon receiving a notice of termination of this Contract, CONTRACTOR shall immediately cease all activities under this Contract, unless CITY expressly directs otherwise in such notice of termination. Upon termination of this Contract, CONTRACTOR shall deliver to CITY all documents, information, works-in-progress and other property that are or would be deliverables had the contract been completed. Expiration or termination of this Contract shall not extinguish or prejudice CITY'S right to enforce this Contract with respect to any breach of a contractor warranty or any default or defect in contractor performance that has not been cured. CITY may terminate this Contract, in whole or in part, upon ten days notice to CONTRACTOR, if any of the following occur:

- 16.1. CITY fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for CONTRACTOR's work;
- 16.2. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Contract is prohibited or CITY is prohibited from paying for such work from the planned funding source;
- 16.3. CONTRACTOR no longer holds any license or certificate that is required to perform the work, or any license or certificate required by statute, rule, regulation or other law to be held by the CONTRACTOR to provide the services required by this Contract is for any reason denied, revoked, suspended, not renewed or changed in such a way that CONTRACTOR no longer meets requirements for such license or certificate; or
- 16.4. CONTRACTOR commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the work as to endanger CONTRACTOR's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within ten business days after delivery of CITY's notice, or such longer period of cure as CITY may specify in such notice.

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South Portal Roof Repair Project, #278916

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IN WITNESS WHEREOF, the parties have executed this Agreement at Klamath Falls, Oregon, the day and year first above written.

CITY OF KLAMATH FALLS

CONTRACTOR

By: _____
City Manager

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

Attest: _____

City Recorder

Attest: _____
Secretary

APPROVED AS TO FORM:

City Attorney

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 1d

Date: June 6, 2016

Department: Public Works Department	Contact/Title: Chuck Cox, Streets Manager
Staff Presenter: Chuck Cox	Telephone No.: 541-883-5363
City Manager Review: 	Email: ccox@klamathfalls.city

TOPIC: Authorization to Execute Fund Exchange Agreement No. 31279 with the State of Oregon for the 2015 Chip and Crack Seal Project

SUMMARY AND BACKGROUND:

Last summer, staff retained the services of Klamath County to chip seal four sections of City roadway; specifically, Dan O'Brien Way, Nevada Street, Lakeshore Drive and the Lynnewood Subdivision. The City also contracted with Rocky Mountain Construction to Crack Seal several areas within the City limits.

Funding was intended to come from the City's allotment of Surface Transportation Program (STP) funds and was accordingly identified in the 2015/16 Capital Improvement Plan and budget. In order to obtain STP funds, the City Council needs to approve an agreement between the City and State.

STP dollars are passed from the Federal government to the State for use by local jurisdictions. The City can use these dollars but must follow all Federal Guidelines. Or, the City can exchange the funds with the State for unrestricted dollars. Under the exchange, the State gives the City 94 cents in unrestricted funds for each federally restricted dollar. Once the exchange is complete, the City may use the funds for the chip and crack sealing projects.

The City typically receives approximately \$250,000 per year in STP funds.

FINANCIAL IMPACT:

The City budgeted \$350,000 for this project and the actual cost came in at \$283,160. To obtain these funds the City must request \$301,235 in actual STP dollars.

COUNCIL OPTIONS:

1. Approve Agreement # 31279
2. Decline the Agreement. However, funding for the project would have to come from another source not currently identified.

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DOCUMENTS ATTACHED:

- Agreement with ODOT

RECOMMENDED MOTION/ACTION:

Move to authorize execution of Fund Exchange Agreement no. 31279 with the State of Oregon for the 2015 City chip and crack sealing project.

NOTICE SENT TO:

Oregon Department of Transportation

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2016 FUND EXCHANGE AGREEMENT
Chip and Crack Sealing
City of Klamath Falls

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 the CITY OF KLAMATH FALLS, 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, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

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. Agency has submitted a completed and signed Part 1 of the Project Prospectus, or a similar document agreed to by State, outlining the schedule and costs associated with all phases of the chip and crack sealing of Dan O'Brien Way, Nevada Street, Lake Shore Drive and the Lynnwood Subdivision, as approximately shown on the maps attached hereto, marked Exhibit A and by this reference made a part hereof, hereinafter referred to as "Project."
2. State has reviewed Agency's prospectus and considered Agency's request for the Fund Exchange. State has determined that Agency's Project is eligible for the exchange of funds.
3. To assist in funding the Project, Agency has requested State to exchange 2016 federal funds, which have been allocated to Agency, for state funds based on the following ratio:

\$94 state for \$100 federal

4. Based on this ratio, Agency wishes to trade \$301,235 federal funds for \$283,160 state funds.

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5. The term of this Agreement will begin upon execution and will terminate two (2) years from the date that all required signatures are obtained unless extended by an executed amendment.
6. The Parties agree that the exchange is subject to the following conditions:
 - a. The federal funds transferred to State may be used by State at its discretion.
 - b. State funds transferred to Agency must be used for the Project. This Fund Exchange will provide funding for specific roadway projects and may also be used for the following maintenance purposes:
 - i. Purchase or Production of Aggregate. Agency shall ensure the purchase or production of aggregate will be highway related and used exclusively for highway work.
 - ii. Purchase of Equipment. Agency shall clearly describe how it plans to use said equipment on highways. Agency shall demonstrate that the equipment will only be used for highway purposes.
 - c. State funds may be used for all phases of the Project, including preliminary engineering, right of way, utility relocations and construction. Said use shall be consistent with the Oregon Constitution and statutes (Section 3a of Article IX Oregon Constitution). Agency shall be responsible to account for expenditure of state funds.
 - d. This Fund Exchange shall be on a reimbursement basis, with state funds limited to a maximum amount of \$283,160. All costs incurred in excess of the Fund Exchange amount will be the sole responsibility of Agency.
 - e. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
 - f. Agency, and any contractors, shall perform the work as an independent contractor and will be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
 - g. 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 279C.505, 279C.515, 279C.520, 279C.530 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

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pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

- h. Agency, or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; purchase all necessary right of way in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations; advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete the Project.
- i. Agency shall submit invoices to State on a quarterly basis, for actual costs incurred by Agency on behalf of the Project directly to State's Project Manager for review and approval. Such invoices will be in a form identifying the Project, the agreement number, the invoice number or account number or both, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed \$283,160, including all expenses. Travel expenses will not be reimbursed.
- j. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and service demand.
- k. All employers, including Agency, that employ subject workers 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. Agency shall ensure that each of its subcontractors complies with these requirements.
- l. This Agreement may be terminated by either party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
 - i. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - A. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - B. If Agency 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 from State fails to correct such failures within ten (10) days or such longer period as State may authorize.

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- ii. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party, or at such later date as may be established by the terminating Party, under any of the following conditions:
 - A. If either Party fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow either Party, in the exercise of their reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - B. 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 either Party is prohibited from paying for such work from the planned funding source.
 - iii. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 - m. State and Agency 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.
7. 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.
8. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
9. 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.
10. This Agreement and attached exhibits 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

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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.

The funding for this Fund Exchange program was approved by the Oregon Transportation Commission on May 20, 2015, as a part of the 2015-2018 Statewide Transportation Improvement Program (STIP).

The Program and Funding Services Manager approved the Fund Exchange on March 14, 2016, amended on May 5, 2016 and amended again on May 19, 2016.

Signature Page to Follow

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CITY OF KLAMATH FALLS, by and through its elected officials

By _____
Mayor

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Counsel

Date _____

STATE OF OREGON, by and through its Department of Transportation

By _____
Region 4 Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date _____

Agency Contact:

Mark Willrett – Director of Public Works
226 South 5th Street
Klamath Falls, OR 97601
(541) 883-5364
willrett@ci.klamath-falls.or.us

State Contact:

Darrell Newton - Local Agency
Programs Coordinator
63055 N. Highway 97, Bldg M
Bend OR, 97701-5765
(541) 388-6272
darrell.r.newton@odot.state.or.us

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 1e

Date: June 6, 2016

Department: Administration	Contact/Title: Nathan Cherpeski, City Manager
Staff Presenter: Nathan Cherpeski	Telephone No.: 541-883-5316
City Manager Review: 	Email: ncherpeski@klamathfalls.city

TOPIC: Award of Contract to Ricoh USA, Inc. in the Total Amount of \$ \$87,295.80 for City-Wide Five-Year Copier Lease

SUMMARY AND BACKGROUND:

In past years, the City has had contracts with various separate vendors for each department's copiers. Going forward, it was determined it would be more cost-effective to have one City-wide copier lease. The City has 13 copiers of which 10 are owned. All of the owned copiers are more than 5 years old with some more than 10 years old. Each department's needs were identified and quotes were requested from 3 copier companies (the quotes are attached for reference).

Staff has reviewed the proposals and recommends awarding the bid to Ricoh USA, Inc., who provided the following:

- Local service
- Per copy costs were less than the Canon and Xerox which would be a savings;
- Lease prices were comparable

FINANCIAL IMPACT:

Funding for this contract is budgeted in the 2016-2017 budget document and the costs will be distributed between the departments in the City.

COUNCIL OPTIONS:

1. Award a contract to Ricoh USA, Inc. in the amount of \$87,295.80 for City-Wide five-year copier lease.
2. Deny the contract and provide staff with further direction.

DOCUMENTS ATTACHED:

- Proposals of Xerox, Canon and Ricoh
- Pricing Summary of Ricoh
- Equipment and pricing breakdown of monthly cost for each system by department

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REQUESTED MOTION/ACTION:

- Move to award a Contract to Ricoh USA, Inc. in the amount of \$ \$87,295.80 for City wide five-year copier lease.

NOTICE SENT TO:

Canon Solutions for America (via e-mail)

Ricoh USA, Inc. (via e-mail)

Xerox (via e-mail)

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Ricoh USA

2800 Crosby Ave, Klamath Falls, OR 97603

June 1st, 2016

Equipment and Pricing Summary

for

The City of Klamath Falls

Administration - MP6002	\$ 222.90 per month	(B&W)
Administration - MPC3003	\$ 116.65 per month	(Color)
Finance - MPC2003	\$ 88.25 per month	(Color)
Utility & Billing - MP3054	\$ 79.48 per month	(B&W)
Public Works - MPC2503	\$ 94.83 per month	(Color)
Airport - MPC2003	\$ 88.25 per month	(Color)
Wastewater Dept - MPC2503	\$ 94.83 per month	(\$1200 rebate available if delivered by June 30th) (Color)
Water Department - MPC2503	\$ 94.83 per month	(\$1200 rebate if available delivered by June 30 th) (Color)
Maintenance Dept - MPC2003	\$ 88.25 per month	(Color)
Development - MPC5503	\$ 193.51 per month	(Color)
Police Department - MP5054	\$ 116.65 per month	(B&W)
Police Department - MPC2003	\$ 88.25 per month	(Color)
Police Department - MPC2003	\$ 88.25 per month	(Color)

TOTAL MONTHLY: \$1,454.93

*All systems Include: Finisher, (4) Paper trays (Including 11x17), 3 hole punch and bypass tray.

* 1st month's supplies and surge protectors included.

BW overages billed at .0040 fixed (base volume set at zero

Color overages billed at .0458 fixed (base volume set at zeroP

Maintenance Program

Covers all toner, parts, labor, and service necessary to keep your equipment in like new condition. Provides a one-hour callback and four hour response time from our factory-trained technicians. Paper and staples not included.

On all new leases, the respective leasing company will include two charges on their first invoice: a UCC filing fee (\$35.00) and a one-time Document Fee (typically \$ 50.00 to \$99.00.)

City Of Klamath Falls

Response to RFP
for Leasing of
Copiers and Copier
Support services
City Of Klamath
Falls



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Request for
Proposal (RFP)
Leasing of Copiers
and Copier Support
Services

City Of Klamath Falls

Larry L. Henderson
Services Executive
Ricoh USA, Inc.
2800 Crosby Ave #8
Klamath Falls, Oregon 97603
541-281-1818
Larry.Henderson@ricoh-usa.com

Bill Bauer
Sales Manager
Ricoh USA, Inc.
1912 United Way
Medford, OR 97504
541-227-5584
Bill.Bauer@ricoh-usa.com

Reservation of Rights—In response to your request, we have reviewed and are responding to the terms and conditions in your RFP or invitation. Based on our review of the information provided by you, we are confident that contracts acceptable to us may be reached promptly following any award. Specifically, we recognize your right to negotiate and approve the terms and conditions of any contract following award and respectfully reserve the same right. We acknowledge that all contract terms and conditions must be mutually agreed upon by both of us. Our proposal represents our commitment with respect to pricing, equipment specifications and our proposed solution. Following bid award, we contemplate that we will both negotiate and sign, in the exercise of good faith, customary definitive agreement(s) to govern our relationship, and provide reasonable assurances of our authority to enter into such agreements. In an effort to expedite the finalization of our agreements, we have noted the following topics for our discussion, which are either not addressed in your request or for which we request further clarification:

- To the extent that you lease any equipment, customary terms and conditions related to equipment financing, subject to customary non-appropriation rights;
- Mutually acceptable terms related to the measurement and calculation of service levels, including customary terms related to reporting requirements and remedies;
- Standard industry service termination and default, rights and remedies, including reasonable written notice requirements and cure periods;
- Risk of loss and insurance requirements during possession of provided equipment;
- Assignment rights subject to prior credit approval;
- Standard industry warranties for service and support and the transfer of applicable manufacturer product warranties, as well as customary limitations of implied warranties;
- Mutual indemnification for third party claims arising from acts of misconduct in connection with the performance of services; and
- Mutual liability protections for consequential and similar damages;

As is customary for transactions of this type, any acknowledgements made by each of us are qualified by the right to negotiate mutually acceptable terms. Our proposal is based upon the information provided by you, and the assumptions made by us in preparing our response. Any changes to information or assumptions may, if material, require modification. Upon award, we will be pleased to work with you to promptly finalize mutually acceptable contract terms and, if applicable, provide copies of appropriate contract forms for that purpose.

Proprietary and Confidential Statement—The enclosed materials are proprietary to Ricoh, and Ricoh reserves all right, title, and interest in and to such materials. The terms, conditions, and information set forth herein are confidential to Ricoh and may not be disclosed in any manner to any person other than the addressee, together with its officers, employees, and agents who are directly responsible for evaluating the contents of these materials for the limited purpose intended. These materials may not be used in any manner other than for such limited purpose. Any unauthorized disclosure, use, reproduction, or transmission is expressly prohibited without the prior written consent of Ricoh. These materials summarize a proposed equipment and/or services solution. They are intended for informational purposes only to assist you in your evaluation of Ricoh as a potential business partner. These materials do not represent an offer or a binding agreement.

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Sam Hodens

Ricoh USA

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Recent Acquisitions

In February 2014, Ricoh Americas Holdings, Inc. acquired mindSHIFT Technologies Inc., a leading provider of managed IT, cloud, data center and professional services to small and mid-sized businesses (SMBs), from Best Buy Co., Inc. This strategic investment has expanded and deepened Ricoh's services portfolio. mindSHIFT supports over 155,000 users in major markets throughout the U.S. mindSHIFT's IT Services capabilities and comprehensive Managed Services offerings help Ricoh continue to drive value to its existing customers through expanded services offerings as well as support Ricoh's growth as a provider of IT Services.

In January 2016, Ricoh Company Ltd., through its U.S. subsidiary Ricoh Printing Systems America, Inc., acquired AnaJet, the leader in direct to garment ("DTG") printing. Founded in 2006, AnaJet was one of the first companies in the world to mass produce DTG printers. Today, AnaJet is a global market leader in the DTG industry. The majority of available AnaJet products leverage Ricoh's market-leading inkjet printheads. Ricoh's experience has focused on office and commercial print technologies. The addition of the AnaJet portfolio will help Ricoh further its position in the industrial inkjet market, in which Ricoh maintains global leadership in inkjet printhead development. AnaJet's solutions combined with the broad Ricoh portfolio will provide Ricoh customers with the ability to more effectively deliver a broader solution set to their end-users.

Awards

- Recognized for the seventh year in 2016 as one of the World's Most Ethical Companies by Ethisphere, which recognizes companies that align principle with action, work tirelessly to make trust part of their corporate DNA and in doing so, shape future industry standards by introducing tomorrow's best practices today.
- Named "Best Manufacturer" of the year in 2015 by *The Cannata Report*, published by Marketing Research Consultants LLC, based on responses to its 30th Annual Dealer Survey in which dealers provided feedback on the manufacturer they believe offers the best products
- Earned 16 awards for its product lines in the Buyers Laboratory LLC (BLI) 2015 Winter Pick Awards, including Outstanding Achievement in Innovation, A3 MFP Line of the Year for Energy Efficiency and A3 MFP Line of the Year
- Ranked as a Leader in MFDs and printers by Gartner, Inc., every year since 2004 (*Magic Quadrant for MFPs and Printers, Worldwide*)
- Ranked as a Leader for Managed Print Services by Gartner, Inc., every year since 2008 (*Magic Quadrant for Managed Print Services, Worldwide*)
- Ranked as a Leader by IDC for Smart MFPs (*MarketScape: U.S. Smart Multifunction Peripheral 2014-2015 Vendor Assessment {doc #254761, March 2015}*)



Professional References

Ruxton Schuh
City of Eugene, MFD Coordinator
541-682-5676

Ricoh provides service and support for over 100 MFP's and a production machine in their

Joe Luiz
IT Manager
City of Ashland
541-552-2312

Ricoh provides service and support for 25 MFP's and 2 Wide Format Machines

City of Portland
Matthew Spitulski
Printing & Distribution Manager
(503) 823-4449
matthew.spitulski@portlandoregon.gov

Ricoh provides service and support for approximately 400 MFP's for the City of Portland plus Ricoh has provided the City with 20 plus eCopy Pro for scan stations for both Ricoh and Canon Mfp's.

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EXECUTIVE SUMMARY

CITY OF KLAMATH FALL GOALS AND OBJECTIVES

Through its April 29, 2016 the **City of Klamath Falls** seeks a supplier to provide Copier and Copier support services. As stated in the RFP, The **City of Klamath Falls** objectives are to:

- Secure single vendor to deliver and support for all areas of the City
- Provide high quality, high performance copiers and right size copier fleet
- Provide reliable service with little down time
- Provide easy network printing; quality scanning and duplex printing

THE RICOH SOLUTION

Ricoh USA, Inc. (Ricoh), has carefully reviewed the requirements of the RFP and all information provided by the **City of Klamath Falls** throughout the RFP process. This proposal is the result of our analysis of that information and defines our approach to the requested services. We are confident that the Ricoh advantage will be clearly evident.



OUR APPROACH. OUR VISION.

Ricoh believes that the key to transforming the way the **City of Klamath Falls** works starts with harnessing the collective imagination of people. This idea, paired with our award-winning technology and services, is how we are breathing new life into established forms of knowledge-sharing—helping the City of Klamath Falls move beyond paper and beyond the office, so its employees can collaborate like never before. Services-led, technology-enabled and people-driven, Ricoh is committed to helping the **City of Klamath Falls** leverage the powerful information and knowledge that already exists throughout its organization—often untamed, untapped and buried—to create the future it wants.

PROPOSAL HIGHLIGHTS

Our proposed solution includes the following components:

- **Admin Building** – (1) MP6002/60ppm BW Copier plus (1) MPC3003 BW/Color copier **Finance Dept** - (1) MP3054 BW Copier **Utility and Billing** (1) MP3054 BW Copier **Public Works/HR** - (1) MPC3503 BW/Color copier **Airport** – (1) MP2554 BW copier **Wastewater Dept** – (1) MPC2503 BW/color copier **Water Dept** – (1) MPC2503 BW/Color copier **Maintenance Dept** – (1) MPC2003 BW/Color copier **Development Services** – (1) MPC5503 BW/Color copier **Police Department** – (1) MP5054 BW Copier (2) MPC2003 BW/Color copier's
- **Device Management Software Program:** Ricoh Device Manager NX Lite (No additional cost)

The following table illustrates the key features and benefits of our solution, as they relate to each objective stated in the RFP.

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City Of Klamath Falls Objective	Features of Our Proposed Solution	Benefits to City Of Klamath Falls
Secure single vendor to deliver and support for all areas of the City	There are many reasons why companies choose to partner with Ricoh, including our access to best-in-class technology and the strength of our people and support structure. Ultimately, however, customers stay with Ricoh because of our commitment to helping their businesses succeed.	Our team of sales and technical resources are personally committed to bringing the best solution to each individual customer, and we hold them accountable for the City of Klamath Falls results
Provide high quality, high performance copiers and right size copier fleet	Ricoh USA combines the manufacturing and engineering expertise of Ricoh Company, Ltd.—a global technology innovator—with the experience and reach of our locally based sales and services teams.	Award winning Technology choices backed by world class service and support.
<ul style="list-style-type: none"> Provide reliable service with little down time 	Our local service professionals average over 18 years of experience and undergo approximately 100 hours of training per year. They work in conjunction with our dedicated systems analysts to concentrate on your digital document needs.	Local service. Local support. Ricoh provides a 1 hour call back and a 4 hour response on all service calls to reduce down time
Provide easy network printing; quality scanning and duplex printing	Ricoh products offer high quality documents at high speeds.(up 1200 by 1200 dpi resolution.) Our Versatile systems offer advanced capabilities to improve speed and security when scanning and duplex printing.	Fast and Easy scanning. Cost effective document distribution. Powerful print performance.Plus we have the flexibility to offer mobile printing from most smart phones and tablets.

PROPOSAL TERM

▪ Ricoh’s proposed pricing is valid for 30 calendar days from the date of its submittal.

Alignment of Goals

Similar to the **City of Klamath Falls** mission to create a community that exudes “ **Small Town Charm with Urban Appeal**”! Ricoh’s focus is on providing superior solutions related to document workflow and managed services. Our approach is one of careful, detailed evaluation by exceptional people, using defined best practices and processes, and applying best-in-class technology to determine the optimal solution. Indeed, one of our core values is that we are customer-centric, stated as follows:

Although we are a global company, we must not lose sight of our entrepreneurial spirit to understand each customer’s needs from their “eye-level,” which brings new value to those we serve.



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Ricoh USA

2800 Crosby Ave, Klamath Falls, OR 97603

May 19, 2016

Rebate Program for City of Klamath Falls

There is a \$1200 rebate available through Ricoh for replacement of each the following (2) systems:

Ricoh MPC2050 Location: Wastewater Department

Ricoh MPC2050 Location: Water Department

Check will be mailed within 90 days if equipment is delivered by June 30th 2016

On all new leases, the respective leasing company will include two charges on their first invoice: a UCC filing fee (\$35.00) and a one-time Document Fee (typically \$ 50.00 to \$99.00.)

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Thank you for choosing Ricoh.

This certificate allows you to participate in the Customer Rebate program.

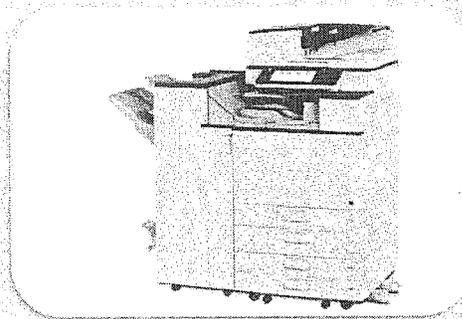
Dear Mr / Mrs Customer,

Thank you for selecting Ricoh, a world class manufacturer and innovator, for your document management needs. We are pleased to offer you a rebate check when purchasing one of the eligible model(s) listed below:

Eligible Model(s)	Rebate
MP301SPF	\$300
MP401SPF	\$400
MP C306SPF/	\$600
MP C406SPF	\$600
MP C401SR	\$800
MP C2503	\$1,200

Rebate Details:

- Rebate Check will be automatically issued.
- Contact your Sales Rep for questions on the status of your rebate check.
- Allow up to 90 days to receive your rebate check (from initial equipment delivery date).
- Rebate Check will be mailed to the Bill To Address. The Payee will be listed as "Accounts Payable" with a description of "Rebate".



TERMS AND CONDITIONS: Promotional period runs from 4/1/2016 through 6/30/2016. The customer must be willing to accept delivery by 6/30/16 (no extensions) to qualify. If Ricoh can not make delivery by 6/30/16, we will still honor the rebate to the customer. Limit one rebate, per eligible product. Eligible for new equipment only. Excludes pre-owned, Select Series, and Rentals. Ricoh has final approval as to the customer's eligibility for the rebate. For complete terms and conditions, see your Sales Rep.

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CANON SOLUTIONS AMERICA

May 18, 2016

City of Klamath Falls
Atten: City Recorder
500 Klamath Ave
Klamath Falls, OR 97601

To all:

Thank you for the opportunity to provide a response to your RFP due on May 2nd. While we are responding with short notice I believe you will see, the Canon solution can help you reach your goals and current requirement, as well as provide for future growth. Highlights include:

- Canon U.S.A. is committed to the highest levels of customer satisfaction and loyalty, providing 100 percent U.S.-based consumer service and support for all of the products it distributes.
- Canon ranked number-one brand in US total copier/MFP market share for 2015
Source: Gartner, Inc. Printer, Copier, and MFP Quarterly Statistics US: Database:
- Future Performance: Customers know they can depend on Canon Solutions America for the best product upgrades and business approach year after year. Canon, a top patent holder of technology, ranked fourth overall in the U.S. in 2015[†] with global revenues of more than US \$42 billion, is listed as number six in the computer industry on Fortune Magazine's list of Global Admired Companies and has received the prestigious "MFP Line of the Year" award from Buyer's Laboratory Inc. for 2016.
- Environmental Responsibility: The U.S. Environmental Protection Agency has awarded Canon a 2015 ENERGY STAR award for Excellence in Energy Efficient Product Design for Canon's efforts in, and dedication to, the development and promotion of energy-efficient products. This is Canon's 18th ENERGY STAR award.

The enclosed proposal was designed to enhance your organization with a new level of productivity and cost-effectiveness. Introducing the imageRUNNER ADVANCE Series, a platform that dramatically redefines how you access, share and manage communications. Canon, long renowned for its cutting-edge technologies and superb quality, is proud to offer a breakthrough in the way business communicates. Thank you for the opportunity to support the City.

Sincerely,

Frank Wanner
Account Manager
Canon Solutions America

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Section 1



Canon U.S.A., Inc.
A3 MFP Line of the Year

Vendor Contact - List the name, address, FAX number, e-mail address. and voice phone number of the vendor's authorized negotiator. Vendor's authorized negotiator shall be empowered to make binding commitments for the vendor's firm.

Frank Wanner
Account Manager

Canon Solutions America, Inc.
1020 Knutson, Medford, OR 97504
www.csa.canon.com
fwanner@csa.canon.com
T 541-772-9174 C 541-892-3728 F 541-618-7274

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Section 2



Canon U.S.A., Inc.
A3 MFP Line of the Year

Vendor Profile - Provide a description of the company including a brief company history and prospectus. Include the location of your organization's headquarters, the year the organization was formed, and ownership structure.

Company Name: Canon U.S.A., Inc.

Founded: New York Branch was established in 1955 and formally incorporated as Canon U.S.A., Inc. in 1965.

Corporate Headquarters: Melville, New York

Oregon Offices: Beaverton, Roseburg and Medford.

Chairman and Chief Executive Officer: Mr. Joe Adachi ([View Chairman and CEO's Message](#))

Number of Employees: 2,497 (As of June 2015)

Consolidated Subsidiaries: 21 (As of July 2015)

Canon U.S.A., Inc. is a wholly owned subsidiary of Canon Inc.

Shares of Canon Inc. are listed at the following stock exchanges: Tokyo, Osaka, Nagoya, Fukuoka, Sapporo and New York.

History

Canon Inc. is a Japanese multinational corporation specialized in the manufacture of imaging and optical products, including cameras, camcorders, photocopiers, steppers, computer printers and medical equipment. Its headquarters are located in Ōta, Tokyo, Japan.^[3]

1970 – 1980

What would become Canon Business Solutions began as four independently operating organizations marketing the Canon brand of office and production equipment in New York, Philadelphia, Chicago and Los Angeles.

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1980 – 1999

Canon continued to set new industry standards for black-and-white, color and fax technology. By the end of the 1990s, all four independent sales companies had been purchased by Canon U.S.A. and comprised the foundation of the Canon subsidiary sales and service network.

2000 – 2010

Under the direction of Canon U.S.A., the four foundational offices changed their marketing to come under the banner Canon Business Solutions as a means to differentiate and showcase their offerings in the Canon family. Coinciding with the name change was a national expansion to many of the top metropolitan regions within the United States.

In 2003, the New York and Philadelphia subsidiary companies merged to combine their strengths and grow throughout the East Coast, while the Chicago office would serve as the foundation for the new Central region and Los Angeles the same for the new Western region. By 2008, the three regions officially merged to form Canon Business Solutions, Inc., a wholly-owned subsidiary of Canon U.S.A., Inc. The combined strength and shared vision of the Canon Business Solutions Company would better position Canon to meet the growing demands of customers locally, regionally and nationally with a streamlined organization of enhanced systems and processes to benefit all customers. Canon Business Solutions opened more than 50 offices across the U.S., dedicated to the business customer and designed around a mindset of superior sales and service solutions.

2011 – Present

In 2010, a Canon U.S.A. subsidiary acquired assets of North Carolina-based Tereck Office Solutions, Inc. as a means to continue to grow Canon Business Solutions offerings specifically in North and South Carolina and the surrounding areas. The subsidiary, Canon Business Solutions-Tereck, merged into Canon Business Solutions in 2011. In 2008, assets of San Francisco-based Newcal Industries were acquired by a Canon U.S.A. subsidiary to grow the Western footprint of Canon Business Solutions, continuing Canon's vision to be the leading document and imaging sales and services organization in the United States. The subsidiary, Canon Business Solutions-Newcal was merged into Canon Business Solutions in 2012. On January 1, 2013, Canon U.S.A. merged Océ North America into Canon Business Solutions to form one of the largest document and imaging business-to-business sales and service organizations in the world. The merged organization is named Canon Solutions America, Inc.

Section 3



Canon U.S.A., Inc.
A3 MFP Line of the Year

Professional References - Provide a list of at least three (3) recent client references. References of local government in Oregon or related agencies preferred. The reference list must include:

- Klamath County

Contact: Randy Paul 541-883-1122

3314 Vandenberg Rd. Klamath Falls, OR

Services: Provides local service for current print, copy, scan, and fax and network assistance for fleet of 6 machines.

- City of Klamath Falls

Contact: Andy Shadley 541-883-5353 / Gina Johnson 541-883-5363

226 S. 5th Street Klamath Falls, OR

Services: Provide current print, copy, scan, fax needs for fleet of 6 machines.

- Medford School District

Contact: Jeff Bales 541-261-6602 cell

3314 Vandenberg Rd. Medford, OR

Services: Provide current print, copy, scan and fax needs for fleet of 65 machines, including the print shop and software solutions.

Additional References can be provided as requested for additional government entities such as South Central Oregon Economic Development, Modoc County, Klamath Tribe, Karuk Tribe, Butte Valley Unified School District, Southern Oregon University, Rogue Community College, etc.

Note: We have dedicated service techs and Sales representatives which reside in both Medford and Klamath Falls and can also load balance between the two locations as needs arise.

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Section 4

Project Schedule

Canon U.S.A., Inc.
A3 MFP Line of the Year

Transition

- Purchase Order/Contract
- Determine City's Transition Expectations
- Order Equipment, Required Parts and Supplies
- Contact current vendor to schedule transition
- Assign Transition Team Members – Canon, City Stake Holders and Current Vendor
- Confirm Travel Delivery availability
- Map all Equipment Placements
- Confer with City personnel to approve transition plan
- Pre-stage, set up and test all equipment
- Upload City's charge back codes
- Schedule Key op Training and casual user training
- Install equipment (14 to 21 days)

Training

- Quick Start
 - Preferred within 72 hours after installation
 - Basic "This is How you make a copy"
- Key Op Training
 - Preferred Pre-Installation Class room training
 - Complete overview of all features and drivers
 - Certification driven

On Going Support

- Regular inspection of all copiers
- Monitor toner levels
- Deliver toner as needed
- Maintain equipment
- Place service calls
- On-going contact

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Section 5

Canon U.S.A., Inc.
A3 MFP Line of the Year

Cost - The proposal should be broken down by machine. The following cost information is to be provided along with the a detailed list of services to be provided:

- Lease rate for 60 months.
 - .0181 rate factor
 - Payment
 - Option 1 - \$1,112 per month for 60 months
 - Option 2 - \$1,068 per month for 60 months
 - Optional Fax per unit - \$10.96 per month for 60 months
- Cost of Print Copy Charges:
 - Option # 1
 - 10 iRC 5235s Color \$.065 - Black and White \$.00695
 - 2 iRC 5255s Color \$.05 - Black and White \$.00695
 - 1 iR 6565 Black and White \$.004
 - Option#2
 - 2 – iR 4225s Black and White - \$.007
 - 2 – iR 4235s Black and White - \$.007
 - 6 – iRC 5235 Color \$.065 - Black - White \$.00695
 - 1 – iRC 5255 Color Black \$.05 - White \$.0065
 - 1 – iR 6555 Black and White \$.004
 - 1 – iR 6565 Black and White \$.004
- List of services provided.
 - Installation, training and full service of 13 MFPs installed at multiple City locations.
- Include any component of the project where the use of subcontractors will be utilized. State the name of the subcontractor and work they are to perform on the proposal.
 - Canon Solutions America is a wholly owned subsidiary of Canon USA and does not use sub contractors.

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Canon U.S.A., Inc.
A3 MFP Line of the Year

Section 6

Technical Information - Provide the following information as it relates to technology upgrades:

- List all equipment to be installed.
 - Option # 1
 - 10 iRC 5235s
 - 2 iRC 5255s
 - 1 iR 6565
 - Option#2
 - 2 – iR 4225s
 - 2 – iR 4235s
 - 6 – iRC 5235s
 - 1 – iRC 5255
 - 1 – iR 6555
 - 1 – iR 6565
- List all equipment requirements as it relates to this project.
 - Exceeds Requested Speeds and Required Accessories
 - Fax is optional
- List all supported network protocols.
 - Print Driver Supported OS UFR II, PCL 5c/6, Adobe PS 3: Windows® (Windows XP/Windows Vista®/Windows 7/Server 2003/ Server 2008/Server 2008 R2/Windows 8/Server 2012/Small Business Server 2011), Windows Terminal Servers (Server 2003/ Server 2008/Server 2008 R2/Server 2012), Small Business Server 2011, Windows Clustering Server (Windows Server 2003/Server 2008/Server 2008 R2/Server 2012), Citrix (Presentation Server 4.5, XenApp 5.0/6.0/6.5, XenDesktop 4.0/5.0/5.5/6), Macintosh® (OSX 10.5.8 or later, UFR II and PS 3 Only), VMware (vSphere 4/5/5.1),
- Any additional technical information and/or requirements for upgrades
 - We will supply NEMA 5-15Ps for the iRC5255s and

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May 17, 2016

City of Klamath Falls Administration Office
Attn: City Recorder
500 Klamath Avenue
Klamath Falls, OR
97601

Dear Elisa D. Olson, MMC,

We have carefully studied the requirements of City of Klamath Falls RFP for Leasing of Copier/Multifunction Devices and Support Services and believe that our solution will best meet the City's needs. Our solution is based upon addressing your identified challenges and needs and our understanding of your account and knowledge of the industry.

Xerox has a deep understanding of document management and extensive experience in the local government sector helping clients accomplish their document management goals. By working with Xerox, the City of Klamath Falls can expect a mature, consistent service model that delivers the metrics necessary to both measure and improve how users are interacting with our solution.

The City of Klamath Falls will be supported by the Xerox team which includes Superior Office Systems, your locally owned and operated Xerox authorized sales agent since 1986, and our award winning service organization. Superior Office Systems provide sales and support to many local government and large business institutions in the area.

We believe our mission begins with addressing the City's immediate needs and continues with the responsibility to identify follow-on services that respond to future document output and management needs across the city. It is this philosophy, coupled with a powerful combination of technology and service backed by the industry recognized Xerox Total Satisfaction Guarantee enabling Xerox to deliver tremendous results for our clients.

As with any project of this magnitude, diligent planning and flawless execution are critical to success. Given our depth of experience on similar projects, we are extremely confident that no other vendor can provide the City of Klamath Falls with the comprehensive, total solution you are seeking.

Please feel free to call me to discuss any aspect of this response. We appreciate the opportunity to address any questions or concerns that you may have. Once again, thank you for inviting Xerox and Superior Office Systems to recommend technology and services based on your specifications.

Regards

Ted Darnall
President, CEO
tedd@xerox4u.net
P: 541-779-1251
F: 541-292-2215

Jonathan White
Pricing & Contracts Manager
jonathan.white@xerox.com

www.xerox.com

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TABLE OF CONTENTS

This Request for Proposal includes the following Sections:

Section 1. Purpose

Section 2. Scope of Services/Requirements

Section 3. Proposal Requirements

Section 4. Selection Criteria

Section 5. Proposal Format

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Section 1 — Purpose

The City of Klamath Falls is soliciting proposals for providing a 60 month lease for copiers and copier support services. These copiers will be located within the City of Klamath Falls at various City facilities. The City of Klamath Falls will require a single vendor to deliver and support the replacement of 13 printer/copiers. **Interested parties must submit proposals to the City of Klamath Falls, Office of the City Recorder, no later than 2:00 p.m. on May 19, 2016.** Late proposals will not be accepted.

Four goals established for this lease include:

1. High quality, high performance copiers
2. Reliable service with little downtime
3. Easy network printing options
4. Quality scanning and duplex printing

A list of existing copy machines, along with approximate monthly usage can be found in the attached Exhibit "A" These machines have multiple paper trays, stapler, collates and reads and prints two-sided. The City believes it can "right size" the copier fleet with more appropriate sized copiers in some areas. Several of the copiers are owned by the City. Please provide information on possible trade in value.

Section 2 — Scope of Services/Requirements

The City will be replacing 13 copiers. The City currently leases all 3 copiers and the rest are owned. Vendors should provide pricing for a lease, including maintenance, service and supplies for the lease period. The City's goal is to decrease costs while increasing overall productivity by upgrading equipment and capabilities while maintaining consolidated services with one vendor.

Each Vendor response to the RFP shall offer one machine model per volume level, and detail a full-service scenario whereby the vendor provides, places, maintains and services the equipment including toner and parts. XEROX – NOTED / COMPLY

Vendor Lease - The selected vendor lease will be required to include the following as part of this lease:

1. The vendor must be able to provide maintenance service to all areas of the City. The City requires a one-point contact location, which will be responsible for all service requirements. XEROX – NOTED / COMPLY
2. All equipment technology must be digital and be certified as new. Each model should be the latest generation offered by the respective manufacturer. XEROX – NOTED / COMPLY
3. All proposed equipment must be from the same manufacturer. XEROX – NOTED / COMPLY
4. Provide Management Software Program. XEROX – NOTED / COMPLY
5. All machines must duplex, enlarge and reduce. XEROX – NOTED / COMPLY
6. Proposed machines should be network ready. XEROX – NOTED / COMPLY
7. Machines should accommodate paper in sizes up to 11"x17" in trays. XEROX – NOTED / COMPLY
8. All machines should handle a variety of paper weights and types, including transparencies. XEROX – NOTED / COMPLY
9. Toner replacement must be made using recyclable, sealed cartridges (or equivalent) rather than bulk chemicals so that there is no need to come in contact with toner. XEROX – NOTED / COMPLY

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10. All machines should use a 120 volt power source and a standard, residential type 3-prong plug. Any machine supplied with a different type of plug shall be accompanied by appropriate outlet receptacle at no charge to the City, if necessary. XEROX – NOTED / COMPLY
11. If power filters or surge protectors are recommended or required by the manufacturer, the vendor will supply these at no cost to the City. XEROX – NOTED / COMPLY
12. All equipment is to be Common Criteria Certified. XEROX – NOTED / COMPLY
13. All equipment should be qualified as energy efficient. XEROX – NOTED / COMPLY
14. The copiers need to be able to: staple, 3-hole punch, scan and communicate with and distribute to multiple networks. If these features are an additional cost, please list the cost of the modules separately. XEROX – NOTED / COMPLY
15. Fax capability (optional and priced separately). XEROX – NOTED / COMPLY

Any additional features offered, if price is associated outside the base, should be itemized in the response. XEROX – NOTED / COMPLY

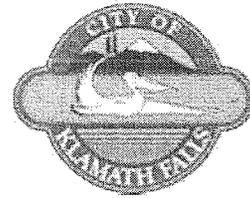
Machine Description - All proposals must contain descriptive literature on the proposed copiers. At least one technical sheet must be provided for each copy machine model, accessory or option. Manufacturer specifications must specify certified monthly volumes for each machine. A copy of the Buyer's Lab report for each machine must also be supplied. Other descriptive literature or reports, including award certificates from an independent testing agency, will be accepted in addition to required literature. XEROX – NOTED / See Tabs for models proposed with all the required information.

Authorized Dealer - The vendor must be officially authorized by the manufacturer of the proposed equipment to sell, support and service the equipment offered. Written documentation of this authorization is required. XEROX – NOTED / COMPLY – Superior Office Systems is the local Xerox Agency for Xerox Corporation.



Lease Option - The lease option should be for 60 months using a Fair Market Value lease. Also, describe whether the lease will be held internally, or through an external leasing source. Xerox Leasing – See attachment of Xerox Leasing Solution. If financing is external, please provide relevant information about the third party leasing company. For lease options, any required equipment property taxes and insurance must be included within the monthly charge. XEROX – NOTED / COMPLY Title to any equipment subject to lease shall remain with the vendor or financing company. XEROX – NOTED / COMPLY

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Rate Increases - No allowance will be made for any rate increase (equipment, supplies, parts, labor) during the term of the lease contract. XEROX – NOTED / COMPLY

Machine Removal, Delivery, Set-up and Acceptance - All pricing must be inclusive of machine delivery charges to City locations. Normal installation is to include initial operating supplies (except paper and staples). A pre-delivery walkthrough of each site and equipment location will be coordinated with the City to ensure access and power requirements are acceptable. Delivery and installation of all copiers is to be made within 21 calendar days after receipt of an executed contract unless a longer period is authorized in writing. An operator's manual is to be delivered with each machine. XEROX – NOTED / COMPLY

Copies - Billing for copies shall be on a monthly basis. Copies made during service are not included in the usage charges. The vendor is responsible for all copies made during installation, set up and copier service visits. XEROX – NOTED / COMPLY

Copy Machine Supplies — Under any agreement, the vendor shall provide each site with a monthly allocation of required machine operating supplies (not including paper or staples) to be calculated based upon the estimated number of copies produced. Return of Equipment — The end-of-contract return of any equipment shall be provided by the vendor and coordinated with the City, and shall be at no cost to the City. Subject equipment shall be removed no later than 30 days after receiving notification. XEROX – NOTED / COMPLY

Section 3 — Proposal Requirements

This section instructs vendors on procedures related to the submission of proposals. All proposals shall be submitted in the format outlined herein. In preparing submissions, vendors shall describe, in detail, the services proposed to be provided and how the project shall be accomplished. The City of Klamath Falls will accept competitive proposals from vendors having specific experience and qualifications in the areas identified in this RFP. Under competitive negotiation procedures the terms of the service contract, the price of the service, the method of service delivery, and the conditions of performance are all negotiable. A negotiated contract will be awarded to the agency that best meets the proposed needs at a reasonable price, not necessarily the lowest price. Once the City's vendor selection is made, there will be no further vendor inquires/communications to the City. For consideration, proposals must contain at least three (3) references from agencies, clients, or companies where similar work was recently completed.

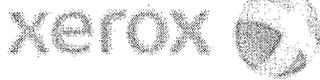
Three (3) original copies of the proposal shall be signed and submitted to:

City of Klamath Falls Administration Office
Attn: City Recorder
500 Klamath Avenue
Klamath Falls, OR
97601

Vendors shall submit proposals no later than 2:00 p.m., May 19, 2016. Timely submission of the proposal is the responsibility of the vendor.

Each page of the proposal shall be identified with the name of the responding vendor.

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The City of Klamath Falls reserves the right to decide, on a case-by-case basis, if a proposal shall be rejected as non-responsive. As a precondition to acceptance, the City of Klamath Falls may request a vendor to withdraw or modify those portions of a proposal deemed non-responsive that do not affect quality, quantity, price, or delivery of service.

Acknowledgement of Amendments

Each vendor receiving a copy of this RFP shall acknowledge receipt of any amendment(s) by signing and returning the amendment with the completed proposal. The acknowledgement must be received by the City of Klamath Falls at the time and place specified for receipt of proposals.

Additional Information

Questions regarding this RFP shall be received in writing no later than Wednesday, May 9, 2016 to eolson@klamathfalls.city.

Vendors are cautioned that any oral statements made that materially change any portion of this RFP are not valid unless and until ratified by formal written amendment.

There are no walkthroughs for this RFP prior to receiving the proposals.

Applicable Laws Shall Apply

The contract awarded shall be governed in all respects by the laws of the State of Oregon and any litigation with respect thereto shall be brought in the courts of the State of Oregon in the County of Klamath. The vendor awarded the contract shall comply with applicable federal, state, and local laws and regulations.

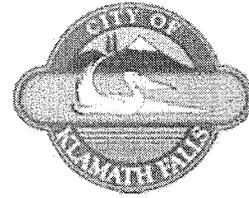
Change in Technology Upgrade Objectives

The City of Klamath Falls reserves the right to materially change the technology upgrade objectives. Such changes may include additions, deletions, or other revisions within the general scope of RFP requirements. No changes or adjustments shall be made without a written amendment to this RFP, signed by the City Manager.

Collusion Among Vendors

Each vendor, by submitting a proposal, certifies that it is not party to any collusive action or any action that may be in violation of state and/or federal law.

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Exceptions

A vendor taking exception to any part or section of this solicitation shall indicate such exception(s) in a separate section of the submitted proposal — such section shall be entitled "Exception of Conditions." Failure to indicate any exception will be interpreted as the vendor's intent to comply fully with the requirements of this RFP, as written. "Exception of Conditions" may also be justification for rejecting a proposal as non-responsive.

Expenses Incurred

The City of Klamath Falls accepts no responsibility for any expenses incurred by a vendor in the preparation and presentation of a response to the RFP. Such expenses shall be borne exclusively by the vendor. All proposals shall become the property of the City of Klamath Falls and will not be returned.

Acceptance or Rejection

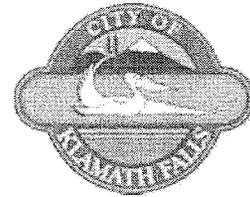
The City of Klamath Falls, at its sole discretion, reserves the right to either accept or reject any and all proposals. The existence of this request for proposal shall not, in any way, obligate the City of Klamath Falls to take any action regarding any response submitted by a vendor to this request.

Nonconforming Terms and Conditions

Except as otherwise provided for in this RFP, any proposal that includes terms and conditions that do not conform to the terms and conditions in this RFP is subject to rejection as non-responsive. The City of Klamath Falls reserves the right to permit the vendor to withdraw non-conforming terms and conditions from its proposal that do not affect quality, quantity, price or delivery of service prior to action by the Klamath Falls City Council to award a contract. Withdrawal of Proposal Vendors may withdraw a proposal at any time during and after the review and award process, up to ratification by the Klamath Falls City Council of an agreement between the City of Klamath Falls and the designated vendor.

Withdrawal of Request for Proposal

The City of Klamath Falls retains at all times the right to cancel or withdraw this RFP, to refuse to accept a proposal from any vendor, and to modify or amend *Section 2— Scope of Services/ Requirements* up to ratification by the Klamath Falls City Council of an agreement between the City of Klamath Falls and the designated vendor.



RFP Timeline

RFP Circulation Date:	Friday, April 29, 2016
Questions Regarding RFP due by:	Monday, May 9, 2016
Questions will be answered in writing by:	Wednesday, May 11, 2016
Proposal Submission Deadline:	Thursday, May 19, 2016

Unless otherwise stated, all proposals shall address each criterion identified in the following subsection.

Section 4 — Selection Criteria

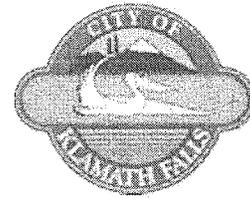
The City shall utilize various criteria in the selection of the successful vendor, including the following:

1. The selected vendor will be expected to agree to the terms of the City's standard General Services Agreement — Exhibit "B", a copy of which is attached. All proposals must indicate acceptance of these terms. If any specific condition(s) will not be accepted, they must be identified in writing, with alternate language proposed. The City reserves the right to disqualify vendors that do not agree to the standard Agreement.
2. Demonstrated ability to perform this work, as demonstrated by at least three (3) references of previous recent clients.
3. Cost.
4. Quality and completeness of the proposal.
5. Vendor's reputation in the industry.
6. Commitment to work with the City of Klamath Falls in addressing current and future needs with respect to copier equipment.

Reservation of Rights

The City reserves the right to negotiate mutually acceptable project-related conditions, including costs. The City reserves its right to reject any and all proposals, waive irregularities and informalities therein, and further reserves its right to award the contract, based on the proposal, that is in the best interest of the City. The City specifically reserves the right to select the proposal which will provide the highest quality equipment and performance package at a reasonable cost to the City. The City hereby notifies vendor that certain equipment may be deleted from the contract if it exceeds the City's budget and that the lowest total proposal may not be the successful proposal if quality, functionality, warranties, service availability and cost, or other aspects of the proposal do not best meet the City's needs.

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V. Cost -

Product/ Market Code	Accessories/Descriptions	Speed PPM	Term (mos)	Monthly lease Rate	B/W Print Charge	Color Print Charge	Supplies Included
W7220P	WC 7220 Printer, STD, 2-520 sheet Tray, Bypass, Duplex, OCT, 2GB Mem, Scan to Mailbox, Scan to E-Mail, Sec (Disk Enc & IO), Scan Kit (PDF, Scan to PC, Network Scanning, Job Flow Sheets, High Compression PDF), JBA, Server Fax, XPS Print Driver	20	60	\$95.11	\$0.0050	\$0.0500	Yes
	OFCFNLX -Office Finisher			1 Included			
	LINE1FAX -Single Line Fax Kit			1 Included			
	FINLX-3HP -2/3-Hole Punch			1 Included			
	XM2 -PostScript Kit			1 Included			
W7225P	WC 7225 Printer, STD, 2-520 sheet Tray, Bypass, Duplex, OCT, 2GB Mem, Scan to Mailbox, Scan to E-Mail, Sec (Disk Enc & IO), Scan Kit (PDF, Scan to PC, Network Scanning, Job Flow Sheets, High Compression PDF), JBA, Server Fax, XPS Print Driver	25	60	\$96.22	\$0.0050	\$0.0500	Yes
	OFCFNLX -Office Finisher			1 Included			
	LINE1FAX -Single Line Fax Kit			1 Included			
	FINLX-3HP -2/3-Hole Punch			1 Included			
W7830P	WorkCentre 7830 Printer with 3T Module (3 x 520 sheets), 520 Sheet Tray, 100 Sheet Bypass, 1x250 OCT, DADF, EIP, Data Security, Job Based Accounting, PostScript, Full Network Scan, Server Fax, iFax, Std Output Tray, Left Side Tray, Init Kit	30	60	\$114.11	\$0.0050	\$0.0500	Yes
	OFCFINRLX -Office Finisher			1 Included			
	LINE1FAX -Single Line Fax Kit			1 Included			
	FINLX-3HP -2/3-Hole Punch			1 Included			
W7835P	WorkCentre 7835 Printer with 3T Module, 520 Sheet Tray, 100 Sheet Bypass Tray, 1x250 OCT, DADF, EIP, Data Security, Job Based Accounting, PostScript, Full Network Scan, Server Fax, iFax, Std Output Tray, Left Side Tray, Init Kit	35	60	\$128.50	\$0.0050	\$0.0500	Yes
	OFCFINRLX -Office Finisher			1 Included			

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	LINE1FAX -Single Line Fax Kit			1 Included			
	FINLX-3HP -2/3-Hole Punch			1 Included			
5955APT B&W only Device	WC 5955 Multifunction Copier/Printer/Color Scan, 200 Sheet SPDH, 4T (4,600 sheets), 100 Sheet Bypass, 2GB, Network Acc, Server Fax , Internet Fax, Data Sec (Image Overwrite, Encryption, McAfee Enhanced Security, Cisco TrustSec), EIP, Scan Kit, PostScript	55	60	\$123.82	\$0.0050	N/A	Yes
	OFFICEFIN -Office Finisher 50 Sheet Stapler			1 Included			
	LINE1FAX -Single Line Fax Kit			1 Included			
	3HOLEPCH -3-Hole Punch			1 Included			
W7970P Color	WorkCentre 7970 Multifunction Printer with High Capacity Tandem Tray (4 trays - 3,040 sheets), 130 Sheet Single-Pass DADF, 100 Sheet Bypass, Auto Duplex, 2x 250 OCTs, 100 Sheet Face Up Tray, EIP, Data Security, Job Based Accounting, Postscript, Full Network Scan, Server Fax, iFax, STD Output Tray, Left Side Tray	70	60	\$180.08	\$0.0050	\$0.0050	Yes
	BR Finisher with 3 Hole Punch			1 Included			
	LINE1FAX -Single Line Fax Kit			1 Included			

NOTES on Pricing:

- a. Fax Boards may be removed from the unit for a cost reduction of \$2.21 per month (off lease price)
- b. The machines chosen by Xerox to give pricing most closely match the current departments' machines speed of existing copiers.
- c. Pricing includes consideration of trade-in and free removal and pick up of old copiers.
- d. Xerox charges no additional service fees above the cost per page listed in the pricing. The billing is in arrears for impressions made the previous month billing cycle. There is no Monthly Minimum copies you must pay for
- e. *We also suggest looking at a full Managed Print Solution like we do for many clients. We would perform a study of all networked devices and any standalone printers or fax machines. Put the data into a spreadsheet and be able to share the results down to a department level thus strategizing and planning for a long term solution that would bring the most cost beneficial solution and leverage technologies supporting each department's needs. This study would be done free of charge.*

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VI. Technical Information —

- List all equipment to be installed.

6 Each Xerox 7220i's or 7225i's color multifunction device

4 Each Xerox 7830i or 7835i's color multifunction device

1 Each Xerox 7970i color multifunction device

2 Each Xerox 5955 B&W multifunction device

See following pages for brochures, specifications, reports, awards and technical information for each model.

SECTION 7 - XEROX[®] CONNECTKEY[®] TECHNOLOGY

THE SOFTWARE BEHIND THE XEROX HARDWARE TECHNOLOGY.

**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 2

Date: June 6, 2016

Department: City Manager

Staff Presenter: Joe Wall

City Manager Review: 

Contact/Title: Joe Wall, Management Assistant

Telephone No.: 541-883-5272

Email: jwall@klamathfalls.city

TITLE: An Ordinance Amending the Klamath Falls Urban Area Transportation System Plan by Adding the Klamath Falls Urban Trail Master Plan – first reading

SUMMARY AND BACKGROUND:

The City adopted the Klamath Falls Urban Area Transportation System Plan (TSP) in 2012 via Ordinance 12-01. The TSP was adopted as part of the transportation element of the Comprehensive Plan. The proposed amendment to the TSP adds the Klamath Falls Urban Trail Master Plan to TSP Section 6 (Bicycle Facilities Plan).

The presented Urban Trail Master Plan is a comprehensive active transportation system study meant to support the economic, recreational and safety goals of the City and Klamath County and guide the development of active transportation projects within the Urban Growth Boundary for the next 20 years. The development of the Urban Trail Master Plan was funded through the Oregon Department of Transportation's (ODOT) competitive Transportation and Growth Management (TGM) Program and completed by the City in partnership with Klamath County, stakeholder agencies, and interested citizens. City Council approved a Resolution in support of requesting funding to create a Trail Master Plan through ODOT's TGM Program on May 19, 2014.

Klamath County adopted the Klamath Falls Urban Trail Master Plan as an addendum to the TSP on April 26, 2016. City Planning Commission held a public meeting on May 23, 2016 and unanimously recommended that City Council approve the Ordinance amending the TSP by adding the Klamath Falls Urban Trail Master Plan.

FINANCIAL IMPACT:

The amendment of the TSP to include the Klamath Falls Urban Trail Master Plan does not in itself contain any financial impacts.

COUNCIL OPTIONS:

- Approve, deny, or modify findings of the Planning Commission
- Move to introduce the Ordinance by title for first reading
- Provide staff with additional direction

DOCUMENTS ATTACHED:

- May 23, 2016 Planning Commission Meeting Minutes Excerpt
- Urban Trail Master Plan – available upon request
- Ordinance amending the TSP

REQUESTED MOTION/ACTION:

- Conduct a public hearing and take testimony
- Move to approve the findings of the Planning Commission
- Move to introduce the Ordinance by title for first reading

NOTICE SENT TO:

- Notice of the City Council meeting was published in the Herald and News on May 29, 2016. Notice of the May 23rd Planning Commission hearing was published in the Herald and News on May 8, 2016.

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ATTACHMENTS

Excerpt from May 23, 2016 Planning Commission Meeting Minutes

QUASI JUDICIAL MATTERS

2. COMPREHENSIVE PLAN AMENDMENT 1-CPA-16 FOR CITY OF KLAMATH FALLS (Council Recommendation). Senior Planner/Management Assistant to the City Manager Joe Wall reviewed his written report and PowerPoint presentation, attached. Chair Fitz Gerald asked if any members of the Commission wished to abstain. There was no response. Chair Fitz Gerald asked if any members of the Commission wished to declare a conflict of interest. There was no response. Chair Fitz Gerald asked if any members of the Commission wished to report any significant ex parte contact, which includes site visits and or discussion about the matter. Commissioners Gilbert, Williams, Fitz Gerald, Neupert, and Henderson stated they had each made individual site visits. City Attorney Joanna Lyons-Antley stated those types of disclaimers are only necessary in Quasi-Judicial matters; however, there was an error when preparing the Agenda as this matter and the following Agenda item are both Quasi-Judicial Legislative Matters.

Commissioner Neupert stated how, at a previous Work Session, the consultant brought forward a plan specifying details for a project for a protected bike lane from Moore Park to the downtown. He asked if the Comprehensive Plan Amendment included that project. Mr. Wall responded the Oregon Avenue Project is included in the proposed plan amendment but noted if the City was to go forward and construct the project, funding would be needed and it would have to go before Council for approval. He noted further that there are other projects included other than the Oregon Avenue plan as well. Chair Fitz Gerald stated the work that was done at the Work Session included a discussion on Biehn Street being included and it also included changes as to whether or not streets were one way and there were a number of other issues under consideration. He asked if the Commission's actions "locked in" any one of those options because they would be examined and discussed further by Council prior to a decision. Commissioner Neupert stated one of the points made at the Work Session was the need to pursue outside funding for any of the projects; therefore, adopting the proposed Plan Amendment as

presented includes enough information that grants could be applied for to pursue those projects and would be included in a publicly vetted adoption plan so he felt comfortable going forward.

Commissioner Gilbert **moved to open the public hearing.** Commissioner Neupert seconded. The motion carried unanimously with all Commission members present voting aye.

PROPOSERS: - None.

Beverly Leigh. Ms. Leigh read her statement into the record as follows:

“My name is Beverly Leigh, and I am here today as a citizen in support of the City of Klamath Falls adopting the Klamath Falls Urban Trails Master Plan.

The primary components of the 88-page Plan are critical to creating a future that values a healthy & safe community, with transportation options for walking and biking – and hiking and rolling – as a key component to a rich quality of life and an economically vibrant community. These kinds of well-researched plans have the potential to impact decisions people make about where they want to live and raise their families and ensure all people have access to enjoy the diverse environment and natural beauty the Basin affords us.

I’ve been fortunate to see the impact of walking and biking on elementary students in my work with the Klamath Safe Routes to School Program – kids love to walk and bike to school with their friends, they get to know and respect their neighborhoods, they reap the academic benefits of healthy brain development through exercise, they experience the joy of becoming independent by using their feet or a few wheels, they enjoy and value the beauty of the outdoors, and make a contribution to reducing their carbon footprint. These things are very important to our youth – helping them access these kinds of activities by investing in small and large improvements in the trails, bike paths and sidewalk systems, is, simply put, the right thing to do!

In the Spring of 2017, through a partnership with the Klamath County School District, Safe Routes to School program and Cycle Oregon, we will have 70 bicycles, 2 Cargomate bike trailers and a bike safety and skills instructor working

to ensure all County Schools' 5th graders learn to bike. We need more infrastructure!

Having appropriate and accessible infrastructure is the key to implementing the Urban Trails Master Plan – creating the environment that makes the walk or roll choice the easy choice, for youth, for families, for the elderly, is good business for Klamath's future. People value quality of lifestyle when choosing to stay or move to an area and call that place home, with a strong sense of pride.

Please unanimously adopt the Klamath Falls Urban Trails Master Plan. Together, we can make the investments needed to build a safer, healthier Klamath for all."

Jennifer Little. Ms. Little stated she was part of a Citizens Advisory Council and grew up actively commuting to school and to work. She had lived in several areas outside of Klamath Falls that have an incredible infrastructure and she fully supports adoption of the plan because young adults like her are looking for these types of amenities when looking for a place to settle. Commissioner Williams referenced Ms. Little's comment about seeing this type of program working well in other communities and asked her to describe what worked. Ms. Little responded she grew up in Greeley, Colorado and in Corvallis, Oregon. Klamath Falls is lacking signage to direct people around, there is a lack of bike lanes available, sidewalks available, etc.; however, the skeleton is in place.

Michal Kawka. Mr. Kawka stated he moved to Klamath Falls approximately one year ago from northern Oregon and thinks Klamath Falls is a beautiful community. His family bikes everywhere including grocery stores and having protected bike lanes makes his family safer. He owns property in Klamath Falls and pays taxes to the government and he urged the Commissioners to support the plan. It will be a benefit to not only improved health but improved economic growth and make the community's lives easier and safer.

Jessica DuBose. Ms. DuBose stated she is the Community Programs Manager for Blue Zones in Klamath Falls and the plan amendment adoption is identified as one of Blue Zones' policy priorities for the Blue Zones Project in order to achieve community certification. Blue Zones is network based and has over 127 points they have to meet nationally and

Blue Zones was so impressed that it was encouraged to pursue the proposed plan over other policy priorities. It is essential for the Blue Zones project, people who are avid bikers, people who walk on weekends, etc. It is a huge priority for our community.

Ana Kawka. Ms. Kawka echoed the sentiments of Ms. Little and stated she identifies with the young professional Ms. Little identified as and how she recently moved to Klamath Falls as well. She is a biker who pulls a trailer with a child in it so having a protected bike lane would be “awesome.” She further stated she commutes from Biehn Street to the library where she works so she usually rode an alternate route by Conger School for safety.

Dr. Stephanie Van Dyke. Dr. Van Dyke stated she fully supports adoption of the Urban Master Plan and noted she gave a presentation at the aforementioned Work Session. She continued when looking at communities that are walkable and bike-able, there is tremendous economic vitality. The value of rents increase along protected bike lanes. Small business growth begins to rise. Physical activity increases and the community feels safe riding bicycles along the roads. Because of the vitality of a community and for many other reasons she fully supports the project. When looking at the studies and asking what the young people want they want second story downtown living, walking to the store and biking to the store, which is important to attract OIT student graduates, to attract new growth, etc. Dr. Van Dyke further stated when she grew up she did not grow up where she could ride her bicycle everywhere and she had spoken with a variety of families and individuals who felt the same way. She was excited, hopefully once the plan is adopted on June 6th, to begin looking for funding. She noted that at Sky Lakes Wellness Center, they were gearing up looking for funding to make plans a reality.

Jonah Hakanson. Mr. Hakanson stated he read the master plan earlier in the day and was running for State Representative. He asked how the City was going to be able to pay for portion of the costs. Chair Fitz Gerald stated the speculation is there are funding sources but those funding sources cannot be approached until the plan amendment is adopted. Mr. Hakanson asked if the sources are state level block grants. Chair Fitz Gerald responded yes.

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Cherice Wyson. Ms. Wyson stated the only issue that came up was horses. She asked what happens with bike traffic and horses and how to promote safety for everyone with multi-use trails. She had been in Klamath Falls for approximately a year and half and the proposed plan seems to open up some social means. A multi-use trail would be a wonderful way for people who ride horses and bikes to meet and create some connection there.

Jeff Quinn. Mr. Quinn stated he is a member of a national cycling association out of Montana and the timing is good for the proposed plan because there is movement toward getting national legislation to fund actual signs leading into the town saying it is a bike friendly town for touring. Klamath Falls does not exist in that realm so now that Klamath Falls is in, this is moving forward with Blue Zones and a bike friendly town because Klamath Falls can start drawing some positive attention. There are several tour groups looking for places like Klamath Falls with low traffic, beauty and friendly for bicycles to draw traffic through; however, the negative perception had to be corrected. He continued that he has cycled throughout the nation and throughout the northwest and Klamath does not have a good reputation as being bike friendly so there is a need to get the word out that Klamath is friendly to bicyclists and approving the proposed plan would help take some of the traffic away from Bend.

Cort Cox. Mr. Cox stated he is part of the staff for the Blue Zones Project and marketing in Klamath Falls. He recounted how his mindset toward bicycling in Klamath Falls has shifted and he can more clearly see the benefits to the community and he supports the proposed plan.

Alicia Jones. Ms. Jones stated she moved to Klamath Falls in 1997 and is glad she did not move to Bend because Bend is becoming too big and disjointed. Klamath Falls has the opportunity to grow families and community and she supports the plan. She noted it is also good for the economic health of the town and people want to travel and use their bikes.

Cheston Rodriguez. Mr. Rodriguez stated he is in support of the master plan for its cultural impacts, opportunities for easy exercise, etc. Many people worked hard on putting the document together and it is important

to adopt it because if a plan is in place, when opportunities arise there was leverage to pursue them and that is the value of the overall document. It is an efficient way to build a system from where the community is to where the community wants to go while efficiently saving money and coming up with the end product everybody wants.

OPPOSED: - None.

NEUTRAL: - None.

REBUTTAL: - None.

Commissioner Neupert **moved to close public hearing.** Commissioner Gilbert seconded. The motion carried with all Commission members present voting aye.

Commissioner Neupert commended and thanked those citizens who came out to speak on behalf of the proposed plan amendment. It shows good intent and progress for our City. Commissioner Gilbert seconded the idea and noted the item would come before Council on June 6th.

Commissioner Gilbert stated the Transportation System Plan (TSP) was adopted in 2012 and the lack of connectivity was noted between the trails. The proposed amendment is an extension of and a natural conclusion of those discussions so he will support it.

Commissioner Williams stated he supports the proposed plan amendment from the personal concern of the system that is in place. He further stated his son and daughter in law are hardcore bicyclists who will be moving to Klamath Falls in the next month. They have ridden several hundred miles and he is concerned about them because they will be riding on streets rather than protected trails.

Commissioner Henderson stated he was glad to see all the support and hard work that has gone into the plan amendment.

2

Commissioner Neupert stated he is very supportive of the effort. Every city should have good balance of transportation options for its citizens and it takes a while to change the landscape and structure but he is very supportive of the intent and details. He noted whoever was involved should be commended.

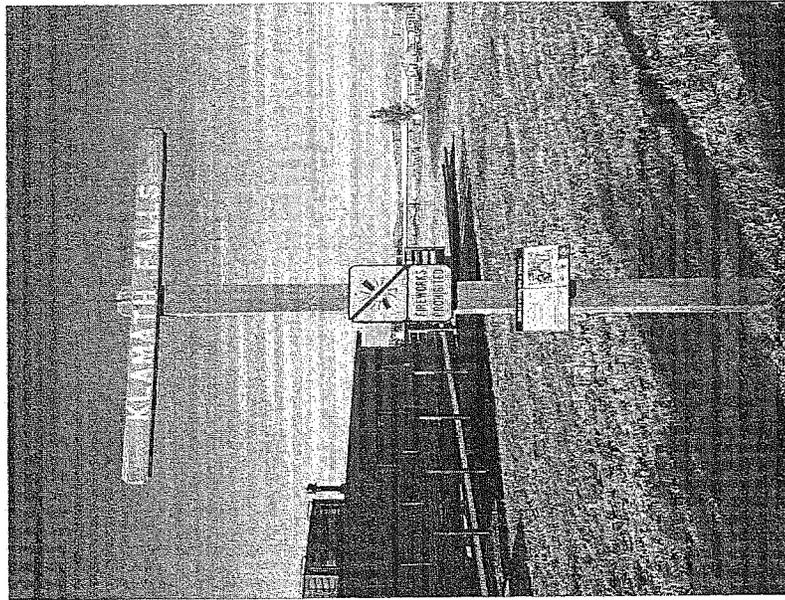
Chair Fitz Gerald stated there is a generation of people who routinely got in their car and drove to the end of their driveway to get their mail and it was high time to be woken up. He lamented that he was raised in Houston, Texas, which is so not too far from Louisiana, which is a state that has "a lot of bridges that go nowhere." He noted that it was funny but in Klamath Falls there are miles and miles of trails that go nowhere so the plan amendment is important because it connects that which is already there.

Commissioner Neupert **moved to recommend to Council approval of the Klamath Falls Urban Area Transportation System Plan by adding the Klamath Falls Urban Trail Master Plan.** Commissioner Henderson seconded. The motion carried unanimously with all Commission members present voting aye.

2

Klamath Falls Urban Trail Master Plan

Planning Commission
Hearing
May 23, 2016





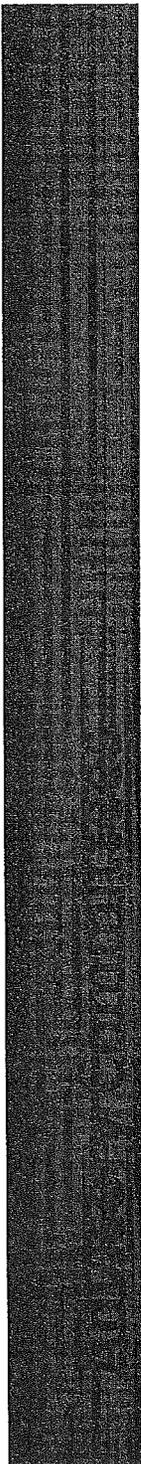
➤ Well-connected trail system

- New connections
- Safer crossings
- Increased awareness

➤ Envisioned outcomes

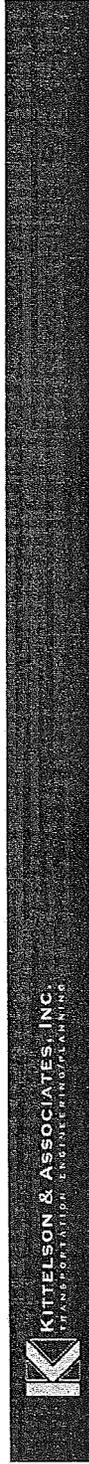
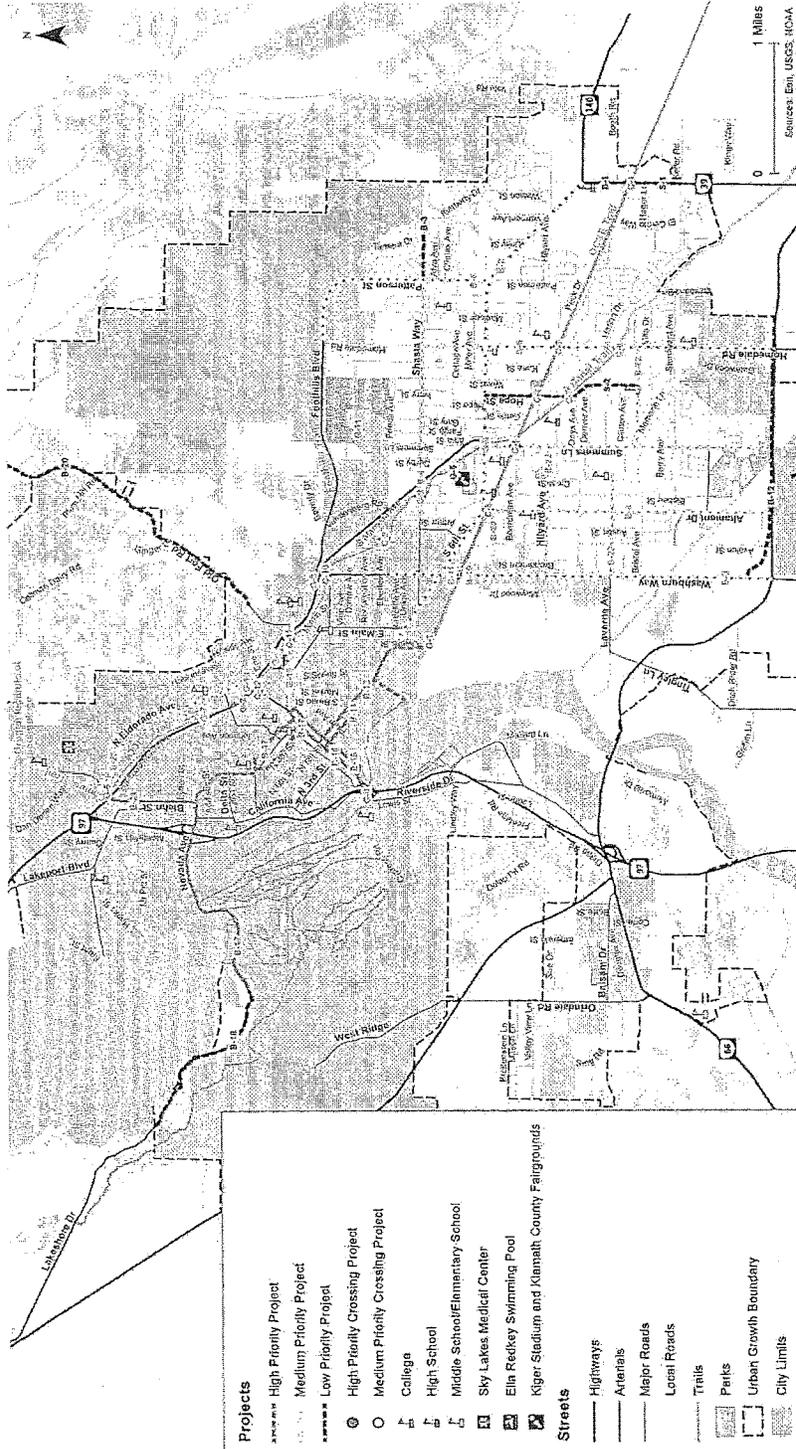
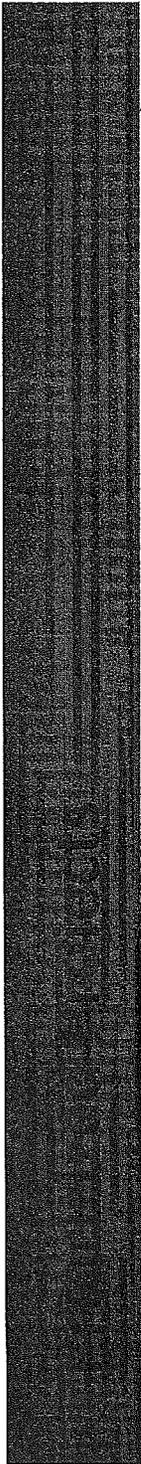
- Healthier Klamath Falls
- Economic opportunities
- Improved access to popular destinations
- Better walking, biking, and running options

2



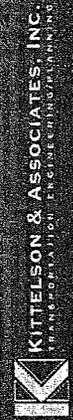
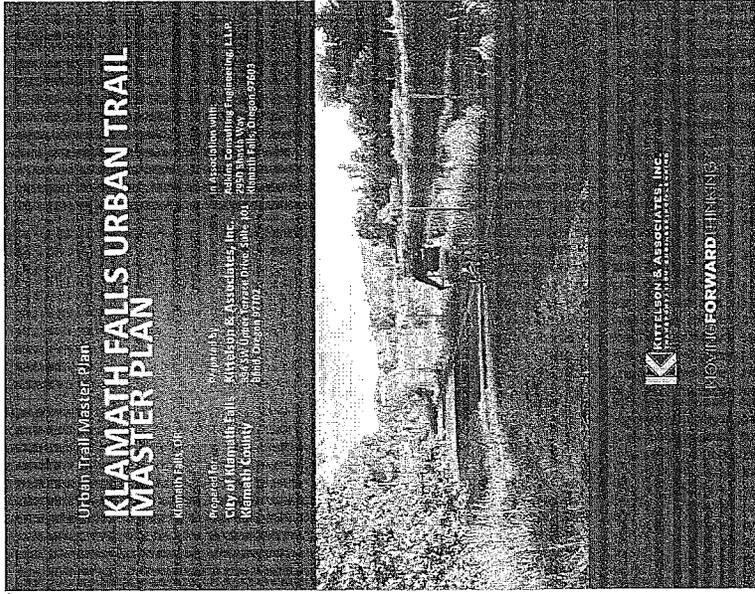
- | Citizen | Technical |
|-----------------------------|-------------------------|
| ➤ Blue Zones Project | ➤ Klamath County |
| ➤ Bureau of Reclamation | ➤ City of Klamath Falls |
| ➤ Local Business Owners | ➤ Oregon Department of |
| ➤ Chamber of Commerce | Transportation (ODOT) |
| ➤ Bike/Ped Trail Advisory | ➤ Department of Land |
| Committee | Conservation & |
| ➤ Economic Development | Development (DLCD) |
| Association | |
| ➤ Discover Klamath | |
| ➤ Oregon Parks & Recreation | |
| ➤ Skylakes | |





2

- Adoption
 - Amendment to TSP
 - County Adoption
 - April 26th
 - City Adoption – June 6th
- Implementation
 - TBD by local priorities and funding



Ordinance No. 16-____

**AN ORDINANCE AMENDING THE URBAN AREA TRANSPORTATION
SYSTEM PLAN BY ADDING THE KLAMATH FALLS URBAN TRAIL
MASTER PLAN**

WHEREAS, in 2012, the City of Klamath Falls (City) adopted the Klamath Falls Urban Area Transportation System Plan (TSP) as the transportation element of its comprehensive plan; and

WHEREAS, the City is committed to providing a well-connected urban trail system, including connections between the trail system and major destinations, for its residents and visitors; and

WHEREAS, the City pursued and received grant funding for an Urban Trail Master Plan with the intent on updating the City's Urban Area Transportation System Plan as it relates to trails and bicycle and pedestrian facilities in the City; and

WHEREAS, the City, with consultants and an advisory committee made up of other agency partners and private citizens, created an Urban Trail Master Plan that identifies an interconnected network of paved trails and on-street bicycle and pedestrian facilities to improve mobility options for residents and visitors; and

WHEREAS, City staff provided complete public access to all related materials in print and on the website, in addition to open houses and engaging with local community groups to raise awareness during the project; and

WHEREAS, the hearing notices were duly given and Planning Commission held a public hearing on May 23, 2016, pursuant to applicable laws, at which time evidence with reference to said proposed amendment to the TSP was considered by the Planning Commission; and

WHEREAS, the hearing notices were duly given and the City Council held a public hearing June 6, 2016, on the record of and including the record of the Planning Commission concerning the proposed amendment of the TSP; and

WHEREAS, pursuant to such record and hearing, the City Council has determined the proposed amendments to the TSP to be in compliance with Statewide Land Use Goals 1 (Citizen Participation), Goal 2 (Land Use), and Goal 12 (Transportation); and,

WHEREAS, the City Council adopted the findings of the Planning Commission as Exhibit A; **NOW THEREFORE**,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

The Klamath Falls Urban Area Transportation System Plan Section 6 (Bicycle Facilities Plan) shall be amended by adding the Klamath Falls Urban Trail Master Plan and its associated appendices, attached hereto as Exhibit B.

Passed by the Council of the City of Klamath Falls, Oregon, the ____ day of _____, 2016.

Presented to the Mayor, approved and signed this ____ day of _____, 2016.

Mayor

ATTEST:

City Recorder

STATE OF OREGON }
COUNTY OF KLAMATH }ss.
CITY OF KLAMATH FALLS }

I, _____, Recorder for the City of Klamath Falls, Oregon, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon at the meeting on the ____ day of _____, 2016 and therefore approved and signed by the Mayor and attested by the City Recorder.

City Recorder

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EXHIBIT A FINDINGS

Statewide Land Use Goals

The City is proposing to amend the Klamath Falls Urban Area Transportation System Plan (TSP), thereby amending the City of Klamath Falls Comprehensive Plan. The following findings demonstrate that the adoption of the amended TSP is consistent with the relevant Statewide Land Use Planning Goals.

Goal 1: Citizen Involvement

Goal 1 requires the development of a citizen involvement program to insure the opportunity for citizens to be involved in all phases of the planning process.

Response:

The general public was invited to participate in this process through advertisements in the newspaper of record and specific outreach to local community groups. A public website (www.klamathfallstrailplan.com) was published and made available throughout the duration of the project. The website included general information about the project, all project documents (draft and final), upcoming meeting and hearing information, meeting notes, and other relevant information about the project. Two online “virtual” open houses and one in-person open house were held throughout the development of the project. Citizens were able to learn more about the project and provide specific feedback on areas to be addressed by the plan and on the draft plan at these open houses. A citizen advisory committee that included private citizens of the City of Klamath Falls met regularly throughout the course of the project and provided feedback and guidance. Public hearings were held in front of the City of Klamath Falls Planning Commission and City Council and the Klamath County Planning Commission and Board of Commissioners.

Goal 2: Land Use Planning

This goal requires that a land-use planning process and policy framework be established as a basis for all divisions and actions related to use of land. All local governments and state agencies involved in the land-use action must coordinate with each other. Cities, counties, state and federal agencies and special districts plans and actions related to land use must be consistent with the comprehensive plans of cities and counties in regional plans adopted under Oregon Revised Statutes Chapter 268.

Response:

Klamath County is in the process of initiating adoption of the same amendment to the TSP. The Oregon Department of Transportation and Department of Land Conservation and Development were members of the project advisory committee and were sent notices of the proposed amendment.

GOAL 12: TRANSPORTATION

Goal 12 requires cities, counties, Metropolitan planning organizations, and Oregon Department of Transportation to provide and encourage a “safe convenient and economic transportation

system.” This is accomplished through the transportation system plans based on inventories of local, regional and state transportation needs.

Response:

The proposed amendment to the transportation system plan is intended to facilitate the development of an interconnected active transportation system. When built out, this will improve the convenience and comfort of walking and bicycling in the City, providing economical transportation options to, and better connecting, residents and visitors to the City.

FINDING:

The proposed amendment to the transportation system planned complies with Goal 1, Goal 2, and Goal 12 of the Statewide Land Use Planning Goals.

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EXHIBIT “B”

**THE KLAMATH FALLS URBAN AREA TRANSPORTATION SYSTEM PLAN
ADDING THE KLAMATH FALLS URBAN TRAIL MASTER PLAN**

Under Separate Cover

The book containing the Amended Urban Area Transportation System plan which added the Klamath Falls Urban Trail Master Plan is located in the City Recorder’s “original” permanent documents and is located in the vault @ 500 Klamath Avenue.

**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 3

Date: June 6, 2016

Department: Public Works
Staff Presenter: Mark Willrett
City Manager Review: *[Signature]*

Contact/Title: Mark Willrett/Public Works Director
Telephone No.: 541-883-5364
Email: willrett@klamathfalls.city

TOPIC: Request to Waive System Development Charge (SDC) and Meter Fees for the Gospel Mission

SUMMARY AND BACKGROUND:

The Klamath Falls Gospel Mission is in the process of wrapping up final plans for the relocation of the mission from its current location on Walnut Street to the old West One auto dealership property, which is part of the Klamath Works Campus. With the \$2.35 million project being funded entirely by donations, the mission is asking for financial assistance from the City. The project is scheduled to break ground later this year.

FINANCIAL IMPACT:

The amount being requested for waiver equals \$53,242.50. Total SDC amount to \$52,642.50, which is comprised of \$37,732.50 in Wastewater SDC and \$14,910 in Water SDC and \$600 in meter installation fees.

COUNCIL OPTIONS:

1. Waive the \$53,242.50 in its entirety
2. Waive a portion of the \$53,242.50
3. Do not grant a waiver of the SDC or fees

DOCUMENTS ATTACHED:

- Letter from the Wendt Family Foundation

RECOMMENDED MOTION/ACTION:

Staff does not have a recommended motion for this item. Staff requests that Council consider the options provided or others that may not be presented and give staff direction on how to proceed.

NOTICE SENT TO:

Robert Kingzett
Executive Director, Wendt Family Foundation
2636 Biehn Street
Klamath Falls, OR 97601

Kent Berry
Executive Director, Gospel Mission
823 Walnut Ave.
Klamath Falls, OR 97601

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April 29, 2016



Mr. Mark Willret, PE
Public Works Director
City of Klamath Falls
226 South 5th St
Klamath Falls, OR 97601

Dear Mark,

This letter is a request for the City of Klamath Falls to make an investment in our vital Gospel Mission Campus.

Initial construction will start in 2016 at South Sixth Street on the old West One auto dealership property. The broader campus of some 18 acres is owned by Sky Lakes Medical Center and will be called the Klamath Works Campus, a "one stop" social services campus that will co-locate social services for client ease of access. This specific request is to have the City invest in the first phase of the campus, the Gospel Mission Campus, a three building project on two acres of the property.

We respectfully request that the City waive a total of \$53,242.50 in System Development Charges for the Mission Campus as part of a tremendous broad community effort to successfully complete this project and provide thoughtful support for those most in need in our community. The request for waiving these SDC charges come from a projected total of charges for the Mission Campus calculated by Josh Harlan from ZCS and assistance from your office. The largest figure calculated was based on bed capacity for the sewerage billings and the total sanitary sewer SDC for the development would bill out at \$37,732.50. In addition the water SDC would total \$15,510 for installed meters, irrigation meters and assorted meter drop in charges.

The Mission Campus is a three complex project totaling 19,000 square feet. The total project is listed at \$2.35 million and we have raised just under \$2 million at this point. In asking you to invest in this project we are asking you to join an incredible legacy of Klamath Falls donations that to this point have totaled over \$1.2 million which is nothing short of spectacular.

Locally, the larger donations have come from: \$250,000 from the Wendt Family Foundation, \$50,000 from Sky Lakes Medical Center Foundation, \$25,000 from the KMSB Foundation, \$20,000 from Klamath Community Development Corporation and donations large and small from over 600 businesses, churches and individuals. We also just received word of a generous \$30,000 contribution from Columbia Forest Products headquartered in North Carolina that is available because of our local plant in Klamath Falls.

Sky Lakes has also taken an incredible community leadership role in this project. They bought the 18 acre property, spruced up the old West One show room and put three small operating components in the building. In addition they are going to build a sobriety center on the campus adjacent to the Mission

2636 Biehn Street, Klamath Falls, Oregon 97601
541.205.4325 Office

and as mentioned before they gave \$50,000 to the Mission fund drive as well. When the Sobriety center is complete they will have over \$1.5 million in the project.

In addition to the request for the City to invest in this important community effort, the County has been approached and has agreed to participate in building some of the road system for the campus and that represents a significant investment into the project. We hope that you can match their enthusiasm and generosity for this effort.

I have taken on the task of writing this letter because Kent Berry, Executive Director of the Gospel Mission is on a three week trip and I am the primary fund raiser for the project. I truly believe that we are on the leading edge of a Klamath Falls Renaissance with this project being the spearhead for a number of good things in the community.

The Klamath Works Campus will involve a good deal more than just the Mission campus. The plan is to have all pertinent local social service agencies locate at least some of their service delivery on the campus so it can be a "one stop" location for folks in need and those who are unemployed. One of the really creative and uplifting part of the plans for the Klamath Works Campus is that there will be an effort and reward component added to the social service mix. Clients will have action plans designed to lead to a better self-worth and a move toward self-sufficiency. Such an effort will lead to a stronger Klamath Basin and a community with a better self-worth and set of expectations.

Please don't hesitate to contact me should you need any further information or wish to discuss any aspect of this letter of request.

Thanks for all you do for our community.



Robert Kingzett, Executive Director
Wendt Family Foundation

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 4

Date: June 6, 2016

Department: Public Works
Staff Presenter: Mark Willrett
City Manager Review: *[Signature]*

Contact/Title: Mark Willrett/Public Works Director
Telephone No.: 541-883-5364
Email: willrett@klamathfalls.city

TOPIC: Authorization to Enter into Local Agency Agreement No. 30859 with the Oregon Department of Transportation for the Brett Way Extension Project

SUMMARY AND BACKGROUND:

On February 26, 2014, the City received notice from the Oregon Department of Transportation (ODOT) that the Brett Way Extension project was approved as part of the Enhance Program. This project would complete the construction of Brett Way between Summers Lane and Homedale Road and construct either a traffic signal or roundabout at the intersection of the Southside Bypass (Hwy 140) and Homedale Road. Completion of this roadway segment would allow the elimination of through traffic on Summers Lane between Brett Way and the Southside Bypass by placing a cul-de-sac on both sides of the railroad.

This project will address two primary problems. First and foremost is safety. Between January 1, 2002 and April 30, 2011 there were 24 crashes, 28 injuries and 1 fatality at the intersection of Summers Lane and the Southside Bypass. Secondly, the extension of Brett Way will open up vacant land for development as well as making the existing land west of the airport more desirable. ODOT has concerns about further development of this land without the extension of Brett Way. This roadway segment is identified in the Transportation System Plan.

FINANCIAL IMPACT:

As submitted, ODOT will be funding \$3.7 million, the City will fund \$150,000 and the County will fund \$300,000. This is for the road construction only. The City will also place water and sewer in the roadway section at its cost to allow for future development. Design costs for water and sewer in the amount of \$30,000 are included as part of this agreement. The cost for construction of the utilities is not part of this agreement.

COUNCIL OPTIONS:

1. Elect to not approve the agreement and terminate the project.
2. Elect to approve the agreement as submitted.

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DOCUMENTS ATTACHED:

Agreement with Oregon Department of Transportation (30859)

RECOMMENDED MOTION/ACTION:

Move to authorize the Mayor to sign on behalf of the City of Klamath Falls the Multimodal Transportation Enhance Program Agreement for Brett Way Extension.

NOTICE SENT TO:

Cari Charlton
Oregon Department of Transportation
63055 N. Highway 97
Bend, OR 97703-5765

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**LOCAL AGENCY AGREEMENT
MULTIMODAL TRANSPORTATION ENHANCE PROGRAM (MTEP)
OR140: BRETT WAY EXTENSION (K FALLS)
City of Klamath Falls and Klamath County**

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 the CITY OF KLAMATH FALLS, acting by and through its elected officials, hereinafter referred to as "City," and KLAMATH COUNTY, acting by and through its elected officials, hereinafter referred to as "County", all herein referred to collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. OR140, South Klamath Falls Highway is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). Brett Way is a part of the City street system under the jurisdiction and control of the City. Summers Lane and Homedale Road within the Project limits are a part of the County road system under the jurisdiction and control of the County.
3. By the authority granted in ORS 810.080 State has the authority to establish marked pedestrian crosswalks on its highway facilities.
4. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current State standards and specifications.
5. The Klamath Falls Urban Area Transportation System Plan (TSP), adopted by the City on January 24, 2012 and the County on August 6, 2012, identifies Project No. R13 within the TSP as the proposed extension of Brett Way as a new collector from its intersection with Summers Lane to its intersection with Homedale Road.
6. State intends to construct an at-grade crossing at the future intersection of Brett Way with the BNSF Railway ("BNSF").
7. Parties have agreed that State will oversee this project on behalf of City and County.
8. County wishes to contribute \$300,000 on behalf of City as part of City's required match amount.
9. The City wishes to contribute \$30,000 to State's OR140: Brett Way Extension (K Falls)

ODOT/City of Klamath Falls/Klamath County
Agreement No. 30859

Project for the design of City utilities within City jurisdiction that will extend along the proposed Brett Way extension.

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

DEFINITIONS

1. "Contract Award" (construction projects) means the issuance of a Notice to Proceed (NTP) to the construction contractor.
2. Design Acceptance Package (DAP) means a critical decision point that establishes the geometric boundaries of the Project footprint and allows for the construction contract document activities and acquisition of right of way to move forward.
3. "Funding Ratio" means the relationship between MTEP funds and Total Project Cost and Other Funds and the Total Project Cost. This ratio is established at the time the agreement is executed and does not change during the course of the project. The ratio governs the obligation of MTEP funds at the time of construction/consultant award or Project Closeout.
4. "Match" means the minimum amount State or City must contribute to match the federal aid funding portion of the project.
5. "MTEP" means Multimodal Transportation Enhance Program and may be funded by a combination of federal and state funds.
6. "Other Funds" means other funding required to complete the project including but not limited to state, federal, and City funds.
7. "Project Closeout" means project is ready to close as there are no more expenditures associated with project.
8. "Project Overruns" means the final cost estimate at Contract Award exceeds the estimated Total Project Cost estimate in this Agreement, or the final actual project costs exceed the final cost estimate at Contract Award.
9. "Project Underrun" means the final cost estimate at Contract Award is below the estimated Total Project Cost in this Agreement, or the final actual project costs are below the final cost estimate at Contract Award.
10. Total Project Cost means the estimated amount as show in this Agreement. This amount will include MTEP funds, local matching funds, and other funds as required to complete project as stated in this Agreement.

TERMS OF AGREEMENT

1. Under such authority, Parties, at County and City's request, agree to State or State's Contractor constructing roadway, City utilities and intersection improvements consisting of

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ODOT/City of Klamath Falls/Klamath County
Agreement No. 30859

an extension of Brett Way from Summers Lane to Homedale Road, and constructing intersection improvements at OR140 and Homedale Road, hereinafter referred to as "Project." The location of the Project is as shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.

2. Parties agree that an amendment to this Agreement shall be required if any changes are made to the Project as described in the Project Description and Deliverables above.
3. The Project shall be conducted as a part of the Multimodal Transportation Enhance Program (MTEP) with funds provided under Title 23, United States Code and may include a combination of federal and state funds. The Total Project Cost is estimated at \$4,185,000.00, which is subject to change. MTEP funding for this Project shall be limited to \$3,700,000.00. City shall be responsible for all remaining costs, including the 10.27 percent match for all eligible costs, any non-participating costs, and all costs in excess of the available federal or state funds.
4. The Funding Ratio for this Project is 88.41% of MTEP funds to 11.59% City funds and applies to Project Underruns. The Funding Ratio for this Project does not apply in the case of Project Overruns.
5. If, at the time of Contract Award or Project Closeout, the Project Underruns the estimated Total Project Cost in this Agreement, MTEP funding and other Funds will be obligated proportionally based on the Funding Ratio. Any unused MTEP funds, will be retained by State, and will not be available for use by City for this Agreement or any other projects.
6. Project decisions regarding design standards, design exceptions, utility relocation expenses, right of way needs, preliminary engineering charges, construction engineering charges, and Contract Change Orders, as applicable shall be mutually agreed upon between the City, County and State, as these decisions may impact the Total Project Cost. However, State may award a construction contract at ten (10) percent (%) over engineer's estimate with prior approval of City.
7. Parties shall upon completion of the Project, refer to the State Crossing Order No. to be issued for maintenance responsibilities for the rail crossing along the extension of Brett Way, and any other issues that are not expressly addressed by this agreement.
8. Parties agree to enter into separate right of way services Agreements when the geometric boundaries for the Project have been identified and the DAP plans accepted and approved.
9. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.

CITY OBLIGATIONS

1. City shall upon receipt of a fully executed copy of this Agreement and upon the obligation of a specific Project phase, forward to State an advance deposit or irrevocable letter of

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ODOT/City of Klamath Falls/Klamath County
Agreement No. 30859

credit in an amount equal to the City's portion of the required match amount for that specific Project phase. City's match obligation shall not exceed \$150,000 notwithstanding CITY OBLIGATIONS, Paragraphs 2, 3 and 4 below. The remaining match amount shall be paid to State by County on City's behalf as described in COUNTY OBLIGATIONS, Paragraphs 1 and 2.

2. In the event that County cannot provide all or a portion of its share of the match amount as described in COUNTY OBLIGATIONS, Paragraphs 1 and 2, City shall become responsible for the entire match amount or the remaining unpaid match amount.
3. City and State agree to coordinate and review the Project budget prior to awarding the project for construction. If the total estimated Project cost exceeds the Project funding as identified in TERMS OF AGREEMENT, Paragraph 3 above, City and State shall work collaboratively to address and resolve any funding shortages.
4. City shall upon receipt of a fully executed copy of this Agreement and subsequent letter of request from State, forward to State an advance deposit or irrevocable letter of credit for the design of city utilities in the amount of \$30,000, said amount being City's payment for utility work to be performed by State at City's request. All costs for the design of city utilities in excess of \$30,000 shall be the responsibility of the City and said costs shall be added to this Agreement via a fully executed amendment.
5. Project Overruns which occur at the time of Contract Award, and or at the time of Project Closeout are the responsibility of the City.
6. State will submit the requests for federal funding to Federal Highway Administration (FHWA). The federal funding for this Project is contingent upon approval of each funding request by FHWA. Any work performed prior to acceptance by FHWA or outside the , scope of work will be considered nonparticipating and paid for at City expense.
7. a. Information required by 2 CFR 200.331(a), except for (xiii) Indirect cost rate, shall be contained in the USDOT FHWA Federal Aid Project Agreement for this Project, a copy of which shall be provided by State to City and County with the Notice to Proceed.
b. The indirect cost rate for this project at the time the agreement is written is Zero Percent.
8. City, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for City's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon City's breach of any such conditions that requires the State to return funds to FHWA, 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 City, 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.
9. State considers City a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.

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ODOT/City of Klamath Falls/Klamath County
Agreement No. 30859

10. City shall submit to State's Rail Division the necessary applications for the Rail Crossing Order for the construction of an active railcrossing along the extension of Brett Way.
11. City agrees to have State perform all right of way functions and shall enter into a separate Right of Way Services Agreement between City and State Right of Way, referencing this Agreement Number..
12. City agrees, that when the geometric boundaries for the Project have been identified and the DAP plans accepted and approved, to enter into an amendment to this Agreement. This amendment will identify the right of way to be acquired by the State and needed to complete the Project, and to be conveyed to City as a portion of the city street system upon completion of the Project.
13. City, subject to City Obligations, Paragraph 10 above, shall be responsible for the maintenance of all improvements constructed for the Project within existing City right of way or if required, that right of way acquired by State for the purpose of completing the Project and subsequently transferred to the City.
14. City shall grant State, its consultants and/or contractors, the right to enter onto and occupy City right of way within the Project limits as required to complete the Project and to stage construction supplies and equipment.
15. City agrees to allow temporary closure or detouring of City streets to allow construction and tie in to said streets as deemed necessary by State during the construction phase of the Project.
16. City agrees that all required utility relocation expenses for City utilities located within City right of way shall be the responsibility of the City. Reimbursable utility relocations costs will be funded as part of the Project cost.
17. City certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of City, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
18. City's Contact for this Project is Mark Willrett, Director of Public Works, PO Box 237, Klamath Falls, OR, 97601, (541) 883-5364, willrett@ci.klamath-falls.or.us or assigned designee upon individual's absence. City shall notify the other Parties in writing of any contact information changes during the term of this Agreement

COUNTY OBLIGATIONS

1. County shall upon receipt of a fully executed copy of this Agreement and upon a subsequent letter of request from State, forward to State an advance deposit or irrevocable letter of credit in the amount of \$300,000 for the Project, said amount being County's contribution to the City's required total match.
2. County's financial obligation shall be limited to its contribution of \$300,000 towards the City's required match amount.

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3. County shall submit to State's Rail Division the necessary applications for the Rail Crossing Order required for the removal of the existing access across Summers Lane at the railroad.
4. County agrees to have State perform all right of way functions and shall enter into a separate Right of Way Services Agreement between County and State Right of Way, referencing this Agreement Number
5. County agrees, that when the geometric boundaries for the Project have been identified and the DAP plans accepted and approved, to enter into an amendment to this Agreement. This amendment will identify the right of way to be acquired by the State and needed to complete the Project, and to be conveyed to County as a portion of the county road system upon completion of the Project.
6. County, subject to County Obligations, Paragraph 5, shall be responsible for the maintenance of all improvements constructed for the Project within existing County right of way or if required, that right of way acquired by State for the purpose of completing the Project and subsequently transferred to the County.
7. County agrees that the maintenance and utility costs associated with the improvements at the intersection of OR 140 and Homedale Road shall be defined and added by amendment to this Agreement when said improvements have been identified and DAP plans accepted and approved.
8. County shall grant State, its consultants and/or contractors, the right to enter onto and occupy County right of way within the Project limits as required to complete the Project and to stage construction supplies and equipment
9. County agrees to allow temporary closure or detouring of County roads to allow construction and tie in to said streets as deemed necessary by State during the construction phase of the Project.
10. County agrees that all required utility relocation expenses for County utilities located within County right of way shall be the responsibility of the County. Reimbursable utility relocations costs will be funded as part of the Project cost.
11. County certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of County, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind County.
12. County's Contact for this Project is Stan Strickland, Public Works Director, 305 Main Street, Room 243, Klamath Falls, OR 97601, (541) 883-4696, sstrick@co.klamath.or.us, or assigned designee upon individual's absence. County shall notify the other Parties in writing of any contact information changes during the term of this Agreement

STATE OBLIGATIONS

1. State or State's Contractor shall complete the Project as described in TERMS OF AGREEMENT, Paragraph 1.

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2. State agrees to submit any requests for approvals required by the State Traffic Engineer for the intersection improvements when the nature of the intersection improvements at the intersection of OR140 and Homedale Road has been finalized.
3. State shall, upon execution of the agreement and upon obligation of the appropriate Project phase, forward to City a letter of request for an advance deposit or irrevocable letter of credit in an amount equal to the City's portion of the required match amount for that specific Project phase of the work performed by State, not to exceed a total of \$150,000.
4. State shall, upon execution of the agreement forward to City an invoice for \$30,000 for the design of City utilities. This said amount is a contribution for City utility design services to be performed by the State at City's request. The \$30,000 shall only be used for design of City utilities performed in conjunction with the Project.
5. State shall, upon execution of the agreement, forward to County a letter of request for an advance deposit or irrevocable letter of credit in the amount of \$300,000 for payment of the work performed by State.
6. State shall purchase needed right of way for the Project. Upon completion of the Project and subject to City Obligations, Paragraph 10 and County Obligations, Paragraph 5, State shall, by relinquishment deed, convey to City or County, as a portion of its city street system or county road system that right of way acquired for the Project, purchased by State and needed for construction of city street or county road improvements. Any right of way being conveyed in which State has any title shall be vested in City or County only so long as used for public road purposes. If said right of way is no longer used for public road purposes, it shall automatically revert to State.
7. State shall cause to be relocated or reconstructed, all privately or publicly owned utility conduits, lines, poles, mains, pipes, and all other such facilities of every kind and nature where such relocation or reconstruction is made necessary by the plans of the Project in order to conform the utilities and other facilities with the plans and the ultimate requirements for the portions of the Project which are on City and County right of way.
8. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
9. State Contact for this Agreement is Cari Charlton, Local Agency Liaison, 63055 N Highway 97, Bend, OR, 97703-5765, Phone: (541) 388-6047, Email: Cari.Charlton@odot.state.or.us or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of all Parties.
2. State may terminate this Agreement effective upon delivery of written notice to City and County, or at such later date as may be established by State, under any of the following

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conditions:

- a. If City or County fail to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If City or County fail 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 from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If City or County fail 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 if State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 4. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The Parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.
 5. 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.
 6. 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.
 7. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached Exhibits will control over Project application and documents provided by City and County to State. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or

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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.

This Project is in the 2015-2018 Statewide Transportation Improvement Program (STIP), (Key #18731) that was adopted by the Oregon Transportation Commission on December 18, 2014 (or subsequently by amendment to the STIP).

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City of Klamath Falls, by and through its
elected officials

By _____
Mayor

Title _____
APPROVED AS TO LEGAL
SUFFICIENCY

By _____
City Counsel

Date _____

KLAMATH COUNTY, by and through its
elected officials

By [Signature]
Chairman

Approved X
Denied _____

Date 5-17-16

By [Signature]
County Commissioner

Approved X
Denied _____

Date 5/17/2016

By [Signature]
County Commissioner

Approved X
Denied _____

Date 5-17-2016

APPROVED AS TO LEGAL SUFFICIENCY

By [Signature]
County Counsel

Date 5/17/2016

STATE OF OREGON, by and through
its Department of Transportation

By _____
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____

Date _____

By _____
Region Manager

Date _____

By _____
Region Right of Way/Survey Manager

Date _____

APPROVED AS TO LEGAL
SUFFICIENCY

By _____
Assistant Attorney General (If Over
\$150,000)

Date _____

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City Contact:

Mark Willrett, Director of Public Works
PO Box 237
Klamath Falls, OR 97601
Phone: (541) 883-5364
Email: willrett@ci.klamath-falls.or.us

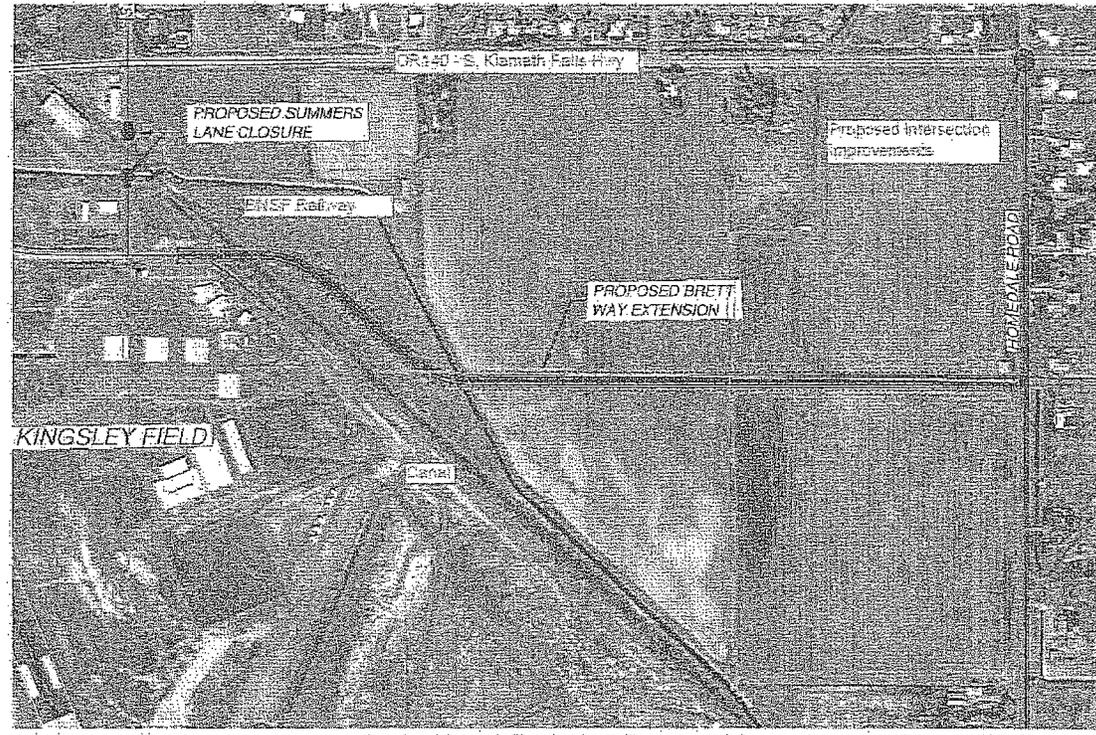
County Contact:

Stan Strickland, Public Works Director
305 Main Street, Room 243
Klamath Falls, OR 97601
(541) 883-4696
sstrick@co.klamath.or.us

State Contact:

Cari Charlton, Project Manager
63055 N. Hwy 97, Bldg M
Bend, OR 97703
(541) 388-6047
Cari.Charlton@odot.state.or.us

EXHIBIT A - Project Location Map



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**ATTACHMENT NO. 1 to Agreement No. 30859
SPECIAL PROVISIONS**

1. State, or the consultant, shall conduct the necessary field surveys, environmental studies, traffic investigations, foundation explorations, hydraulic studies, assist with acquisition of necessary right of way and easements; obtain all required permits and arrange for all utility relocations/adjustments. State or the consultant shall conduct all work components necessary to complete the Project.
2. Upon State's award of the construction contract, State, or the consultant, shall be responsible for all required materials testing and quality documentation; and prepare necessary documentation with ODOT-qualified personnel, and State will make all contractor payments. Contract administration, construction engineering and inspection will follow the most current version of the ODOT Construction Manual and the ODOT Inspector's Manual.
3. City guarantees the availability of City funding in an amount required to fully fund City's share of the Project as described in CITY OBLIGATIONS, Paragraphs 1 and 2,
4. State will perform work throughout the duration of the Project and shall provide a preliminary estimate of State costs for this work. Prior to the start of each Project phase State shall provide an updated estimate of State costs for that phase. Such phases generally consist of Preliminary Engineering, Right of Way, Utility, and Construction. City understands that State's costs are estimates only and agrees to reimburse State for actual cost incurred per this Agreement.
5. Parties agree that the useful life of this Project is defined as (20 years).
6. If City fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the City's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such City's breach. City will be ineligible to receive or apply for any Title 23, United States Code funds until State receives full reimbursement of the costs incurred.

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**ATTACHMENT NO. 2
FEDERAL STANDARD PROVISIONS**

PROJECT ADMINISTRATION

1. State (ODOT) is acting to fulfill its responsibility to the Federal Highway Administration (FHWA) by the administration of this Project, and Agency (i.e. county, city, unit of local government, or other state agency) hereby agrees that State shall have full authority to carry out this administration. If requested by Agency or if deemed necessary by State in order to meet its obligations to FHWA, State will act for Agency in other matters pertaining to the Project. Prior to taking such action, State will confer with Agency concerning actions necessary to meet federal obligations. State or its consultant, with Agency involvement shall, if necessary, appoint and direct the activities of a Citizen's Advisory Committee and/or Technical Advisory Committee, conduct a hearing and recommend the preferred alternative. State and Agency shall each assign a person in responsible charge "liaison" to coordinate activities and assure that the interests of both Parties are considered during all phases of the Project.
2. Any project that uses federal funds in project development is subject to plans, specifications and estimates (PS&E) review and approval by FHWA or State acting on behalf of FHWA prior to advertisement for bid proposals, regardless of the source of funding for construction.
3. State will provide or secure services to perform plans, specifications and estimates (PS&E), construction contract advertisement, bid, award, contractor payments and contract administration. A State-approved consultant may be used to perform preliminary engineering, right of way and construction engineering services.

PROJECT FUNDING REQUEST

4. State shall submit a separate written Project funding request to FHWA requesting approval of federal-aid participation for each project phase including a) Program Development (Planning), b) Preliminary Engineering (National Environmental Policy Act - NEPA, Permitting and Project Design), c) Right of Way Acquisition, d) Utilities, and e) Construction (Construction Advertising, Bid and Award). Any work performed prior to FHWA's approval of each funding request will be considered nonparticipating and paid for at Agency expense. State, the consultant or Agency shall not proceed on any activity in which federal-aid participation is desired until such written approval for each corresponding phase is obtained by State. State shall notify Agency in writing when authorization to proceed has been received from FHWA. All work and records of such work shall be in conformance with FHWA rules and regulations.

FINANCE

5. Federal funds shall be applied toward Project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount for the federal funds and any portion of the Project, which is not covered by federal funding, unless otherwise agreed to and specified in the intergovernmental Agreement (Project Agreement). Agency must obtain written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement. If federal funds are used, State will specify the Catalog of Federal Domestic Assistance (CFDA)

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number in the Project Agreement. State will also determine and clearly state in the Project Agreement if recipient is a subrecipient or vendor, using criteria 2 CFR 200.330.

6. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall pay one hundred (100) percent of the cost of any item in which FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds or allocations of State Highway Trust Funds to Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration outside the Local Agency Guidelines Manual that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between Agency and State.
7. Agency agrees that costs incurred by State and Agency for services performed in connection with any phase of the Project shall be charged to the Project, unless otherwise mutually agreed upon by the Parties.
8. Agency's estimated share and advance deposit.
 - a) Agency shall, prior to commencement of the preliminary engineering and/or right of way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
 - b) Agency's construction phase deposit shall be one hundred ten (110) percent of Agency's share of the engineer's estimate and shall be received prior to award of the construction contract. Any additional balance of the deposit, based on the actual bid must be received within forty-five (45) days of receipt of written notification by State of the final amount due, unless the contract is cancelled. Any balance of a cash deposit in excess of amount needed, based on the actual bid, will be refunded within forty-five (45) days of receipt by State of the Project sponsor's written request.
 - c) Pursuant to Oregon Revised Statutes (ORS) 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool), and an Irrevocable Limited Power of Attorney is sent to State's Active Transportation Section, Funding and Program Services Unit, or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash.
9. If Agency makes a written request for the cancellation of a federal-aid project, Agency shall bear one hundred (100) percent of all costs incurred as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear one hundred (100) percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all costs, whether incurred by State or Agency, either directly or through contract services, and State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.

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10. Agency shall follow the requirements stated in the Single Audit Act. Agencies expending \$500,000 or more in Federal funds (from all sources) in its fiscal year beginning prior to December 26, 2014, shall have a single organization-wide audit conducted in accordance with the Single Audit Act of 1984, PL 98-502 as amended by PL 104-156 and subject to the requirements of 49 CFR Parts 18 and 19. Agencies expending \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014 shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Agencies expending less than \$500,000 in Federal funds in a fiscal year beginning prior to December 26, 2014, or less than \$750,000 in a fiscal year beginning on or after that date, is exempt from Federal audit requirements for that year. Records must be available for review or audit by appropriate officials based on the records retention period identified in the Project Agreement. The cost of this audit can be partially prorated to the federal program.
11. Agency shall make additional deposits, as needed, upon request from State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the Project.
12. Agency shall present invoices for one hundred (100) percent of actual costs incurred by Agency on behalf of the Project directly to State's Liaison for review, approval and reimbursement to Agency. Costs will be reimbursed consistent with federal funding provisions and the Project Agreement. Such invoices shall identify the Project by the name of the Project Agreement, reference the Project Agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one-month duration, based on actual expenses to date. All invoices received from Agency must be approved by State's Liaison prior to payment. Agency's actual costs eligible for federal-aid or State participation shall be those allowable under the provisions of the Federal-Aid Policy Guide (FAPG), Title 23 CFR parts 1.11, 140 and 710. Final invoices shall be submitted to State for processing within forty-five (45) days from the end of each funding phase as follows: a) preliminary engineering, which ends at the award date of construction b) last payment for right of way acquisition and c) contract completion for construction. Partial billing (progress payment) shall be submitted to State within forty-five (45) days from date that costs are incurred. Invoices submitted after 45 days may not be eligible for reimbursement by FHWA. 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 the Project Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period ending on the later of six (6) years following the date of final voucher to FHWA or after resolution of any disputes under the Project Agreement. Copies of such records and accounts shall be made available upon request. For real property and equipment, the retention period starts from the date of disposition (2 CFR 200.333(c)).
13. Agency shall, upon State's written request for reimbursement in accordance with Title 23, CFR part 630.112(c) 1 and 2, as directed by FHWA, reimburse State for federal-aid funds distributed to Agency if any of the following events occur:
 - a) Right of way acquisition is not undertaken or actual construction is not started by the close of the twentieth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized for right of way acquisition. Agency may submit a written request to State's Liaison for a time extension beyond the twenty (20) year limit with no repayment of federal funds and State

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- will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
- b) Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized. Agency may submit a written request to State's Liaison for a time extension beyond the ten (10) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
14. State shall, on behalf of Agency, maintain all Project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that the Project is completed in conformance with approved plans and specifications.
15. State shall submit all claims for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. State shall pay all reimbursable costs of the Project. Agency may request a statement of costs-to-date at any time by submitting a written request. When the actual total cost of the Project has been computed, State shall furnish Agency with an itemized statement of final costs. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal one hundred (100) percent of the final total actual cost. Any portion of deposits made in excess of the final total costs of the Project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the Project expenditure account(s) and will be included in the total cost of the Project.

STANDARDS

16. Agency and State agree that minimum design standards on all local agency jurisdictional roadway or street projects on the National Highway System (NHS) and projects on the non-NHS shall be the American Association of State Highway and Transportation Officials (AASHTO) standards and be in accordance with State's Oregon Bicycle & Pedestrian Design Guide (current version). State or the consultant shall use either AASHTO's A Policy on Geometric Design of Highways and Streets (current version) or State's Resurfacing, Restoration and Rehabilitation (3R) design standards for 3R projects. State or the consultant may use AASHTO for vertical clearance requirements on Agency's jurisdictional roadways or streets.
17. Agency agrees that if the Project is on the Oregon State Highway System or State-owned facility, that design standards shall be in compliance with standards specified in the current ODOT Highway Design Manual and related references. Construction plans for such projects shall be in conformance with standard practices of State and all specifications shall be in substantial compliance with the most current Oregon Standard Specifications for Highway Construction and current Contract Plans Development Guide.
18. State and Agency agree that for all projects on the Oregon State Highway System or State-owned facility any design element that does not meet ODOT Highway Design Manual design standards must be justified and documented by means of a design exception. State and Agency further agrees that for all projects on the NHS, regardless of funding source; any

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design element that does not meet AASHTO standards must be justified and documented by means of a design exception. State shall review any design exceptions on the Oregon State Highway System and retains authority for their approval. FHWA shall review any design exceptions for projects subject to Focused Federal Oversight and retains authority for their approval.

19. Agency agrees all traffic control devices and traffic management plans shall meet the requirements of the current edition of the Manual on Uniform Traffic Control Devices and Oregon Supplement as adopted in Oregon Administrative Rule (OAR) 734-020-0005. State or the consultant shall, on behalf of Agency, obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal, or illumination to be installed on a state highway pursuant to OAR 734-020-0430.
20. The standard unit of measurement for all aspects of the Project shall be English Units. All Project documents and products shall be in English. This includes, but is not limited to, right of way, environmental documents, plans and specifications, and utilities.

PRELIMINARY & CONSTRUCTION ENGINEERING

21. Preliminary engineering and construction engineering may be performed by either a) State, b) State-approved consultant, or c) certified agency. Engineering work will be monitored by State or certified agency to ensure conformance with FHWA rules and regulations. Project plans, specifications and cost estimates shall be performed by either a) State, b) State-approved consultant or c) certified agency. State shall review and approve Project plans, specifications and cost estimates. State shall, at project expense, review, process and approve, or submit for approval to the federal regulators, all environmental statements. State shall, offer Agency the opportunity to review and approve the documents prior to advertising for bids.
22. Agency may request State's two-tiered consultant selection process as allowed by OAR 137-048-0260 to perform architectural, engineering, photogrammetry, transportation planning, land surveying and related services (A&E Services) as needed for federal-aid transportation projects. Use of the State's processes is required to ensure federal reimbursement. State will award and execute the contracts. State's personal services contracting process and resulting contract document will follow Title 23 CFR part 172, 2 CFR part 1201, ORS 279A.055, 279C.110, 279C.125, OAR 137-048-0130, OAR 137-048-0220(4) and State Personal Services Contracting Procedures as approved by the FHWA. Such personal services contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or the consultant prior to receiving authorization from State to proceed.
23. The party responsible for performing preliminary engineering for the Project shall, as part of its preliminary engineering costs, obtain all Project related permits necessary for the construction of said Project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
24. State or certified agency shall prepare construction contract and bidding documents, advertise for bid proposals, and award all construction contracts.

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25. Upon State's or certified agency's award of a construction contract, State or certified agency shall perform quality assurance and independent assurance testing in accordance with the FHWA-approved Quality Assurance Program found in State's Manual of Field Test Procedures, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the Project.
26. State shall, as a Project expense, assign a liaison to provide Project monitoring as needed throughout all phases of Project activities (preliminary engineering, right-of-way acquisition, and construction). State's liaison shall process reimbursement for federal participation costs.

REQUIRED STATEMENT FOR United States Department of Transportation (USDOT) FINANCIAL ASSISTANCE AGREEMENT

27. By signing the Federal-Aid Agreement to which these Federal Standard Provisions are attached, Agency agrees to adopt State's DBE Program Plan, available at http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/sbe/dbe/docs/program_plan/Section_1.pdf. Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. Agency agrees to take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. State's DBE program, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this Project Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Project Agreement. Upon notification to the recipient of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 United States Code (USC) 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).

Disadvantaged Business Enterprises (DBE) Obligations

28. State and Agency agree to incorporate by reference the requirements of 49 CFR part 26 and State's DBE Program Plan, as required by 49 CFR part 26 and as approved by USDOT, into all contracts entered into under this Project Agreement. The following required DBE assurance shall be included in all contracts:

"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of Title 49 CFR part 26 in the award and administration of federal-aid contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Agency deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b))."

29. State and Agency agree to comply with all applicable civil rights laws, rules and regulations, including Title V and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
30. The Parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work

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including, but not limited to, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, incorporated herein by reference and made a part hereof; Title 23 CFR parts 1.11, 140, 635, 710, and 771; Title 49 CFR parts 24 and 26; , 2 CFR 1201; Title 23, USC, Federal-Aid Highway Act; Title 41, Chapter 1, USC 51-58, Anti-Kickback Act; Title 42 USC; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, the provisions of the FAPG and *FHWA Contract Administration Core Curriculum Participants Manual & Reference Guide*. State and Agency agree that FHWA-1273 Required Contract Provisions shall be included in all contracts and subcontracts verbatim and not by reference.

RIGHT OF WAY

31. State and the consultant, if any, agree that right of way activities shall be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FAPG, CFR, and the *ODOT Right of Way Manual*, Title 23 CFR part 710 and Title 49 CFR part 24. State, at Project expense, shall review all right of way activities engaged in by Agency to ensure compliance with all laws and regulations.
32. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of projects. State or the consultant may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project in accordance with the *ODOT Right of Way Manual*, and with the prior approval from State's Region Right of Way office.
33. Regardless of who acquires or performs any of the right of way activities, a right of way services agreement shall be created by State's Region Right of Way office setting forth the responsibilities and activities to be accomplished by each Party. If the Project has the potential of needing right of way, to ensure compliance in the event that right of way is unexpectedly needed, a right of way services agreement will be required. State, at Project expense, shall be responsible for requesting the obligation of project funding from FHWA. State, at Project expense, shall be responsible for coordinating certification of the right of way, and providing oversight and monitoring. Funding authorization requests for federal right of way funds must be sent through State's Liaison, who will forward the request to State's Region Right of Way office on all projects. State or the consultant must receive written authorization to proceed from State's Right of Way Section prior to beginning right of way activities. All projects must have right of way certification coordinated through State's Region Right of Way office to declare compliance and project readiness for construction (even for projects where no federal funds were used for right of way, but federal funds were used elsewhere on a project). State's Liaison shall contact State's Region Right of Way office for additional information or clarification on behalf of Agency.
34. Agency agrees that if any real property purchased with federal-aid participation is no longer needed for the originally authorized purpose, the disposition of such property shall be subject to applicable rules and regulations, which are in effect at the time of disposition. Reimbursement to State and FHWA of the required proportionate shares of the fair market value may be required.
35. State or the consultant shall ensure that all project right of way monumentation will be conducted in conformance with ORS 209.155.

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Agency/State
Agreement No. 30859

36. State and Agency grants each other authority to enter onto the other's right of way for the performance of non-construction activities such as surveying and inspection of the Project.

RAILROADS

37. State or Agency shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the State's Liaison, who will contact State's Railroad Liaison on behalf of Agency. Only those costs allowable under Title 23 CFR part 140 subpart I, and Title 23 part 646 subpart B shall be included in the total Project costs; all other costs associated with railroad work will be at the sole expense of Agency, or others. Agency may request State, in writing and, at Project expense, to provide railroad coordination and negotiations through the State's Utility & Railroad Liaison on behalf of Agency. However, State is under no obligation to agree to perform said duties.

UTILITIES

38. State, the consultant, or Agency shall follow State established statutes, policies and procedures when impacts occur to privately or publicly-owned utilities. Policy, procedures and forms are available through the State Utility Liaison or State's Liaison. State, the consultant or Agency shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility & Railroad Liaison. Only those utility relocations, which are eligible for reimbursement under the FAPG, Title 23 CFR part 645 subparts A and B, shall be included in the total Project costs; all other utility relocations shall be at the sole expense of Agency, or others. Agency may send a written request to State, at Project expense, to arrange for utility relocations/adjustments lying within Agency jurisdiction. This request must be submitted no later than twenty-one (21) weeks prior to bid let date. Agency shall not perform any utility work on state highway right of way without first receiving written authorization from State.

GRADE CHANGE LIABILITY

39. Agency, if a County, acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.

40. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.

41. Agency, if a City, by execution of the Project Agreement, gives its consent as required by ORS 373.030(2) to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the Project covered by the Project Agreement.

MAINTENANCE RESPONSIBILITIES

42. Agency shall, at its own expense, maintain operate, and provide power as needed upon Project completion at a minimum level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. The useful life of the Project is defined in the Special Provisions. State may conduct periodic inspections during the life of

Agency/State
Agreement No. 30859

the Project to verify that the Project is properly maintained and continues to serve the purpose for which federal funds were provided. Maintenance and power responsibilities shall survive any termination of the Project Agreement. In the event the Project will include or affect a state highway, this provision does not address maintenance of that state highway.

CONTRIBUTION

43. 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.
44. 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.
45. 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.

ALTERNATIVE DISPUTE RESOLUTION

46. The Parties shall attempt in good faith to resolve any dispute arising out of this Project 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.

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WORKERS' COMPENSATION COVERAGE

47. All employers, including Agency, that employ subject workers who work under this Project 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 five hundred thousand (\$500,000) must be included. State and Agency shall ensure that each of its contractors complies with these requirements.

LOBBYING RESTRICTIONS – pursuant to Form FHWA-1273, Required Contract Provisions

48. Agency certifies by signing the Project Agreement that:

- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal 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 federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31, USC Section 1352.
- e) Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 5

Date: June 6, 2016

Department: Public Works

Contact/Title: Kelly Brennan/Maintenance
Division Manager

Staff Presenter: Kelly Brennan

Telephone No.: 541-883-5386

City Manager Review: 

Email: kbrennan@klamathfalls.city

TOPIC: Approval of Proposal to Upgrade Control Systems for the Spring Street Sewage Treatment Plant and Wastewater Lift Stations

SUMMARY AND BACKGROUND:

The City's Wastewater Division has an integrated system that collects wastewater throughout the City and conveys those flows to the Spring Street Sewage Treatment Plant (Spring Street STP) for treatment, reuse and disposal. This system, which is comprised of a series of pipelines, fourteen (14) pump stations and the treatment plant, is carefully monitored and controlled by the Division's Supervisory Control and Data Acquisition (SCADA) system, which operates with coded signals over communication channels to a centralized location.

The SCADA system is a category of software application programming that is combined with hardware infrastructure and is used for process control and the gathering of data in real time from remote locations in order to control equipment and conditions. SCADA is used not only for public utility applications like water and wastewater, but also in power plants, oil and gas refining, telecommunications and transportation. The hardware gathers and feeds data into a computer that has the SCADA software installed and the computer in turn processes this data, records and logs all events into a file stored on a hard disk or sends them to a printer. SCADA systems also provide alarming capabilities to alert the system operators that equipment failures are occurring or if certain parameters are outside the standard operating ranges.

The bulk of the Wastewater Division's SCADA infrastructure is built on the Allen Bradley platform which is one of the automation products of Rockwell Automation, the preeminent manufacturer and supplier of reliable control and automation systems. The City, like many entities that operate public utility systems, generally attempts to standardize equipment or systems when possible and the Wastewater Division has, likewise, adopted this approach with its SCADA system. Rockwell Automation offers its clients a service to evaluate its system to ensure that it's operating in a manner that ensures reliability, security and efficiency and, because the City never had an assessment of its system, staff recently contracted with Rockwell's local distributor, North Coast Electric Company, to prepare a Rockwell Automation Field Assessment Report. This effort, which involves a thorough review of protocols, security, storage and data collection and the current status of the system's

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software and hardware, results in a planning document to guide current and future upgrades or investments in the system to ensure that the system and its structure continues to operate reliably.

Lawrence Dolan, a Senior Field Service Engineer with Rockwell, performed the assessment (copy of the report is attached) and found that, while the system is functioning well, also determined in his report that the wastewater control system “is very old” which puts the Wastewater Division at risk for potential issues of reliability. Furthermore, almost all of the control system from the Human Machine Interface (HMI) is running on obsolete Windows 7 32 bit software which isn’t being supported anymore.

The system’s hardware, such as its modems and remote terminal units, are still functional but they are a much older generation of technology which Rockwell recommended should be changed over to a newer version to provide more capacity and greater ability to interface with current technology.

Staff solicited a cost proposal from North Coast Electric Company for the recommended system upgrades outlined in the Rockwell report. North Coast Electric is the sole provider of the Rockwell technology in the Klamath region which, consequently, makes the needed upgrades to the Division’s control systems only possible through this sole source provider. Rockwell does not allow distributors of their technology from outside the area, such as Bend or Portland, to undercut the pricing in place with its local distributors.

North Coast Electric broke out its proposal into two primary segments; the first being the cost proposal to upgrade the software system and the second segment containing four potential options for the recommended hardware upgrades:

- Software Upgrades: \$16,592 (this includes credit savings and trade in incentive discounts)
- Hardware Upgrades: 4 options, ranging in cost from \$9,730 to \$43,242

In terms of priority, the software upgrades are the highest priority, given that the current Windows 7 software is entirely obsolete. The hardware upgrades could be phased in, probably with the first phase being some configuration of an upgrade in the wireless communication system (Freewave system) combined with new wiring, programing and new Compact Logix processors. An alternative approach could be to complete the first phase upgrade and delay the installation of a new centralized panel, located at the treatment plant, as a second phase upgrade. This panel will provide additional capacity for future system needs.

Sufficient budget remains in this fiscal year to complete all of the recommended upgrades now. If all improvements were to be done at the same time, so that the entire system was brought up-to-date, the cost proposal would be \$59,834.

FINANCIAL IMPACT:

The recommended control system improvements impact both the Collections and Treatment systems and the improvement costs should therefore be allocated on a 50/50 percentage basis. The software upgrade cost of \$16,592 will be split evenly between collection and treatment. The control system hardware improvement costs of \$43,242 can be capitalized and, they too, will be allocated evenly between Collections and Treatment.

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COUNCIL OPTIONS:

1. Approve staff's recommended action to accept the \$59,834 proposal from North Coast Electric Company to upgrade the all of the recommended control systems for the Spring Street Sewage Treatment Plant and Wastewater Lift Stations now with the available funds in the current FY 15/16 budget.
2. Approve a phased upgrade of the control systems, starting with the needed software upgrade costs of \$16,592 and phasing the remaining hardware upgrades of \$43,242 as one or two future expenditures.
3. Deny staff's request for approval of the proposed control system upgrades for the Spring Street Sewage Treatment Plant and Wastewater Lift Stations.

DOCUMENTS ATTACHED:

- Rockwell Automation Field Assessment Report
- North Coast Electric Company Step Forward Cost Proposal

RECOMMENDED MOTION/ACTION:

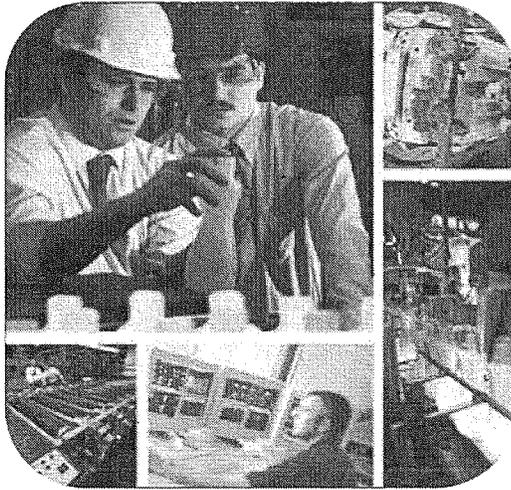
Move to accept the proposal from North Coast Electric Company to upgrade the control systems for the Spring Street Sewage Treatment Plant and Wastewater Lift Stations in the amount of \$59,834 to allow staff to proceed immediately with all of the recommended improvements.

NOTICE SENT TO:

N/A

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Rockwell Automation Field Assessment Report



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Prepared For:
Kurt Philips
City Of Klamath Falls
Site Address:
1199 Spring St., Klamath Falls,
OR. 97601

Date of Service:
2nd May 2016 TO 3RD May 2016
Service Order Number:
7000306078

Contract Number:
N/A

Exceeding your expectations Achieving results

Prepared by:
Lawrence Dolan
Senior Field Service Engineer
7624 SW Mohawk,
Tualatin, OR. 97062
Cell: 503-523 8553
Office: 503-482 1612
Fax: 503-482 1601

Rockwell
Automation

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Time Details

Day	Date	Travel Out	Work AM	Work PM	Travel Return	Total Work Normal Hrs/Day	Total Work x1.5 OT Hrs/Day	Total Work x2.0 OT Hrs/Day	Total Travel Hours/Day
Mon	05/02/16	6:30 to 11:00	11:00 to 16:00	0:00 to 0:00	16:00 to 16:15	5.00	0.00	0.00	4.75
Tue	05/03/16	7:15 to 7:30	7:30 to 12:00	12:30 to 16:30	16:30 to 16:45	8.00	0.50	0.00	0.50

Scope of Work

The scope of work was defined to be:

- 1) Examine the present control system on the WWTP and determine if there are any immediate issues that need to be addressed and that could affect the reliable operation of the plant.
- 2) Suggest a migration path forward for the plants (WWTP) to update obsolete equipment and ensure future reliability.

Customer Contact Information:

Kurt Phillips, City of Klamath Falls, Cell: 541-891 5140, e-mail: kurtckf@gmail.com

Craig Hawks, NCE, Office: 541-343 7701, e-mail: chawks@ncelec.com

Rebecca Peoples, NCE, Office- 541-924 9120, e-mail: rpeoples@ncelec.com

Todd Myers, NCE, Cell: 541-892 7551, e-mail: tmyers@ncelec.com

Summary:

The existing system was examined and modified to remove a recurring system error. Some errors were identified which were simple database errors. The present system is working well and no major operational issues were found.

The system as a whole is very old which may affect reliability. A plan to upgrade the system in small low risk stages was discussed with Kurt and detailed below.

Recommendations:

Almost all of this control system from the HMI which is running on Windows 7 32 bit, through SLCs and Micrologix controllers to 1336 plus drives is obsolete equipment. It is all working well and may continue doing so for some time to come. However, it would be wise to begin a plan to update it in preparation for the inevitable failures that time will bring. Under the heading "Updating Obsolete Equipment" below, I have suggested a path forward which can be done in small steps and hopefully within budgetary constraints.

Detailed Work Performed:

After arriving on site, I discussed the job requirement with Kurt and took the following actions:

WWTP Monday 2/May/2016

- 1) Examined the RSView computer in Kurt's office for RSView32 application issues by viewing the Windows Logs using Windows Event Manager.

Application Log

There were 2 x logged application errors connected with RSView32 on 4/29/2016

There was 1 x logged application errors connected with RSView32 on 4/22/2016

Security Log

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No errors

Setup Log
No Errors

System Log

Multiple errors caused by the computer trying to run the A-B Virtual Backplane

Factory Talk Diagnostic Errors
None

Application and Services Log Errors
None

- 2) Zeroing the diagnostic counter on the following cards shows:
 - a. Stn Diagnostics for Storm SLC, - good
 - b. Stn diagnostics for 6325 SLC, - good
 - c. Station diagnostics were not available on the 1756-DHRIO using RSLinx
 - d. 1756-ENBT/A is version 6.004 – no issues with comms on Ethernet.
 - e. Stn Diagnostics for HYPO SLC – good.
 - f. Stn Diagnostics for Bisulfite SLC – good
 - g. Stn Diagnostics for 4430 SLC – good
 - h. Stn Diagnostics for the Influent SLC – good
 - i. Stn Diagnostics for the Digester SLC - good

3) All message instructions in the CLX were working without errors.
RSView32 activity log viewer shows some errors. Most appear to be due to tag issues with only very few being caused by the occasional comms "glitch" seen by RSLinx. This "glitch" does not appear to effect the control system.

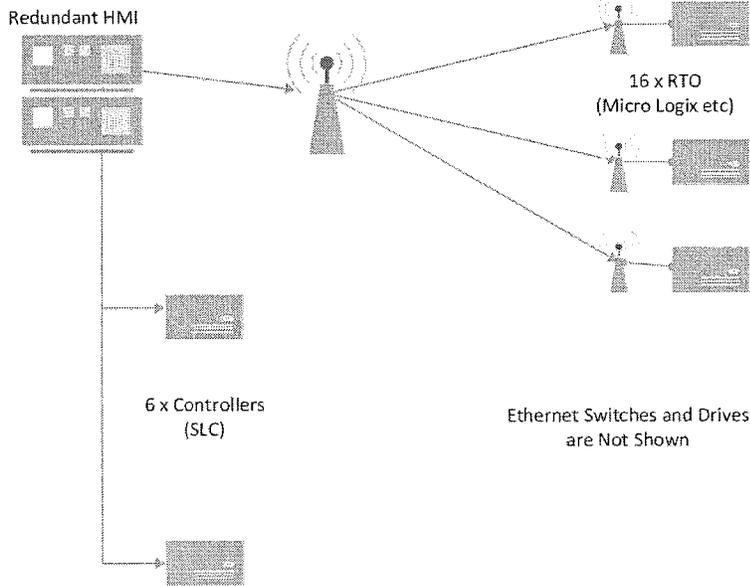
WWTP Tuesday 3/May/2016

- 4) On arriving to site today, I called tech support (**Case Number: 4005559636**) and discovered 2 x tech notes 499774 and 34128.
The result of the call was to copy file "virtualbackplane.sys" to the c:\windows\system32\drivers" directory.
After copying this file the error in the system log which were being generated every 10 seconds stopped.
I believe this file was required by RSLinx for some reason, even though the computer system does not directly use the virtual backplane.
- 5) The remainder of my time on this service order was taken documenting the best way to gradually update the control system to reduce or eliminate risk of losing all or part of the plant in the future.

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Figures and/or Attachments:

New Configuration for Sewer WWTP



Updating Obsolete Equipment:

1) Equipment Required.

Equipment that is in need of updating in the WWTP control system is as follows:

- a. HMI. The present RSVIEW32 system runs on a Win7, 32 bit operating system. Microsoft has obsoleted this operating system in favor of Win 7, 64 bit, Win8.1 and Win 10. RSVIEW32 will not run on the newer operating systems and so must be updated to Factory Talk View Server Edition (FTViewSE). This can be ordered as a two computer system with a seamless backup similar to the RSVIEW32 back up that exists at present.
- b. The 6 x SLC controllers that are communicating on a cable over Data Highway Plus, at present, would be replaced with compact logix controllers and now communicate on Ethernet directly to the HMI.
- c. Master/ Slave Communications. The Data Linc serial (RS232) Master and 16 slave modems would be changed to radio Ethernet modems. The 16 x slave controllers which are a mixture of Micrologix 1000, 1100, and 1500 would be changed to allow an Ethernet interface. Depending on the station may remain unchanged or upgraded to a controller that has an Ethernet port.
- d. Remote Terminal Units (RTOs) The RTOs will need to be upgraded if they don't have an Ethernet port. These items are not obsolete, however some of the MicroLogix Controllers are in the mature phase of their lifecycle.

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- e. 1336 Plus2 drives. I would recommend a written plan be created which contains the steps necessary (wiring and programming) to update these drives to our Power Flex range of drives which have Ethernet as their primary means of communication. In the event that a drive fails, changing the drive from 1336 to PFlex should be hassle free.
 - f. New Ethernet Switches are needed for the update of computers, controllers and drives to Ethernet. I would recommend Rockwell Automation's Stratix range of managed switches. Cisco works as an Ethernet partner to Rockwell so switches are basically Cisco switches with modified firmware to for cater to Rockwell's control environment.
- 2) **Update Planning**
- a. **HMI**
The HMI can be updated independently of the rest of the control system and can be set up and tested whilst the RSView32 system is still operating the plant. When the new system is proven out, a changeover can be done.
Risk to system: Very Low.
 - b. **6 x SLC Controllers**
The controllers can be changed over one by one and either added to the RSView32 or FTViewSE, depending on if stop update a) above has been done.

Change over should be done by making a new panel with the new controller and wiring inputs and outputs to the new controller in parallel to the old controller and whilst the old SLCs is still controlling the plant. By putting the Compact controllers in "Test" mode, the program can run and examined to see if outputs are being correctly controlled. Switching over to the new controller can be done by simply turning off the SLC and turning the Compact Logix to "Run" mode after making sure there are no bugs in the program.
Risk to system: Low.
 - c. **Wireless Modems**
The wireless modem infrastructure can be put into place and tested without changing the existing RS232 modems.
Programming code can be entered into the Main PLC (L61) to communicate to the remote terminal unit (RTO) can be de-activated until the RTO is updated. When each RTO is updated (if necessary) to Ethernet communication the code entered earlier can be activated.
This change will need to be done in tandem with updating the controller where necessary – see below.
Risk to system: Low.
 - d. **RTO Updates**
The RTOs control motors, pumps, by monitoring flow and pressure etc. These would be updated in a similar way to the update of the SLC controllers in that the input and output wiring will be connected in parallel and after the program is monitored to ensure it controls the station correctly can be turned to Run mode whilst the existing controller is turned off. At the same time the communications to the L61 can be switched to the radio modem.
This way the RTOs can be changed over at the convenience and budget of the city.
Risk to system: Low.
 - e. **1336 Plus2 Drives**
The City has many tens of obsolete drives being controlled directly with inputs and outputs (I/O) from various controllers.
The Ethernet network which will be put into place during the controller updates discussed above, should allow an Ethernet connection to each drive. It is a

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simple operation to move a drive from direct I/O control to network control when replacing a drive. Network control simplifies wiring and allows for considerably more information from the drive to be viewed on HMI screens and logged if required. This information may be used to improve diagnostics for a pump and with predictive maintenance.
Replacing drives can be done when the City feels that particular drives are close to their end of useful lives and a liability to production.

Regards,

Lawrence Dolan
Senior Field Service Engineer for Rockwell Automation
Cell: 503-523 8553

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City of Klamath Falls Software Step Forward

Proposal: S7177333



Presented to: Kurt Phillips
City of Klamath Falls
Klamath Falls, OR

Presented by: Todd Meyers
North Coast Electric
Klamath Falls, OR
tmeyers@ncelec.com

To request clarification on the attached scope of work, please contact Todd Meyers at North Coast Electric.

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Kurt,

Thank you for your interest in the Rockwell Automation software step forward incentive program.

The Step Forward program provides you with credit incentives to upgrade your existing software and protect your investment. Upgrading your RS View software will utilize the latest version of FTView with new features to help improve your overall process effectiveness.

Stepforward software listing and pricing:

New Catalog Number	Qty	Returnable Catalog Number	List Price	Trade in Incentive	Sell Price w/Credit	Extended
9701-VWSS250LENE	2	9305-RSVADSENE and 9301-2SE3403	\$10,000	\$4,115/ each	\$5,885/ each	\$11,770.00
9701-VWSTENE	1	9301-2SE2403	\$2,750	\$1,130	\$1,620	\$1,620.00
9701-VWSCWAENE	2	9305-RSVADDCENE	\$2,720	\$1,119/ each	\$1,601/ each	\$3,202.00

Step Forward Incentive Credit Savings: \$11,598 off normal price.

Total Step Forward Sell Price: \$16,592.00

NOTE: Each Software serial number will be needed to process the incentive trade in special pricing

Purchase Order or correspondence contact:

Reference Proposal#: S7177333

Todd Meyers
Industrial Outside Sales
North Coast Electric Co.
Office: 541-772-7131
Cell: 541-892-7551
tmeyers@ncelec.com



CC: Gary Peterson – gpeterso@ncelec.com

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Hardware Upgrade			
Option 1:	1	Install a new panel beside 6325 (Blower Building) containing a Control Logix L71 system with a Freewave ethernet radio.	\$ 26,882.87
	2	Install a second Freewave radio at the Control Building Control Logix system.	\$ 1,144.37
	3	Transfer the wiring & the programming from 6325 to the L71 in piecemeal fasion until all is residing on the L71	Labor
	4	Install a new Compact Logix processor & a Freewave radio @ California Lift Station communicating to the Freewave system now residing at the Treatment Plant.	\$ 15,215.62
			tfl
			\$ 43,242.86

Option 2:	1	Install a new panel beside 6325 (Blower Building) containing a Control Logix L71 system with a Freewave ethernet radio.	\$ 26,882.87
	2	Install a new Compact Logix processor & a Freewave radio @ California Lift Station communication to the Freewave system now residing at the Treatment Plant.	\$ 15,215.62
	3	Install a second Freewave radio at the Control Building Control Logix system.	\$ 1,144.37
	4	Transfer the wiring & the programming from 6325 to the L71 in piecemeal fasion until all is residing on the L71	Labor
			tfl
			\$ 43,242.86

Option 3	1	Install a Freewave radio at the Control Building Control Logix system.	\$ 1,144.37
	2	Install a new Compact Logix processor & a Freewave radio @ California Lift Station communication to the Freewave system now residing at the Treatment Plant.	\$ 15,215.62
	3	Continue as budget constraints allow to add the L71 in the Blower Building	Labor
			tfl
			\$ 16,359.99

Option 4	1	Install a Freewave radio at the Control Building Control Logix system.	\$ 1,144.37
	2	Replace the 5/03 Processor @ California Lift Station with a 5/05 (ethernet capable)	\$ 7,441.51
	3	Install a Freewave radio at California communicating with the Control Building	\$ 1,144.37
			tfl
			\$ 9,730.25

In all options, after California is online with the ethernet system we could then upgrade KFI in the same manner and put it on the ethernet grid.

After KFI the four remaining outdated MicroLogix controllers (Flow Control, Cogen, Hanks, & Prairie Meadows) are to be updated to MicroLogix 1100's

At any point after the older MicroLogix processors are updated the Telemetry could be updated to Freewave and put on the Ethernet grid

5

Unit Pricing			
1756-A17	17 Slot Chassis		\$ 910.87
1756-A13	13 Slot Chassis		\$ 772.14
1756-PA75/B	Power Supply		#####
1756-L61	Processor		#####
1756-L71	Processor		#####
1756-IA16	16 Discreet Inputs		\$ 481.27
1756-OA16	16 Triac Outputs		\$ 679.33
1756-OF8	8 Channel Current or Voltage Analog Output		\$ 586.52
1756-IF8	8 Channel Analog Input		#####
1756-ENBT	Ethernet Communications Module		#####
1756-DHRIO	DH+ Communications Module		#####
1747-AENTR	SLC 500 I/O Adapter		#####
1783-EMS08T	Stratix 6000 Ethernet Switch		#####
FGR2-PE	Freewave Radio		\$ 725.27
EAN0900WB	Freewave OMNI Antennas		\$ 98.51
ASC0504NN	Freewave Coax Antenna Cable		\$ 183.88
ESP0809FF	Freewave Lightning Arrester		\$ 77.61
ASC0032TN	Freewave Antenna adapter cable		\$ 59.10
CSD483616	Hoffman Enclosure		\$ 797.77
CP4836	Hoffman Backplate		\$ 207.33
A423012LP	Hoffman Enclosure		\$ 737.67
A42P30	Hoffman Backplate		\$ 169.59
AL23	Hoffman Enclosure Kit		\$ 10.69
1756-IA16/OA16	1492-IFM20F	\$ 98.18	1492-CABLE005X \$ 144.41
1756-IF8	1492-AIFM8-3	\$ 155.60	1492-CABLE005U \$ 144.41
1769-L32E	Processor		#####
1769-PA2	Power Supply		\$ 286.08
1769-IA16	Digital Inputs		\$ 295.65
1769-OA8	Digital Outputs		\$ 315.74
1769-IF4	Analog Input		\$ 508.06
1769-OF2	Analog Output		#####
1769-ECR	Endcap		\$ 35.50
1783-EMS04T	Stratix 6000 Switch		\$ 705.64

5



911 MARKET ST
 KLAMATH FALLS OR 97601-6284
 541-884-4171 Fax 541-883-2476

Quotation

QUOTE DATE	QUOTE NUMBER
05/05/16	S7175295
ORDER TO:	1 of 1
237 NORTH COAST ELECTRIC 911 MARKET ST KLAMATH FALLS OR 97601-6284 541-884-4171 Fax 541-883-2476	

QUOTE TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

SHIP TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

QUOTE NO.	DATE QUOTE WON	RELEASE NUMBER	SALES PERSON
2136	QUOTE		Todd Meyers
QUOTE BY	SHIP VIA	NET	EXCISE ALLOWANCE
Michael Ackroyd	WILL CALL	Net	Yes
QUANTITY	DESCRIPTION	UNIT PRICE	EXT. PRICE
1 ea	A-B 1783-EMS04T STRATIX 6000 4 PORT STRATIX 6000 FACT ITEM TAXES NOT INCLUDED	705.64/ea	705.64
		Subtotal	705.64
		S&H Chgs	0.00
		Total	705.64

This is a Quotation.
 Quotations are valid for the date of quotation only, unless specifically agreed to in writing by an authorized associate of North Coast Electric Co. All quotations are based on price and availability of products and raw materials required for this order by North Coast Electric Co. and/or its suppliers. All sales subject to North Coast Electric Company's Standard Terms and Conditions (NC055).

5



911 MARKET ST
 KLAMATH FALLS OR 97601-6284
 541-884-4171 Fax 541-883-2476

Quotation

QUOTE DATE	QUOTE NUMBER
05/05/16	S7175193
ORDER TO:	PAGE NO.
237 NORTH COAST ELECTRIC 911 MARKET ST KLAMATH FALLS OR 97601-6284 541-884-4171 Fax 541-883-2476	1 of 1

QUOTE TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

SHIP TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

ORDER NO.	CUSTOMER ORDER NUMBER	RELEASE NUMBER	SALES PERSON	
2136	QUOTE		Todd Meyers	
BUYER		SHIP VIA	TERMS	PAID BY / AC BKR
Michael Ackroyd		WILL CALL	Net	Yes
ORDER QTY	DESCRIPTION	UNIT PR	EXT PR	
1 ea	A-B 1747-L552 SLC 5/05 32K CONTROL FACT ITEM TAXES NOT INCLUDED	6735.87/ea	6735.87	
This is a Quotation. Quotations are valid for the date of quotation only, unless specifically agreed to in writing by an authorized associate of North Coast Electric Co. All quotations are based on price and availability of products and raw materials required for this order by North Coast Electric Co. and/or its suppliers. All sales subject to North Coast Electric Company's Standard Terms and Conditions (NC055).		Subtotal	6735.87	
		S&H Chgs	0.00	
		Total	6735.87	

5



911 MARKET ST
 KLAMATH FALLS OR 97601-6284
 541-884-4171 Fax 541-883-2476

Quotation

QUOTE DATE	QUOTE NUMBER
05/05/16	97175177
ORDER TO:	FAX NO
237 NORTH COAST ELECTRIC 911 MARKET ST KLAMATH FALLS OR 97601-6284 541-884-4171 Fax 541-883-2476	1 of 1

QUOTE TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

SHIP TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

QUOT. NO.	CUSTOMER ORDER NUMBER	RELEASE NUMBER	SALES PERSON	
2136	QUOTE		Todd Meyers	
QUOT. NO.	QUOT. DATE	TERMS	FREIGHT ALLOWED	
Michael Ackroyd	WILL CALL	Net	Yes	
QUANTITY	DESCRIPTION	UNIT PRICE	EXT. PRICE	
1 ea	A-B 1769-ECR COMPACTLOGIX RIGHT END STK PORTLAND TAXES NOT INCLUDED	35.50/ea	35.50	
This is a Quotation.		Subtotal	35.50	
Quotations are valid for the date of quotation only, unless specifically agreed to in writing by an authorized associate of North Coast Electric Co. All quotations are based on price and availability of products and raw materials required for this order by North Coast Electric Co. and/or its suppliers. All sales subject to North Coast Electric Company's Standard Terms and Conditions (NC055).		S&H Chgs	0.00	
		Total	35.50	

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911 MARKET ST
 KLAMATH FALLS OR 97601-6284
 541-884-4171 Fax 541-883-2476

Quotation

DATE QUOTE	QUOTE NUMBER
05/04/16	S7173274
ORDER TO:	QUOTE NO
237 NORTH COAST ELECTRIC 911 MARKET ST KLAMATH FALLS OR 97601-6284 541-884-4171 Fax 541-883-2476	1 of 2

QUOTE TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

SHIP TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

QUOTE NO	CUSTOMER ORDER NUMBER	PHONE NUMBER	SALES PERSON
2136	WWTP		Todd Meyers
QUOTE TO:	SHIP TO:	TERMS:	FACTORY ALLOWANCE:
Todd Meyers	WILL CALL	Net	Yes
QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1ea	A-B 1756-A17 CONTROLLOGIX 17 SLOTS	910.87/ea	910.87
1ea	A-B 1756-A13 CONTROLLOGIX 13 SLOTS	772.14/ea	772.14
1ea	A-B 1756-PA75 CONTROLLOGIX AC POWER	1167.30/ea	1167.30
1ea	A-B 1756-L61 CONTROLLOGIX 2 MB MEMO	6707.17/ea	6707.17
1ea	A-B 1756-L71 CONTROLLOGIX 2 MB CONT	5539.87/ea	5539.87
4ea	A-B 1756-IA16 CONTROLLOGIX 16 PT D/ USER MANUAL NOT SUPPLIED	481.27/ea	1925.08
2ea	A-B 1756-OA16 CONTROLLOGIX 16 POINT USER MANUAL NOT SUPPLIED	679.33/ea	1358.66
2ea	A-B 1756-OA8 CONTROLLOGIX 8 PT D/O	586.52/ea	1173.04
2ea	A-B 1756-IF8 CONTROLLOGIX 8 POINT A USER MANUAL NOT SUPPLIED	1109.89/ea	2219.78
1ea	A-B 1756-ENBT CONTROLLOGIX ENET/IP	2449.41/ea	2449.41
1ea	A-B 1756-DHRIO CONTROLLOGIX DH PLUS	2076.26/ea	2076.26
1ea	A-B 1747-AENTR SLC 500 ETHERNET/IP	2133.66/ea	2133.66
1ea	A-B 1783-EMS08T STRATIX 6000 8 PORT 8 PORT MANAGED SW.PLUS 1 FIBER SFP PORT.	1113.20/ea	1113.20
2ea	FREEWAVE FGR2-PE 902-928 MHZ LONG RANGE RADIO	725.27/ea	1450.54
2ea	EAN0900WB FREEWAVE ANTENNA OMNI ANTENNA	98.51/ea	197.02
2ea	FREEWAVE ASC0504NN 50' LMR-400 COAXIAL CABLE W/N TYPE MALE RF CONN	183.88/ea	367.76
2ea	FREEWAVE ESP0809FF COAXIAL SURGE PROTECTOR,N CONN.FEMALE/FEMALE	77.61/ea	155.22
2ea	FREEWAVE ASC0032TN 3 FOOT LMR-240 COAXIAL CABLE WITH N MALE RF CONNECTOR AND TNC MALE CONNECTOR	59.10/ea	118.20
*** Continued on Next Page ***			

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911 MARKET ST
 KLAMATH FALLS OR 97601-6284
 541-884-4171 Fax 541-883-2476

Quotation

DATE QUOTE	QUOTE NUMBER
05/04/16	S7173206
ORDER TO:	PAGE NO.
237 NORTH COAST ELECTRIC 911 MARKET ST KLAMATH FALLS OR 97601-6284 541-884-4171 Fax 541-883-2476	1 of 1

QUOTE TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

SHIP TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

QUOTE NO.	QUOTE ORDER NUMBER	RELEASE NUMBER	SALESPERSON	
2136	QUOTE		Todd Meyers	
BUYER		SHIP TO:		FREIGHT ALLOWANCE
Michael Ackroyd		WILL CALL		Net
				Yes
ORDER QTY	DESCRIPTION	NET PR	EXC TAX	
1ea	A-B 1492-IFM20F CONNECTION PRODUCTS	98.18/ea	98.18	
1ea	A-B 1492-AIFM8-3 CONNECTION PRODUCT	155.60/ea	155.60	
1ea	A-B 1492-CABLE005X DIGITAL CABLE CO	144.41/ea	144.41	
1ea	A-B 1492-CABLE005U DIGITAL CABLE CO	144.41/ea	144.41	
TAXES NOT INCLUDED				
This is a Quotation.		Subtotal	542.60	
Quotations are valid for the date of quotation only, unless specifically agreed to in writing by an authorized associate of North Coast Electric Co. All quotations are based on price and availability of products and raw materials required for this order by North Coast Electric Co. and/or its suppliers. All sales subject to North Coast Electric Company's Standard Terms and Conditions (NC055).		S&H Chgs	0.00	
		Total	542.60	

5



911 MARKET ST
 KLAMATH FALLS OR 97601-6284
 541-884-4171 Fax 541-883-2476

Quotation

QUOTE DATE	QUOTE NUMBER
05/04/16	S7173183
ORDER TO:	PAGE #
237 NORTH COAST ELECTRIC 911 MARKET ST KLAMATH FALLS OR 97601-6284 541-884-4171 Fax 541-883-2476	1 of 1

QUOTE TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

SHIP TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

QUOTE NO	CUSTOMER ORDER NUMBER	RELEASE NUMBER	SALESPERSON	
2136	QUOTE		Todd Meyers	
QUOTE	SHIP TO	TERMS	CREDIT ADVANCE	
Michael Ackroyd	WILL CALL	Net	Yes	
ORDER QTY	DESCRIPTION	UNIT PRICE	TOTAL	
1ea	A-B 1769-L32E COMPACTLOGIX 750KB EN	3454.05/ea	3454.05	
1ea	A-B 1769-PA2 COMPACTLOGIX AC 2A/0.8	286.08/ea	286.08	
2ea	A-B 1769-IA16 COMPACTLOGIX 16 PT 12 MAY REQUIRE 1769ECR END CAP	295.65/ea	591.30	
1ea	A-B 1769-OA8 COMPACTLOGIX 8 PT 240V MAY REQUIRE 1769ECR END CAP	315.74/ea	315.74	
1ea	A-B 1769-IF4 COMPACTLOGIX 4 PT A/I MAY REQUIRE 1769ECR END CAP	508.06/ea	508.06	
4ea	A-B 1769-OF2 COMPACTLOGIX 2 PT A/O MAY REQUIRE 1769ECR END CAP	510.93/ea	2043.72	
TAXES NOT INCLUDED				
This is a Quotation.			Subtotal	7198.95
Quotations are valid for the date of quotation only, unless specifically agreed to in writing by an authorized associate of North Coast Electric Co. All quotations are based on price and availability of products and raw materials required for this order by North Coast Electric Co. and/or its suppliers. All sales subject to North Coast Electric Company's Standard Terms and Conditions (NC055).			S&H Chgs	0.00
			Total	7198.95

5

NORTH COAST ELECTRIC COMPANY

911 MARKET ST
 KLAMATH FALLS OR 97601-6284
 541-884-4171 Fax 541-883-2476

Quotation

DATE QUOTE	QUOTE NUMBER
05/04/16	S7173274
ORDER TO:	
237 NORTH COAST ELECTRIC	
911 MARKET ST	
KLAMATH FALLS OR 97601-6284	
541-884-4171 Fax 541-883-2476	
2 of 2	

QUOTE TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

SHIP TO:
 CITY OF KLAMATH FALLS
 500 KLAMATH AVE
 P O BOX 237
 KLAMATH FALLS, OR 97601-6185

ORDER NO.	CUSTOMER ORDER SUBJECT	RELEASE NUMBER	SALES PERSON
2136	WWTP		Todd Meyers
ORDER FROM		SHIP TO	TERMS
Todd Meyers		WILL CALL	Net
			Yes
ORDER QTY	DESCRIPTION	UNIT PRICE	EXT. PRICE
2ea	✓ FREEWAVE ECN1234TN CABLE ADAPTER TNC MALE TO N FEMALE	12.00/ea	24.00
1ea	✓ HOFF CSD483616 ENCLOSURE 48.00X36 77680	797.77/ea	797.77
1ea	✓ HOFF CP4836 PANEL 46.20X34.20 FIT 78710	207.33/ea	207.33
1ea	✓ HOFF A423012LP ENCLOSURE 42.00X30 27960	737.67/ea	737.67
1ea	✓ HOFF A42P30 PANEL 39.00X27.00 FIT 23240	169.59/ea	169.59
1ea	✓ HOFF AL23 FAST OPERATING JIC CLAM 26210	10.69/ea	10.69
TAXES NOT INCLUDED			
		Subtotal	33782.23
		S&H Chgs	0.00
		Total	33782.23

This is a Quotation.

Quotations are valid for the date of quotation only, unless specifically agreed to in writing by an authorized associate of North Coast Electric Co. All quotations are based on price and availability of products and raw materials required for this order by North Coast Electric Co. and/or its suppliers. All sales subject to North Coast Electric Company's Standard Terms and Conditions (NC055).

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 6

Date: June 6, 2016

Department: Legal	Contact/Title: Joanna Lyons-Antley/City Attorney
Staff Presenter: Joanna Lyons-Antley	Telephone No.: 541-883-5323
City Manager Review:	Email: jlyons@klamathfalls.city

TOPIC: Ordinance Adding Section 5.700 to Authorize City to Petition Court for Receivers to Address Residential Blight – first reading

SUMMARY AND BACKGROUND:

The Oregon Housing Receivership Act in ORS 105.425-.455 allows the City to adopt a receivership program to petition Circuit Court to appoint a third-party receiver in specific issues of housing blight.

The proposed Ordinance would establish a receivership program. In a receivership program, the City would investigate homes, with potential receivers, to identify homes where the program would make a positive impact. Ideal properties for the program are neglected homes, subject to a mortgage or not, in neighborhoods where the costs to remedy the violations are likely to be recovered. Other potential candidates may be homes that are beyond repair and demolition may be the best remedy.

Where a receiver might be beneficial, the City would give notice to the owners and mortgage companies. If the blight was not abated, the City would petition the Circuit Court to appoint a third-party receiver to remedy identified code enforcement and housing issues.

If the Circuit Court appoints a receiver, the City's formal involvement would end and a third party receiver would take control of the property. The Circuit Court supervises the abatement of identified code issues. The receiver would pay the taxes and address the issues causing the blight. At the completion of the abatement, the receiver would receive a super-priority lien with administrative fees, second only to taxes. If the mortgage company and owner fail to pay the lien, the receiver may foreclose its lien.

Since the receiver's lien is higher priority than the mortgage company's lien, it is the City's hope that mortgage companies will comply with the initial notice and a petition to Circuit Court is unnecessary. In other instances, the City will need to make a case by case determination on the likelihood of success.

If authorized, the City will work with groups to become receivers qualified under the Oregon Housing Receivership Act. Currently, two groups have expressed interest. If no individuals step up to become receivers, the City will not pursue this program.

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FINANCIAL IMPACT:

This program primarily costs the City staff time to work with potential receivers, identify potential properties, draft notices and petitions. The out-of-pocket costs include title reports, postage and court filing fees. If an agreement is reached with a receiver, some of these out-of-pocket costs may be reimbursable by the receiver.

COUNCIL OPTIONS:

1. Approve the proposed Ordinance.
2. Reject the proposed Ordinance.

DOCUMENTS ATTACHED:

- Proposed Ordinance

RECOMMENDED MOTION/ACTION:

- Take public comment
- Move to introduce the Ordinance by title for first reading

NOTICE SENT TO:

Klamath Excellence
SCOEDD

6

ORDINANCE NO. 16- _____

ORDINANCE ADDING SECTION 5.700 TO AUTHORIZE CITY TO PETITION COURT FOR RECEIVERS TO ADDRESS RESIDENTIAL BLIGHT

WHEREAS, the City wishes to adopt a receivership program pursuant to ORS 105.425 -.455 to combat residential blight; and NOW THEREFORE;

THE CITY OF KLAMATH FALLS HEREBY ORDAINS AS FOLLOWS:

Section 1

Section 5.700 of the City Code is added as follows:

5.700 Receiverships

In addition to, and not in lieu of any other provisions, when residential property is found to violate the City Code, Community Development Ordinance, Building Codes or Fire Codes and the violation is a threat to the public health and safety, the City may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455).

Section 2

This Ordinance shall become effective 30 days after passage.

Passed by the Council of the City of Klamath Falls this _____ day of June, 2016.

Presented to the Mayor, approved and signed this _____ day of June, 2016.

Mayor

ATTEST:

City Recorder

STATE OF OREGON }
COUNTY OF KLAMATH }ss.
CITY OF KLAMATH FALLS }

I, _____, Recorder for the City of Klamath Falls, Oregon, do hereby verify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon at the meeting on the ____ day of June, 2016 and therefore approved and signed by the Mayor and attested by the City Recorder.

City Recorder

6

**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 7

Date: June 6, 2016

Department: Legal	Contact/Title: Joanna Lyons-Antley/City Attorney
Staff Presenter: Joanna Lyons-Antley	Telephone No.: 541-883-5323
City Manager Review:	Email: jlyons@klamathfalls.city

TOPIC: Ordinance Amending Klamath Falls Code Amending Sections 5.443, 5.446, 7.250 to 7.255 and Adding Sections 5.448 and 5.449 Regarding Medical Marijuana Facilities and Marijuana Offenses– first reading

SUMMARY AND BACKGROUND:

In 2014, when the City adopted the regulations requiring medical marijuana facilities to be located 1000 feet from certain locations where minors gather, it intended to include both medical marijuana processing and dispensaries. Since adoption of the City's regulations, Oregon House Bill 3400 amended the laws regarding medical marijuana and recreational marijuana. HB 3400 eliminated the definition of "medical marijuana facility," so staff recommends that by City Code, the City reinstate the intended definition and delete references to state law.

Further, HB 3400 appears to have eliminated the state law requirement that medical marijuana facilities must be 1000 feet from other medical marijuana facilities. Staff recommends adding this requirement into City Code.

In 2015, when the City Code relating to marijuana offense was adopted, the City wished to mirror state law. HB 3400 also changed some of the marijuana offenses. Here is a summary of the proposed changes to offenses in the City Code:

- Section 5.443 would expand the violation of purchasing marijuana by a person under 21 to acquire.
- Section 5.446 would expand the prohibition of homegrown marijuana in public view to include cannabinoid products or cannabinoid concentrates.
- Section 5.448 would add a violation for unlawful delivery of marijuana because it was previously a felony.
- Section 5.449 would add a violation for unlawful possession of marijuana. This was previously a felony.

FINANCIAL IMPACT:

None.

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COUNCIL OPTIONS:

1. Approve the proposed Ordinance.
2. Reject the proposed Ordinance.

DOCUMENTS ATTACHED:

- Proposed Amendments and Additions to Ordinance in Strikethrough
- Proposed Ordinance

RECOMMENDED MOTION/ACTION:

- Take public comment
- Move to introduce the Ordinance by title for first reading

NOTICE SENT TO:

N/A

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5.443 ATTEMPTED PURCHASE OF MARIJUANA BY PERSON UNDER 21; ENTRY OF LICENSED PREMISES BY PERSON UNDER 21.

- (1) A person under 21 years of age may not attempt to purchase, **purchase or acquire** a marijuana items.
- (2) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons **under 21 years of age** minors.

5.446 HOMEGROWN MARIJUANA IN PUBLIC VIEW PROHIBITED

No person may produce, process, keep, or store homegrown marijuana or homemade ~~marijuana~~ **cannabinoid products or cannabinoid concentrates** if the homegrown marijuana or homemade ~~marijuana~~ **cannabinoid products or cannabinoid concentrates** can be readily seen by normal unaided vision from a public place.

5.448 Unlawful Delivery of Marijuana

Unlawful delivery of marijuana is a:

- (1) **Class A violation, if the delivery is for no consideration and consists of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or**
- (2) **Violation, if the delivery is for no consideration and consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this paragraph is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.**

5.449 Unlawful Possession of Marijuana

- (1) **Except for licensees and licensee representatives 475.864, it is Class B violation for any person 21 years of age or older knowingly or intentionally to possess:**
 - (a) **two ounces of usable marijuana in a public place.**
 - (b) **16 ounces of usable marijuana.**
 - (c) **32 ounces of cannabinoid products in solid form or cannabinoid concentrates.**
 - (d) **148 ounces of cannabinoid products in liquid form.**
 - (e) **two ounces of cannabinoid extracts.**

Medical Marijuana Facilities

7.250 Locations of Medical Marijuana Facilities

- (1) A medical marijuana facility authorized by ORS 475.300 et seq., shall be located more than:
 - (a) 400 feet from any residential zone; and
 - (b) 1000 feet from of the real property comprising a public or private elementary, secondary or career school attended primarily by minors, public library, public park, recreation center or facility, licensed

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child care facility as defined by ORS 329A.250, public transit center or any game arcade where admission is not restricted persons aged 21 years or older.

(2) The distance shall be measured in a straight line from the closest edge of each property line.

(3) Medical marijuana facilities shall be at least 1000 feet from another medical marijuana facility.

7.252 Definitions

(1) "Medical marijuana facility" include dispensaries and medical marijuana processing facilities.

7.255 Marijuana-Infused Products

(1) A medical marijuana facility ~~authorized by ORS 475.300 et seq.~~ may not transfer any marijuana-infused product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant safety packaging.

(2) A medical marijuana facility ~~authorized by ORS 475.300 et seq.~~ may not transfer any marijuana-infused product that is manufactured or packaged in a manner that is attractive to minors.

7

ORDINANCE NO. 16- _____

ORDINANCE AMENDING KLAMATH FALLS CODE AMENDING SECTIONS 5.443, 5.446, 7.250 TO 7.255 AND ADDING SECTIONS 5.448 AND 5.449 REGARDING MEDICAL MARIJUANA FACILITIES AND MARIJUANA OFFENSES

WHEREAS, Oregon House Bill 3400 amended the laws regarding medical marijuana and recreational marijuana; and

WHEREAS, the City desires to update its marijuana offenses to correlate with state law; and

WHEREAS, the City desires to include medical marijuana processors in the definition of medical marijuana facilities; and

WHEREAS, the City desires to maintain the requirement that all medical marijuana facilities must be at least 1000 feet from another medical marijuana facility; and

THE CITY OF KLAMATH FALLS HEREBY ORDAINS AS FOLLOWS:

Section 1

Sections 5.443 and 5.446 of the Klamath Falls City Code shall be amended to read:

5.443 Attempted Purchase of Marijuana By Person Under 21; Entry of Licensed Premises by Person Under 21.

- (1) A person under 21 years of age may not attempt to purchase, purchase or acquire a marijuana item.
- (2) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

5.446 Homegrown Marijuana in Public View Prohibited

No person may produce, process, keep, or store homegrown marijuana or homemade cannabinoid products or cannabinoid concentrates if the homegrown marijuana or homemade cannabinoid products or cannabinoid concentrates can be readily seen by normal unaided vision from a public place.

Section 2

Sections 5.448 and 5.449 are added:

5.448 Unlawful Delivery of Marijuana

Unlawful delivery of marijuana is a:

- (1) Class A violation, if the delivery is for no consideration and consists of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or

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(2) Violation, if the delivery is for no consideration and consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this paragraph is a specific fine violation. The presumptive fine for a violation under this paragraph is \$650.

5.449 Unlawful Possession of Marijuana

(1) Except for licensees and licensee representatives 475.864, it is Class B violation for any person 21 years of age or older knowingly or intentionally to possess:

- (a) two ounces of usable marijuana in a public place.
- (b) 16 ounces of usable marijuana.
- (c) 32 ounces of cannabinoid products in solid form or cannabinoid concentrates.
- (d) 148 ounces of cannabinoid products in liquid form.
- (e) two ounces of cannabinoid extracts.

Section 2

Sections 7.250 to 7.255 of the Klamath Falls City Code shall be amended to read:

Medical Marijuana Facilities

7.250 Locations of Medical Marijuana Facilities

(1) A medical marijuana facility shall be located more than:

- (a) 400 feet from any residential zone; and
- (b) 1000 feet from of the real property comprising a public or private elementary, secondary or career school attended primarily by minors, public library, public park, recreation center or facility, licensed child care facility as defined by ORS 329A.250, public transit center or any game arcade where admission is not restricted persons aged 21 years or older.

(2) The distance shall be measured in a straight line from the closest edge of each property line.

(3) Medical marijuana facilities shall be at least 1000 feet from another medical marijuana facility.

7.252 Definitions

"Medical marijuana facility" include dispensaries and medical marijuana processing facilities.

7.255 Marijuana-Infused Products

(1) A medical marijuana facility may not transfer any marijuana-infused product that is meant to be swallowed or inhaled, unless the product is packaged in child-resistant safety packaging.

(2) A medical marijuana facility may not transfer any marijuana-infused product that is manufactured or packaged in a manner that is attractive to minors.

Passed by the Council of the City of Klamath Falls this _____ day of June , 2016.

Presented to the Mayor, approved and signed this ____ day of June, 2016.

Mayor

ATTEST:

City Recorder

STATE OF OREGON }
COUNTY OF KLAMATH }ss.
CITY OF KLAMATH FALLS }

I, _____, Recorder for the City of Klamath Falls, Oregon, do hereby verify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon at the meeting on the ____ day of June, 2016 and therefore approved and signed by the Mayor and attested by the City Recorder.

City Recorder

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