

6:00 p.m. Work Session – Police Dept. Wellness program
Work Session – Discussion of Medical Marijuana Regulations

**AGENDA FOR COUNCIL MEETING
KLAMATH FALLS CITY COUNCIL
JUNE 20, 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

PRESENTATION OF SERVICE AWARDS

Julie Hardt	Public Works/Water Division	25 years
John Bellon	Support Services/Parks Division	20 years
Ray Schoenemann	Public Works/Development Services	15 years

PUBLIC COMMENT

1. CONSENT AGENDA

- a. Approval of June 20, 2016 agenda and June 5, 2016 regular meeting minutes
- b. Authorization for City Insurance Coverage for Fiscal Year 2016-2017 from Various Insurance Carriers as proposed by the City’s Insurance Agent of Record, Great Basin Insurance
- c. Execute a 10 year Intergovernmental Traffic Signal Maintenance Agreement with Oregon Department of Transportation
- d. Authorization to Execute Amendment Number 01 to Local Agency Agreement No. 29197 Between the City of Klamath Falls and the Oregon Department of Transportation for the City’s Congestion Mitigation and Air Quality (CMAQ) Additional Paving Project

LAND USE PUBLIC HEARING - QUASI JUDICIAL

LAND USE PUBLIC HEARING – LEGISLATIVE

GENERAL PUBLIC HEARING

2. **RESOLUTION FOR THE RECEIPT OF THE 2016/2017 STATE REVENUE SHARING FUNDS**
 - a. Report of Support Services Director
 - b. Public Hearing
 - c. Move to introduce the Resolution by title
 - d. Move to approve the Resolution

3. **RESOLUTION ADOPTING THE 2016-2017 BUDGET OF THE CITY OF KLAMATH FALLS, OREGON, MAKING APPROPRIATIONS FOR FISCAL YEAR 2016-2017 AND LEVYING TAXES**
 - a. Report of Support Services Director
 - b. Public Hearing
 - c. Move to introduce the Resolution by title
 - d. Move to approve the Resolution

4. **RESOLUTION ADOPTING THE 2016-2017 BUDGET OF THE KLAMATH FALLS URBAN RENEWAL AGENCY, MAKING APPROPRIATIONS FOR FISCAL YEAR 2016-2017 AND LEVYING TAXES**
 - a. Report of Support Services Director
 - b. Public Hearing
 - c. Move to introduce the Resolution by title
 - d. Move to approve the Resolution

LEGISLATIVE ACTION

5. **RESOLUTION EXTENDING CITY OF KLAMATH FALLS WORKERS' COMPENSATION COVERAGE TO CERTAIN PUBLIC SAFETY VOLUNTEERS FROM JULY 1, 2016 THROUGH JUNE 30, 2017**
 - a. Report of Support Services Director
 - b. Move to introduce the Resolution by title
 - c. Move to approve the Resolution

6. **AUTHORIZATION TO EXECUTE A THREE-YEAR COLLECTIVE BARGAINING AGREEMENT WITH AFSCME LOCAL 2451**
 - a. Report of Support Services Director
 - b. Council move to approve the tentatively agreed contract with AFSCME Local 2451 as presented

7. **ORDINANCE ADDING SECTION 5.700 TO AUTHORIZE CITY TO PETITION COURT FOR RECEIVERS TO ADDRESS RESIDENTIAL BLIGHT – FIRST READING (continued from 6-6-2016 Council Meeting)**
 - a. Report of City Attorney
 - b. Take public comment
 - c. Move to introduce the Ordinance by title for first reading

8. **REQUEST TO PERMIT ALCOHOL SALES AND CONSUMPTION IN A “BEER GARDEN” IN VETERANS PARK IN CONJUNCTION WITH THE LAKE JAM OREGON EVENT**
 - a. Report of Planning Manager
 - b. Move to conditionally permit alcohol sales and consumption in a “beer garden” in Veteran’s Park for the Lake Jam Oregon Event

9. **AUTHORIZATION TO EXECUTE A CONTRACT WITH JESSE RODRIGUEZ CONSTRUCTION FOR THE PELICAN CITY BOOSTER STATION PHASE I (WATER LINE) PROJECT IN AN AMOUNT NOT-TO-EXCEED \$644,510.30**
 - a. Report of Associate Engineer
 - b. Move to authorize a Construction Services Contract with Jesse Rodriguez Construction for the Pelican City Booster Station Phase I (Water Line) Project in an amount not-to-exceed \$644,510.30

10. **FEDERAL AVIATION ADMINISTRATION (FAA) GRANT APPLICATION #3-41-0030-036 FOR AIRPORT IMPROVEMENT PROGRAM (AIP) (MODOC WETLAND MITIGATION)**
 - a. Report of Airport Director
 - b. Move to authorize staff to submit application #3-41-0030-036 to Federal Aviation Administration (FAA) for Airport Improvement Program (AIP) grant in the amount of \$226,193.18 and to accept funding when offered

11. **FEDERAL AVIATION ADMINISTRATION (FAA) GRANT APPLICATION #3-41-0030-037 FOR AIRPORT IMPROVEMENT PROGRAM (AIP) (TAXIWAY B CONSTRUCTION)**
 - a. Report of Airport Director
 - b. Move to authorize staff to submit application #3-41-0030-037 to Federal Aviation Administration (FAA) for Airport Improvement Program (AIP) grant in the amount of \$7,303,385.41 and to accept funding when offered

12. **AWARD OF BID TO ROCKY MOUNTAIN CONSTRUCTION, LLC. FOR TAXIWAY B CONSTRUCTION**
 - a. Report of Airport Director
 - b. Council move to award bid for Taxiway B Construction and authorize staff to execute contract with, Rocky Mountain Construction, LLC in the amount of \$7,777,777.77 with Notice to Proceed dependent on receiving FAA funding

13. ORDINANCE AMENDING THE KLAMATH FALLS URBAN AREA TRANSPORTATION SYSTEM PLAN BY ADDING THE KLAMATH FALLS URBAN TRAIL MASTER PLAN – SECOND AND FINAL READING

- a. Move to pass Ordinance by title for second and final reading
- b. Move to adopt the Ordinance

OTHER MATTERS

ADJOURNMENT to Executive Session – ORS 192.660(2) (e) Real Property Transactions

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

MINUTES
KLAMATH FALLS CITY COUNCIL
June 6, 2016

A regular meeting of the Klamath Falls City Council was held in the Council Chambers on the above date at 7:00 p.m. Mayor Todd Kellstrom called the meeting to order.

Council members present: Councilman Matt Dodson
Councilman Dan Tofell
Councilman Bud Hart
Councilman Bill Adams
Councilwoman Trish Seiler

City staff members present: Nathan Cherpeski, City Manager
Joanna Lyons-Antley, City Attorney
Dave Henslee, Police Chief
Mark Willrett, Public Works Director
Susan Kirby, Support Services
Director
John Barsalou, Airport Director
Erik Nobel, Planning Manager
Chuck Cox, Streets Manager
Kelly Brennan, Maintenance Manager
Joe Wall, Management Assistant to the
City Manager
Jadea Bacchetti, Utility Billing Manager
Toni Thompson, Human Resources
Analyst
Charles Anderson, Code Enforcement
Officer
Kristina Buckley, Assistant to the City
Recorder

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited

PUBLIC COMMENT

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

1. CONSENT AGENDA. Councilwoman Seiler moved to approve the Consent Agenda as follows: Approved the Consent Agenda for June 6, 2016; Approved the May 16, 2016 regular meeting minutes; Approved a Land Lease Agreement with Verizon Wireless for Placement of a Wireless Communication Tower on City-Owned Property; Authorized execution of a Contract with Henris Roofing & Supply for the South Portal Building Roof Repair Project in an amount not-to-exceed \$27,171.50; Authorized execution of a Fund Exchange Agreement No. 31279 with the State of Oregon for the 2015 Chip and Crack Seal Project.

Councilman Dodson moved to remove item 1e from the Consent Agenda for further discussion. Councilman Adams seconded. The motion carried unanimously with all Council members present voting aye.

Councilman Tofell seconded Councilwoman Seiler's motion. The motion carried unanimously with all Council members present voting aye.

1e. Award of a Contract to Ricoh USA, Inc. in the Total Amount of \$87,295.80 for City-wide Five Year Copier Lease. City Manager Nathan Cherpeski explained staff sent out an informal Request for Proposals and included in that request was a breakdown of costs by machine for the term and staff received the proposals, Canon had not included that breakdown and to date had not provided that breakdown. Ricoh's presentation was also easier to read. The per copy cost for Ricoh was about \$.04 per copy and Canon's original proposal read \$.07 per copy but an email later reflected varied pricing, which was not part of the original proposal sent to staff. The color copy costs for Ricoh was at \$04.5 cents per copy and Canon's proposal was \$06.5 cents per copy. Staff provided some numbers but they were average uses for a one month "snapshot" for purposes of gathering other information and to size the machines. It was projected if the City only used those numbers it would be a "push" with the proposals and since Canon did not follow the rules of what the City asked them and everyone else to do, staff chose to go with Ricoh. Councilman Hart asked if the recommendation was to approve as presented. Mr. Cherpeski responded

yes. Councilman Adams stated that in looking at what was presented it was easy to see what Ricoh's costs were and not as obvious with Canon.

Councilman Dodson moved to award a Contract to Ricoh USA, Inc. in the total amount of \$87,295.80 for City-wide five year Copier Lease. 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

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

Management Assistant Joe Wall reviewed his written report and introduced Nick Foster of Kittelson & Associates to review his PowerPoint presentation, attached. Councilman Hart asked who was on the Technical Advisory Committee. Mr. Foster responded City staff, County staff and Oregon Department of Transportation (ODOT) staff.

Councilman Adams referenced the Oregon Avenue/Nevada/9th Street, etc. projects and stated they were all separate projects and had to go through individual processes for implementation. He further explained he had no problem with the rest of the plan except the restricted bike lanes. Mr. Foster stated it was a placeholder project for Lakeshore Avenue, 9th Street, Oregon Avenue, etc. They all had to be determined as projects that would have to come back before Council before anything could be implemented.

Councilwoman Seiler stated she had received a phone call and the caller had asked why there could not be some sort of compromise because people could not simply park on the other side of the street. She addressed concerns about persons with disabilities who needed access to their homes. The housing on Oregon Avenue to Biehn Street over to 9th Street was older housing and she wondered what the demographics were of people who lived in that stretch and how many of them had a disability that required parking close to their front door or back door; some kind of safe entry for them so they could also participate in activities. She had not seen in the

plan where ADA was taken into consideration except for the Lake Ewauna Trail for access for people with disabilities. She asked for further explanation as to why people with disabilities were not included. Mr. Foster responded any projects to be built would have and were required to have ADA access of multiple means and would be included in any project within the plan amendment. Councilwoman Seiler noted if the proposed Master Plan was more inclusive it would be much easier for her to support specific projects down the road.

Councilman Tofell stated the discussion was toward overall Master Plan approval and not about any specific projects. Mr. Foster concurred.

Councilman Hart stated he was generally supportive of the overall Master Plan but had received an email from the Assistant to the City Manager that he did not know when or if any of the projects would ever be accomplished and that some of the people he had talked to had no idea the plan was anything other than the Oregon Avenue project. When he read through the document he had some questions and noted the document was a Master Plan, not an Oregon Avenue Plan. It was a master plan for throughout the Urban Growth Boundary (UGB). He referenced page 75 of the proposed plan and the total cost to implement all of the projects in the plan is over \$17 million but it also stated the City did not know where the money was going to come from. He noted he had not found any place in the plan where future maintenance costs would be for future projects; however, on page 74 of the plan the estimated annual maintenance for existing trails without adding any trails or sidewalks, new facilities, etc. was between \$10,000 and \$89,000 a year. Page 76 indicated the annual resources for bike and pedestrian was \$45,000 for the County and \$12,000 for the City so the amount of revenue the City had dedicated to existing trails and sidewalks and bicycle facilities did not cover the estimated costs just the existing facilities. He asked what would happen with new facilities. Councilman Hart further referenced page 78 of the plan, which indicated the City could use additional local taxes and perhaps even user fees. It had been suggested options for several funding ideas such as expanded franchise fees, expanded cigarette tax, lottery tax, etc. The Governor, from 2012, indicated with regard to bicycle user fees generally, based on previous efforts, the amount collected had not covered administrative costs so it did not seem like a very good plan. Mr. Foster rebutted \$14 million was in the low priority section of the plan so only approximately \$2 million was in the high priority portion. Councilman Hart asked about revenue sources for

the \$14 million. Mr. Foster responded some was in grant dollars. Some was money that was already being spent "today."

Mayor Kellstrom opened the public hearing.

The following individuals provided statements in support of the proposed Amendment to the Klamath Falls Urban Area Transportation System Plan:

Jim Chadderdon read his statement into the record, attached.

Mark Clark read his statement into the record, attached.

Dr. John Ritter, a Professor at Oregon Tech who taught GIS in the Geomath Department and is the Director of the GIS Center at Oregon Tech shared results of a presentation that was approved to present at a convention where over 16,000 people would be able to hear about cycling in Klamath Falls. They received over 60,000 records of people dealing with different diseases and the objective of the study was to map where the instances were occurring in Klamath Falls and try to make a statistical analysis amongst demographics and disease categories. They plotted on a map then aggregated the data into census block groups to make sense of both that data and demographic data as well. In the grouping analysis, the data for heart disease, diabetes and obesity were grouped into areas and what was interesting was the green area shown on the map went into the extended downtown area and that was an area that was statistically higher in obesity and diabetes than anywhere else and was where protected bike lanes would be placed. He noted the age distribution in that area happened to be on the lower side; in the 30's and 40's. On a census block level it was one of the younger parts of town.

Anya Kawka referenced joining an online group of mothers who walked with children in strollers who felt the need for safety and connectivity on existing trails. Councilman Hart noted since he started working at Klamath Community College (KCC) he started walking the OC&E Trail four days a week and he could count the number of mothers with strollers on the OC&E Trail that exceeded the number of people with bikes. He noted walkers exceeded the number of people with strollers.

Michael Kawka reviewed his written material with regard to protected bike lanes, attached.

Nicholas Maurer who referenced the need for protected bike lanes as he rode his bike to/from home, school and work.

Joseph Maurer who referenced the need for protected bike lanes for bicycle safety.

Paul Arnold who referenced the need for protected bike lanes, the need for ADA enhanced crossings and sidewalks and improved trails for easier access.

Adam Burwell who expressed the need for support of a bike friendly County to encourage economic development and OIT graduate retention.

Katharine Pope read her statement into the record, attached.

Justin Rodriguez read his statement into the record, attached.

Jennifer Little stated she was on the citizen advisory council for creation of the master plan and urged pursuit of projects proposed in the plan.

Kendall Bell read her statement into the record, attached.

Dr. Stephanie Van Dyke read her statement into the record, attached.

Mike Moore read his statement into the record, attached.

Cherie Swenson read her statement into the record, attached.

Lillian Schiavo who referenced unsafe intersections in addition to the projects proposed in the plan.

Dr. Jim Novak who referenced his wife's involvement on the County's Trails and Bicycles Committee, which had recently dissolved; however, one of the plans of that committee was to connect to the downtown.

City Manager Nathan Cherpeski read Pacific Power Regional Business Manager Todd Andres' statement into the record, attached.

Christen Kogel, an Assistant Professor of Health Psychology at Oregon Tech referenced work with Blue Zones members regarding attitudes of

participants thus far. She reviewed the statistics as follows:

Out of 250 participants:

- 69% of people have bikes in Klamath Falls. She noted many reasons people cited they rode bikes included things such as they did not own a car.
- 17% of people surveyed said it was convenient for them to use their bikes or walking.
- 37% said they do not use their bikes because there were no trails or bike lanes in their neighborhoods.
- 12% said they were afraid because of the potential to run into strangers.
- 30% referenced inconsiderate drivers.
- 13% said they felt completely unsafe walking or riding with major concerns in neighborhoods such as the streets not being well lit and a lack of safe pedestrian crossings on streets and trails.
- 47% of people felt bikes were not welcome in Klamath Falls.
- 87% of people in the survey said they wished there were more bike lanes in town.

David Scott noted he was also on a citizen advisory committee to make bike riding attractive to non-riders.

Cort Cox who referenced the need for people to take care of the people "around us" by supporting the plan for those who will inherit Klamath Falls.

Jeff Quinn who is a member of the Adventure Cycling Association referenced the need to improve the visibility of the community as a bike-friendly County.

Brian Irwin referenced the need to acknowledge and accept change in our community.

The following individuals submitted Public Input forms referencing their support of the adoption of the Klamath Falls Area Transportation System Plan but did not want to speak:

- Klamath County Commissioner Kelley Minty Morris
- Alison Andrews

- Rachel Spoon of the Klamath County Chamber of Commerce
- Courtney Vanbragt
- Gaylyn Maurer
- Eric Rose
- Julia Jackman
- Jan Goodyear
- Kari Gildersleeve

Councilwoman Seiler **moved to close the public hearing.** Councilman Adams seconded. The motion carried unanimously with all Council members present voting aye.

Councilwoman Seiler told a personal story of how she overcame physical adversity to learn to ride a bicycle and how approval of the plan would enliven the community in ways that had not been considered yet. She noted she was in favor of the item.

Councilman Dodson stated he assumed most everyone was aware he was in support of the item as he had been active in advocating for it. He referenced the number of people present to support the item and noted how few people generally attended public meetings.

Councilman Hart referenced a statement made earlier about not letting the projects in the plan “sit on a shelf” and he agreed with that but noted it would take people helping rather than presenting it to Council to approve and leaving it up to Administration to pursue. There had to be continued support from the public because there were many other cities in competition for grants. The 2012 report to the Governor indicated an identified need statewide for about \$550 million for projects and Council and staff could not do it alone.

Councilman Adams stated there needed to be a plan for something other than motor vehicles; however, he remained “pretty much” opposed to restricted bike lanes but he would vote in favor of the plan amendment.

Councilman Tofell **moved to approve the findings of the Planning Commission.** Councilwoman Seiler seconded. The motion carried unanimously with all Council members present voting aye.

Councilman Tofell **moved to introduce the Ordinance by title for first reading.** Councilwoman Seiler seconded. The motion carried unanimously with all Council members present voting aye. City Manager Nathan Cherpeski read the Ordinance by title only.

Councilman Hart **moved for a 10 minute recess.** Councilwoman Seiler seconded. A recess was taken at 8:50 p.m. The meeting reconvened at 9:00 p.m.

GENERAL PUBLIC HEARING

There were no general public hearing matters.

LEGISLATIVE ACTION

3. REQUEST TO WAIVE SYSTEM DEVELOPMENT CHARGE (SDC) AND METER FEES FOR THE GOSPEL MISSION. Public Works Director Mark Willrett reviewed his written report. Councilman Dodson asked if the City had waived SDCs in the past and if so, when. Mr. Willrett responded he had found two instances; one was for the Air National Guard (ANG) and one was for SkyLakes but both were for redundancy, not for additional capacity. In terms of waiving for a new hookup or new system he could not find any history of that being done before.

Councilman Hart stated he would not be opposed to allowing the one or two audience members remaining in attendance to speak on the matter.

Alan Eberlein. Mr. Eberlein spoke in support of waiving the SDCs as it would aid in getting the existing Mission out of the downtown area and put it in a location near other social services providers would be located. He noted they were not asking Council to set a precedent but to make an investment in a multi-million dollar project. Councilman Adams stated he was not necessarily opposed to waiving the SDCs; however, he asked if they planned to ask the County Commissioners to waive any fees. Mr. Eberlein responded they would request the Commissioners to waive several things; more than what they had requested of the City.

Mark Wendt. Mr. Wendt stated the Gospel Mission was already on the system for both water and sewer. The use would not change much but would be transferred to another location. Their goal was to fundraise and

tear the building down but could not do that until they moved.

Bob Kingzett. Mr. Kingzett stated he had been in Klamath Falls 37 years but had never seen a project anywhere near the proposed in terms of community action. There were several hundred people working on the project. He asked Council to join the 700 donors to the project and noted the biggest donations for the \$2.35 million project included \$350,000 from the Modoc Trust and a \$250,000 award from the Wendt Family Foundation. He noted they also had a \$250,000 request in with the Ford Family Foundation and \$100,000 with the Anabel Swindell Trust so they were working all avenues to get in-kind contributions.

Councilman Tofell referenced the sobering station and how the Klamath Falls Police Department would save money in manpower alone in getting them to a designated sobering station area.

Councilwoman Seiler referenced her past years of work in trying to assist the Gospel Mission with a strategic plan and how after 18 months she had to give up and moved onto another project, the BestCare Treatment Project, which fell through when a community development coffer closed. She continued that the needs had not gone away; rather had grown. She was very much in favor of the item.

Councilman Adams stated he thought the City had actually committed to helping with a sobering station from the budget in the past so it seemed like a good idea.

Councilman Dodson expressed appreciation for the individuals who came forward to ask for help. He hoped the project succeeded and accomplished even half of what they wanted; however, the Gospel Mission was not the only building that would be proposed on that property. The only times the City had waived SDCs in the past was because they did not add to the load on the system. The request was for a new user and for more facilities. He further stated every place he went and built, he paid the SDC fees and it should be factored into the budget. He was not in support of waiving the SDC fees but supported the development.

Councilman Hart stated they were relocating from downtown, which the City had been encouraging them to do for a long time.

Councilwoman Seiler **moved to waive SDC charges of \$53,240 in its entirety for the Gospel Mission and Klamath Works Project.** Councilman Adams seconded. The motion carried with Councilman Tofell, Councilman Hart, Councilman Adams, and Councilwoman Seiler voting aye. Councilman Dodson voted no.

4. AUTHORIZATION TO ENTER INTO LOCAL AGENCY AGREEMENT NO. 30859 WITH THE OREGON DEPARTMENT OF TRANSPORTATION FOR THE BRETT WAY EXTENSION PROJECT.

Public Works Director Mark Willrett reviewed his written report. Councilman Adams stated the plan showed the City was obligated to work on one railroad crossing and the County the other one yet it seemed to make sense for one entity to take care of the railroad crossing. Mr. Willrett explained it was an attempt to “spread the work around” but Summers Lane was a County roadway and the other roadway would end up being in City jurisdiction but it was something the City and County would work on together. Councilman Adams asked what the costs for water and sewer improvements would be. Mr. Willrett responded he had not brought those numbers with him but approximated the costs between \$600,000 and \$700,000 for sewer with water being slightly less than that amount.

Councilman Dodson asked when it would be ready to be driven on. Mr. Willrett responded construction time was approximately two years out still.

Councilwoman Seiler **moved to authorize the Mayor to sign on behalf of the City of Klamath Falls the Multimodal Transportation Enhance Program Agreement for Brett Way Extension.** Councilman Dodson seconded. The motion carried unanimously with all Council members present voting aye.

5. APPROVAL OF PROPOSAL TO UPGRADE CONTROL SYSTEMS FOR THE SPRING STREET SEWAGE TREATMENT PLANT AND WASTEWATER LIFT STATIONS. Maintenance Manager Kelly Brennan reviewed his written report. Councilman Tofell stated he did not have a problem with doing the project but was concerned about Rockwell

performing the assessment then purchasing the software from Rockwell. Mr. Brennan responded they were the “only player in town.” Councilman Dodson asked why it would not be done in conjunction with the sewer plant upgrade. Mr. Brennan responded it was something the former Wastewater Manager was working on and had the money to spend towards it before the end of the fiscal year. City Manager Nathan Cherpeski stated the system would integrate and the design team would know it was the City’s system and work around it.

Councilman Adams **moved 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 recommended improvements.** Councilwoman Seiler seconded. The motion carried unanimously with all Council members present voting aye.

6. ORDINANCE ADDING SECTION 5.700 TO AUTHORIZE CITY TO PETITION COURT FOR RECEIVERS TO ADDRESS RESIDENTIAL BLIGHT - FIRST READING. City Manager Nathan Cherpeski explained Staff would like to continue the item to the June 20, 2016 Council meeting as it was not an urgent matter and to save on time at during the current meeting.

Without opening public comment it was the consensus of Council members present to allow audience members present to address the Agenda Item.

Mark Wendt. Mr. Wendt spoke in support of the item but noted he had heard or seen anything about the item as of yet.

Don Dunbeck. Mr. Dunbeck expressed his dissatisfaction with City services and his perception that the City has contributed to the blight in his neighborhood of North 9th Street.

Councilman Hart **moved to continue the item to the June 20, 2016 Council meeting.** Councilman Tofell seconded. The motion carried unanimously with all Council members present voting aye.

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. City Attorney Joanna Lyons-Antley reviewed her written report and referenced modifications made prior to the meeting and distributed, attached. Councilman Hart asked if the request was to modify the Ordinance to only include changes to 5.443 and 5.446 and not the other. Ms. Lyons-Antley responded that was correct and noted staff had also changed 5.449 but not to add 5.448. To delete 5.448 from the proposed Ordinance. Ms. Lyons-Antley stated that if Council was agreeable she could come back with the Ordinance "cleaned up."

Councilwoman Seiler stated she was not comfortable approving the Ordinance as she had just received the changes and had heard from people who would like to get with the City Manager and City Attorney to discuss changes the state had made and how they affect legally what the City could do. She preferred to table the item until that discussion took place.

Councilman Hart supported Councilwoman Seiler's statement and noted he too would be in favor of not acting on it at this time; rather to wait for people to get together with the City Attorney and City Manager first because laws had changed and because Council's desire was to regulate the industry correctly.

Mayor Kellstrom called on Erin Leach who had turned in a Public Input form to speak but waived the opportunity to speak.

Ed Medina. Mr. Medina stated he was the owner of A Better Way facility. He stated he hated that they had to be before Council again. The state had made dramatic changes and the last time that he spoke was about recreational exclusively and Measure 91 was not supposed to affect medical in any way, shape, or form but it had. There were major changes. The proposal that was in front of Council, he was not sure what statutes were used but not the most recent. He was not sure it was in the community's best interest to try to combine two businesses when they were two separate things and it was completely not allowed. In the state statute it was clear the cities and municipalities could not rewrite state law. There was a pre-emptive section that had been missed and it was not legal to change the definition with edibles sold. The section being crossed out of the Ordinance had to do with being legal to deliver an ounce of cannabis to

anyone over the age of 21 and he was not sure where that came from. He continued that just about every piece that was in the Ordinance was not right and that he had the most current state statutes with him that were 180 degrees different than what was proposed. There were two separate programs with two separate sets of statutes dealing with each and what was done with the Ordinance was trying to combine them and the City could not do that. It was illegal. He held up a printed copy of the rules for just medical dispensaries that he had been studying for three years and still had problems understanding some of it. The problem was the state gave the option to opt out but did not give the right to rewrite the law. The City could opt out of recreational and medical programs and he had zero problems in the City related to his dispensary. The one edible that was a problem in the County was from California. It was packaged completely different than was required in Oregon. The issue was, that was going to happen no matter what. It would continue to come from California, from White City, etc. because current law allowed persons over the age of 21 to buy edibles, extracts and concentrates. It was imperative to discuss the laws with people who understood them, which were people that worked in the City. The Ordinance would lead the City to a lawsuit. Anyone over the age of 21 could grow cannabis, possess it and give it away. The Ordinance that was proposed stated that was illegal and it was not. It was perfectly legal. He strongly recommended everyone sit down and have a discussion. He noted he had made that suggestion four times and it was ignored completely.

Ms. Lyons-Antley referenced the recently distributed document and noted the items in red were something she pulled from Westlaw, which was up to date as of 4 o'clock prior to the meeting, which were in her notations.

Brandon Neff. Mr. Neff stated he was a medical marijuana patient, grower, and hopefully soon a legal licensed processor. He and Mr. Medina had been very active in researching the laws as they came out. He referenced the Ordinance and 5.443, "An attempt to purchase marijuana item by person under 21; entry of licensed premises by person under 21; penalties; exceptions" was illegal but in Klamath Falls and Klamath County it was banned fully for recreational. In the state of Oregon the only thing they were allowed to do was gift. He continued that in his time as a medical marijuana grower and patient he had gotten to process for many patients, make an oil extract, and the Ordinance as written should define marijuana facilities and processing sites. He did not see that as a conflict of interest

but with a thousand foot distance limit, it made no sense. Many marijuana rules written had advisory committees and he and Mr. Medina would be happy to sit down and go through the laws. He provided additional information, attached with regard to Colorado and their marijuana industry.

Matt Parks, Attorney. Mr. Parks stated he was responsible for an application submitted for a medical marijuana medical processing site on Broad and Oak Street. He concurred that the people working with the dispensaries knew more than lawyers was very true. He went to the City Planning Department to talk to them about a Business License but was told it was not acceptable and not lawful to have a processing facility. He had to go back and explain that the Ordinance did not apply to a processing facility then they explained it was a site plan/design review because it was a medical facility. He noted the employees did not know what was going on and were prohibiting hard working people from getting licenses. He further noted his client submitted the application and now it turned out to be a change and he did not care if the language in the proposed Ordinance came off of Westlaw or not because it was incorrect.

City Manager Nathan Cherpeski stated there were two sections to the Ordinance; one Council authorized that has opened up significantly more locations throughout the community. The other part was done after the fact about where a medical marijuana facility could be. It was not other regulations put into Municipal Code but staff operated off the direction of Council, which was to allow medical marijuana under very strict rules; the rules the state had changed. He noted Council could certainly continue the item but he would direct staff to break the Ordinance apart because it was really two different things being dealt with.

Councilman Adams noted someone was applying under the rules the City had now and it was probably unreasonable to some degree to change now. Mayor Kellstrom stated if the City was not doing things legally, there was a need to be certain. Councilman Hart stated he preferred the attorneys could get together on the application because what he was hearing was it was an interpretation from a staff member who did not understand the law as written and was not the City Attorney who said it was not allowed but was a Planning Staff member who did not understand so staff should proceed with the application if it was permitted under the existing Ordinance and might not be permitted under the future changes. Mr.

Cherpeski stated when the applicant came in, Council's original intent made the application impossible where he wanted to go. The City included medical marijuana processing originally. When the state changed, it opened processing up, so the Planning Manager operated under the intent Council adopted. The state had since changed the rules and staff was trying to put the rules back into at least Section 7.250 Council adopted when they authorized medical marijuana. In defense of the Planning Manager, that is what he was doing but that had changed because medical marijuana facilities did not include processing and when Council approved it they were together. He reiterated he felt the need to defend what Mr. Nobel, the Planning Manager was trying to do in defending what Council approved in 2014.

Councilman Hart stated he could not remember that far back what his intent was. It was not like the constitution where the Supreme Court decided what the framework was when establishing that. He did not think Council distinguished nor should Council decide at the current meeting on what the rules should be. Mayor Kellstrom asked the City Attorney if it would be appropriate to pass her graph out to a few select people for review and critique it from a legal standpoint. Ms. Lyons-Antley responded absolutely, that could certainly be done. She noted the City Manager was correct in that it was a mistake to include the two items in one Ordinance and certainly staff could bring it back.

Councilman Tofell stated he was not going to change his mind between the difference in process and dispensary because it would fall under the same rules of where they were located.

Jack Albers. Mr. Albers stated Matt Parks was his attorney and he could say the reason he started the business was to bring safety and accountability and knowledge to the members of the community.

Councilman Tofell **moved to continue the item indefinitely.** Councilwoman Seiler seconded. The motion carried unanimously with all Council members present voting aye.

OTHER MATTERS

Possible Urban Renewal District. Councilman Adams referenced a letter from KCEDA that made it appear the City was still looking at a new Urban

Renewal District inside the City. He stated he was to the point that he almost wished the City had not purchased the Balsiger property because the City was going to be forced to put an Urban Renewal into place in order to pay for the work that needed to be done. He was not happy with what staff had done and he felt it was done behind Council's backs and that it was not explained to Council. Councilman Hart stated he shared some of those opinions. He was startled to hear what he thought was for the first time that the Balsiger project with Tokola was dependent on formation of an Urban Renewal District. He thought when Tokola first came they were going to develop the property and there would be participation from the City. He did not understand that project was to be the lynchpin of a new Urban Renewal District. He had gotten excited when the possible Urban Renewal District was going to be in industrial area then the Balsiger was to be tied into the industrial area and housing was not an industrial use, etc. so he was also disappointed in the way things had transpired.

ADJOURNMENT

Councilman Adams moved to adjourn the meeting to Executive Session - ORS 192.660(2)(d) Labor Negotiations and 192.660(2)(h) Consultation with Counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. Councilwoman Seiler seconded. The motion carried unanimously with all Council members present voting aye. The meeting was adjourned to Executive Session at 10:25 p.m.

Kristina Buckley
Assistant to the City Recorder

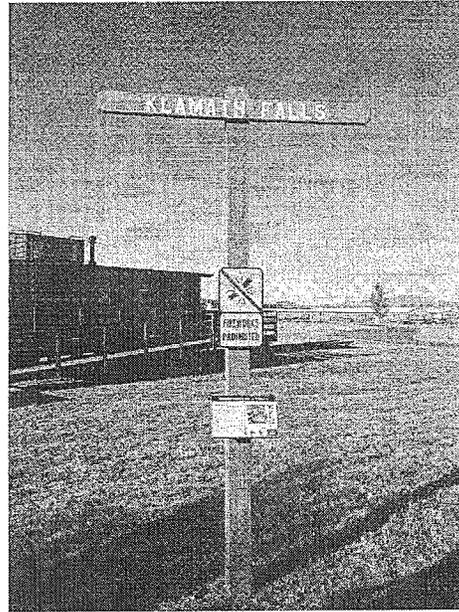
ATTACHMENTS

Agenda Item 2 – Klamath Falls Urban Trails Master Plan Amendment
Testimony & Supporting Documents

**Klamath Falls
Urban Trail
Master Plan**

City Council Hearing

June 6, 2016





- Project Background
- Project Process
- Draft Plan





➤ Joint effort

- City, County, and ODOT

➤ Builds off Urban Area TSP

- Adopted by Klamath County

➤ Transportation focused

- Trails
- Crossings
- On-street connections



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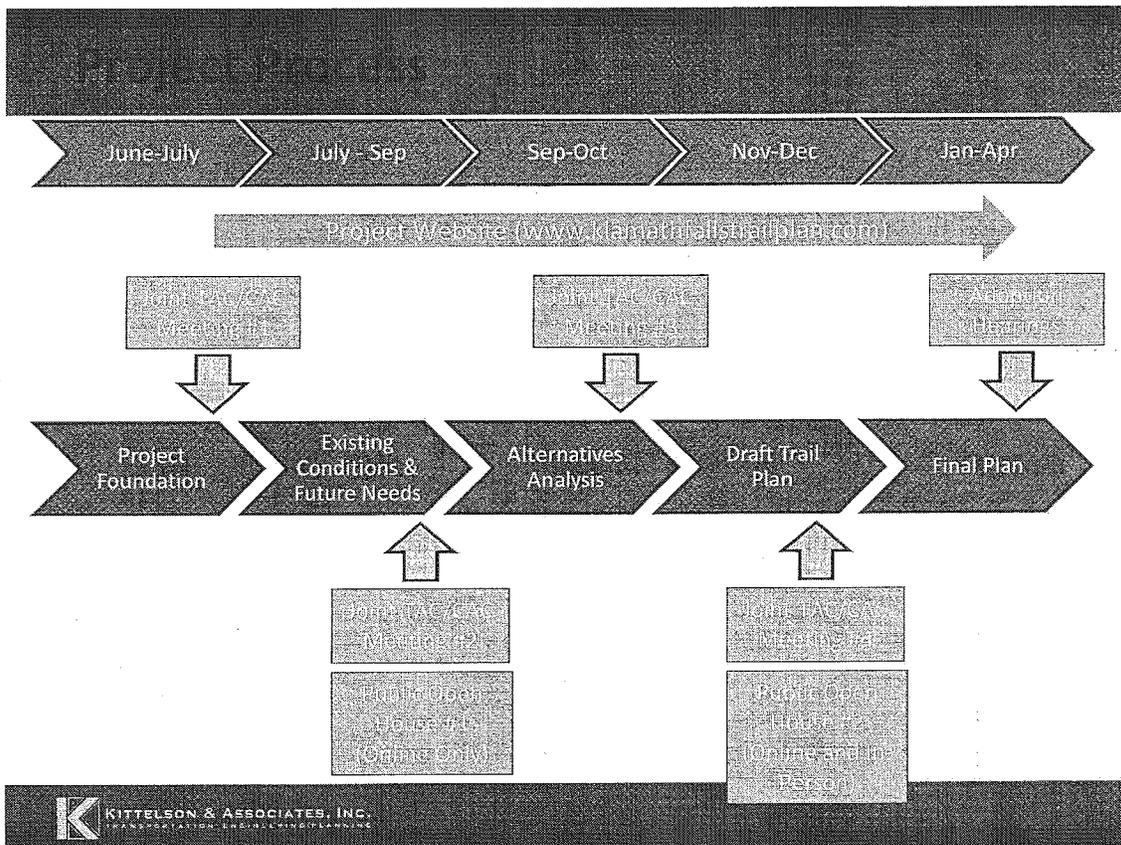
➤ Well-connected trail system

- New connections
- Safer crossings
- Increased awareness

➤ Envisioned outcomes

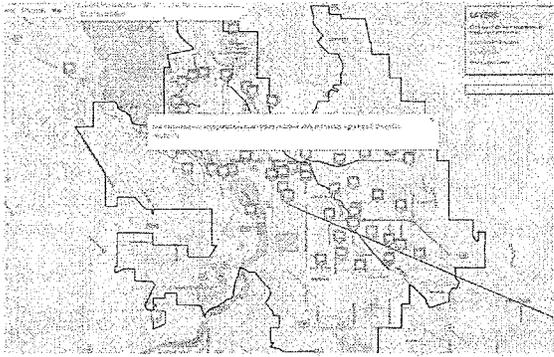
- Healthier Klamath Falls
- Economic opportunities
- Improved access to popular destinations
- Better walking, biking, and running options





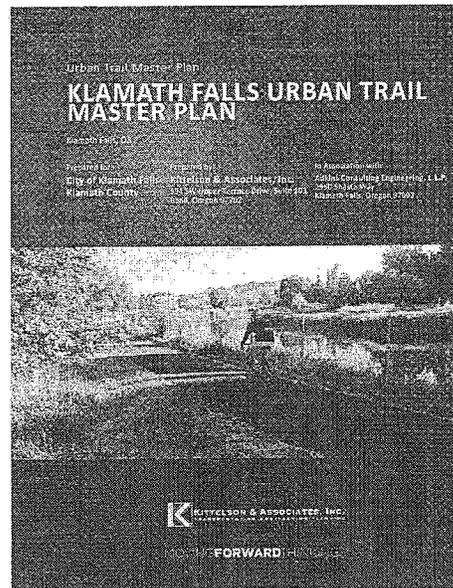
COMMUNITY ENGAGEMENT

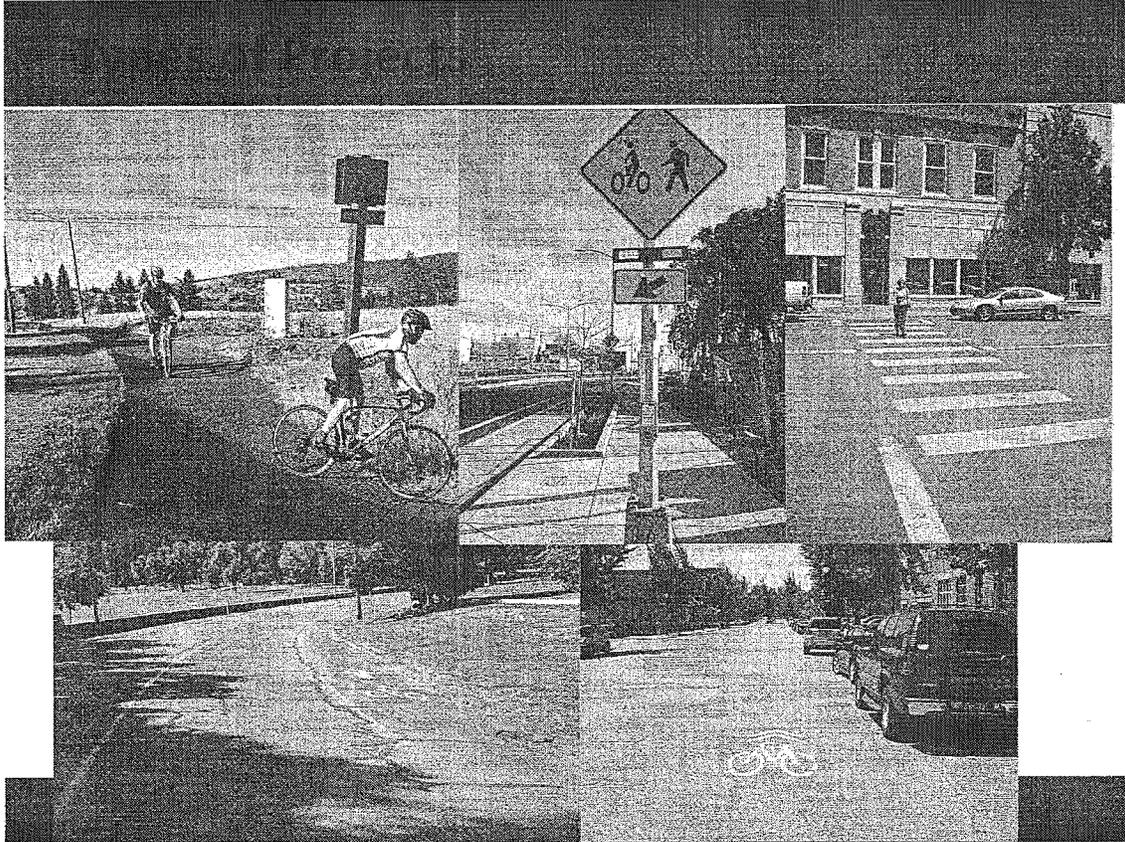
- Citizen Advisory Committee
- Two Open Houses
 - Open House #1 – 80 Comments
 - Open House #2 – 100+ Comments

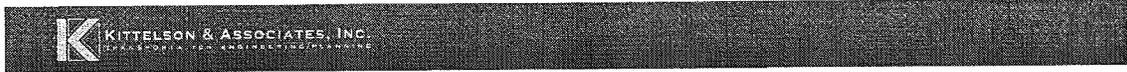
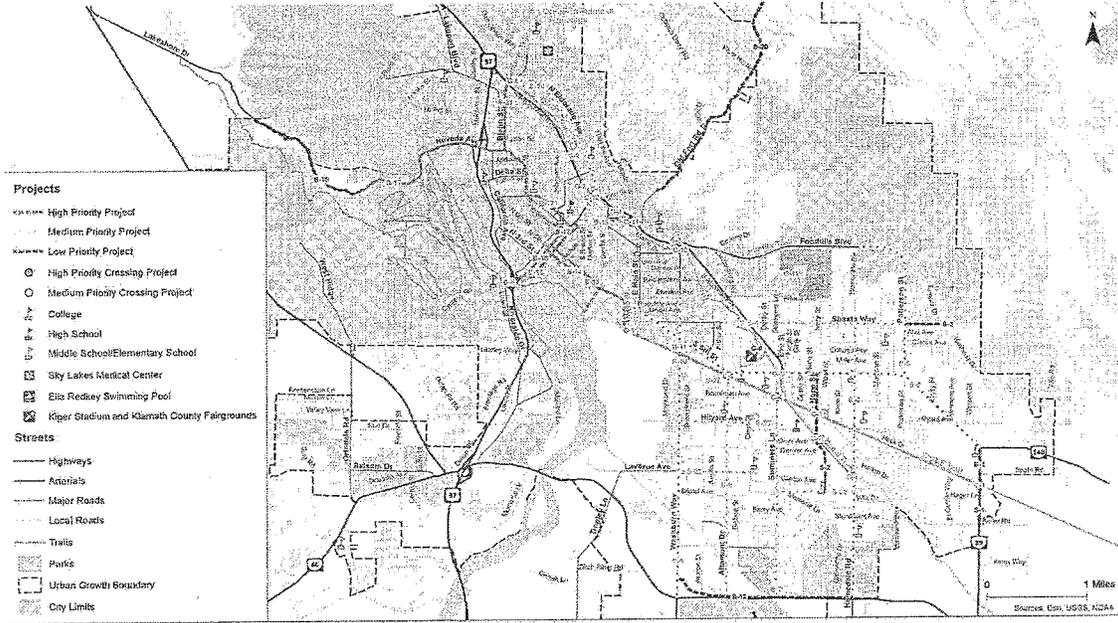
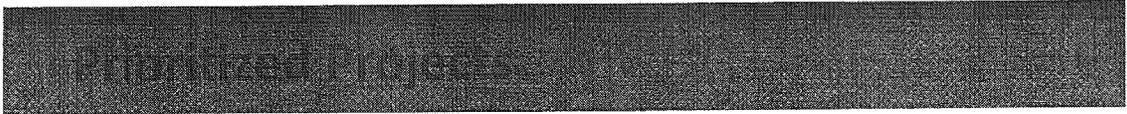


PLAN NUMBER

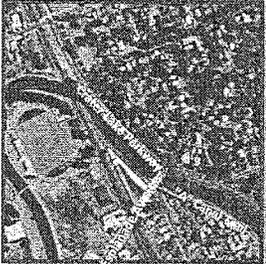
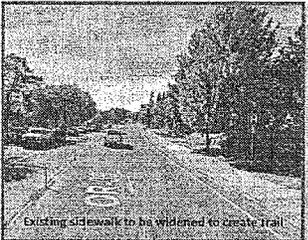
- Executive Summary
- Introduction
- Urban Trail Master Plan
- Implementation Plan
- Appendices









ID: G-2		CONNECTING THE "A" CANAL TRAIL TO THE ODOT TRAIL	
Description: Connect "A" Canal Trail to the ODOT Trail using Crater Lake Parkway by widening the sidewalks on the east side of Esplanade Avenue and north side of Crater Lake Parkway to provide for a shared-use path.			
Purpose: To provide a complete connection between these two trails.			
Category: Trail		Grouping: Esplanade Avenue Crossing	Priority: High 
Cost: \$166,500	Potential Funding Sources: Land and Water Conservation Fund; STIP; Local Sources		
Potential Project Partners: ODOT, City of Klamath Falls			
Considerations: Requires crossing Crater Lake Highway. The Esplanade Avenue bridge may need to be examined further before additional concrete is added.			
Project Location/Images:			
			
		<small>Existing sidewalk to be widened to create trail Photo Source: Google Maps</small>	



NEW STEPS

➤ Adoption

- TSP Amendment
- Klamath County Adopted April 2016

➤ Implementation

- TBD by local priorities and funding
- Additional design/analysis for certain projects



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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 on April 26, 2016. 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

RECEIVED JUN 06 2016

May 23, 2016

KLAMATH FALLS CITY PLANNING COMMISSION MEETING

June 6, 2016

KLAMATH FALLS CITY COUNCIL MEETING

PUBLIC TESTIMONY IN SUPPORT OF: THE KLAMATH FALLS URBAN TRAILS MASTER PLAN

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.

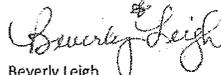
The primary components of the 88-page Plan are critical to creating a future that values a healthy & safe community, with transportation options for walking and biking – and hiking and rolling – as a key component to a rich quality of life and an economically vibrant community. These kinds of well-researched 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 playing and being outdoors, and they 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!

During the next school year, through a partnership with Klamath County School District, Safe Routes to Schools and Cycle Oregon, we will have 70 bikes, 2 bike trailers and a Bike Skills Instructor ready to teach all County fifth graders how to safely ride a bike. They will be building a lifelong transportation options habit and they, in turn, will teach their own kids to ride. We need the infrastructure improvements outlined in the Plan to connect our existing foundational paths and safely accommodate the ever-increasing number of bicyclists, joggers and pedestrians in Klamath County.

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.



Beverly Leigh
936 Hanks Street
Klamath Falls, OR 97601
541.891.6575

Dear City Council Members,

Please accept my written testimony
(see reverse) in support of the Klamath Falls
Urban Trails Master Plan as I'm out
of town on June 6, 2016.

Best regards,

Beverly Leigh

Statement for the Klamath Falls City Council – regarding the KLAMATH FALLS URBAN TRAIL MASTER PLAN

Hello. My name is Jim Chadderdon. I am Director of Klamath County's official tourism agency, Discover Klamath.

I am here to speak in favor of adopting the Klamath Falls Urban Trail Master Plan into the City's Transportation Systems Plan.

There is one reason why this plan should be both adopted and funded: *Economic Development*.

Bicycling and the bicycle industry are iconic in Oregon, representing a unique aspect of the state's identity and economy. To put this in perspective, cycling can be thought of as a web of interconnected pieces consisting of:

- Manufacturing: Bicycles, components, tools, painting, clothing, accessories
- Wholesale/Distribution: Including importing
- Retail/Service: Sales, repair; includes specialized shops as well as retailers that sell bicycles in addition to other items
- Tour operations: Paid group rides, travel or tours that include bicycle events
- Event promotions, event services: Bicycle races, shows, other short-term activities or events
- Industry representation: Bicycle oriented lobbying, public relations, marketing, member services

Looking at the numbers:

- 1) The Cycling Economy in Oregon is currently \$1.0 Billion dollars (Dean Runyon Research – 2014). Of this, \$500MM is inbound cycling tourism and \$500MM is domestic manufacturing and distribution, followed by retail service. In English, this means jobs.
- 2) In 2013, 2645 jobs were supported by the cycling economy
- 3) Earnings by cycling focused businesses topped \$83.3MM in 2012.
- 4) And, these figures are growing at a healthy rate.
- 5) Southern Oregon's share of this is 10% or \$100MM
- 6) Klamath's share is 15% or \$15MM of the southern Oregon cycling economy.

Klamath deserves more than a 1.5% share of Oregon's large and growing cycling economy. Cycling is an area where Klamath can – and should – differentiate itself. Why? Because we have.....

- Better Weather
- Nicer views / scenic quality
- Less congested roads
- Variety of terrain for Road, Mountain, and Gravel riders.

Klamath is becoming more bike friendly all the time. Here are a few of the many initiatives towards this goal:

- Discover Klamath's RIDE THE RIM event last September brought in nearly 3000 cyclists to ride Crater Lake. We have over 1000 preregistered for this year's events, representing people from 17 states and 7 countries,
- Discover Klamath's BIKE FRIENDLY BUSINESS Program has over 50 businesses involved
- Last year, Discover Klamath established a Klamath-centric cycling portal called RIDEKLAMATHRIDE.com where you'll find information on Road, Mountain, Gravel Rides, Trails, Events, and more.
- Discover Klamath has a Cycling Sub-Committee focused on generating interest in Klamath as a cycling destination.

While the sum total of the cycling infrastructure projects proposed adds up to millions, and invariably questions arise regarding how to pay for it, the bigger picture is that our local economy will likely benefit from increased tourism and attractiveness for business start-ups and/or business relocation which have the net cumulative effect of making Klamath a more Bike Friendly community.

Thank you.

Good evening City Council, City Manager, Mayor. Thank you for considering my testimonial. My name is Stephanie Van Dyke and I am the Medical Director for the Sky Lakes Wellness Center.

I wanted to briefly speak tonight in support of the UTMP in regards to the public safety of our home, Klamath Falls.

From 2009-2013, Klamath had:

- 33 pedestrian/automobile crashes. The highest concentration of pedestrian crashes occurred during the day at intersections in downtown Klamath Falls. Fortunately, Main St and Klamath Ave are addressed in the Master Plan.
- 19 bicycle/automobile crashes. The majority of the bicycle crashes (16 out of 19) occurred on roads without a designated bicycle lane or adjacent trail.

All of these collisions resulted in some level of injury, with one crash being fatal.

In 2013 a 49-year old man died when struck by a car walking across South 6th between Homedale Road and Madison St. He was declared deceased at the scene.

These may sound like a bunch of numbers and statistics, but they become a reality when they are our parents, our children, our friends.

Pedestrian crashes are more than twice as likely to occur when there are no sidewalks. Streets with sidewalks on both sides have the fewest crashes. More than 40% of pedestrian fatalities in 2014 in the U.S. occurred where no crosswalk was available. Sidewalks and crosswalks are projects within the UTMP.

Finally, reducing car traffic speed has a dramatic impact on pedestrian fatalities. The likelihood of dying when a pedestrian is struck by a car traveling at 20 mph is 5%. At 40 mph, the chance of death is 80%. Traffic calming measures are included in the Master Plan.

The UTMP is a good idea for many reasons, but improving our public safety, making our roads safer for our kids, parents, us – and preventing one more death, one more injury, is an undeniable civic responsibility.

Thank you.

Michal Kawka
2105 Bieln Street, Apt. A
Klamath Falls, OR 97601
541 965 2902 | fyszka11@gmail.com

People will use protected bike lanes:

1. On Washington DC's first protected bike lanes, bike traffic has been growing seven times faster than the citywide rate.
District Department of Transportation, 2009-2013 - How high can they go? DC bike counts show continuing surge in protected lane use

<http://www.peopleforbikes.org/blog/entry/how-high-can-they-go-dc-bike-counts-show-continuing-surge-in-protected-lane>
2. In Seville, an 80-mile network of protected bike lanes boosted biking from 0.6 percent to 7 percent of trips in six years.
London Cycling Campaign, 2012 - "Cycling increased tenfold in Seville after construction of miles of bike tracks."

<http://acc.org.uk/pages/seville-goes-dutch>
3. In Hangzhou, China, where 84 percent of main and secondary roads separate bikes from cars, 44 percent of middle school parents who own cars (and 62 percent of those who don't) ride a bike at least once a week.
Lusk et al, 2014 - "Gender and used/preferred differences of bicycle routes, parking, intersection signals, and bicycle type: Professional middle class preferences in Hangzhou, China." Journal of Transport & Health.

<http://www.sciencedirect.com/science/article/pii/S2214140514000334>
4. In the two U.S. cities that first started building modern protected bike lanes, New York and Washington D.C., bike commuting doubled from 2008 to 2013.
US Census - NYC and DC, protected lane pioneers, just doubled biking rates in 4 years

<http://www.peopleforbikes.org/blog/entry/nyc-and-dc-protected-lane-pioneers-just-doubled-biking-rates-in-4-years>
5. The average protected bike lane sees bike counts increase 75 percent in its first year alone.
Monsere, C., et al. 2014 - Lessons from the Green Lanes (National Institute for Transportation and Communities)

<http://www.peopleforbikes.org/blog/entry/everywhere-they-appear-protected-bike-lanes-seem-to-attract-riders>
6. NYC's Prospect Park West protected bike lane saw a 190 percent increase in weekday ridership, with 32 percent of those biking under age 12.
NYC DOT, 2012 - Prospect Park West: Traffic Calming & Bicycle Path

http://www.nyc.gov/html/dot/downloads/pdf/2012_ppw_trb2012.pdf

7. After a protected bike lane was installed on Chicago's Kinzie Street: Bicycle ridership on increased 55 percent, according to morning rush hour counts; Forty-one percent of respondents changed their usual route to take advantage of the new lane; Bicyclists accounted for a majority of all eastbound traffic (53 percent) and more than one third (34 percent) of total street traffic during a CDOT traffic count conducted during morning rush hour in August 2011.

Chicago DOT, 2011 - Initial Findings: Kinzie Street Protected Bike Lane

http://www.chicagobikes.org/pdf/Kinzie_Initial_Findings.pdf

8. After buffered bike lanes were installed on Philadelphia's Spruce and Pine streets, bike traffic increased 95 percent and the number of people biking on the sidewalks fell 22 percent.

Bicycle Coalition of Greater Philadelphia, 2009 - "Bicycle usage up 95% on Spruce and Pine bike lanes"

https://drive.google.com/files/d/0B8tOk7_upXv5SUdVYzhXRk5IbjdrTkIFNURUUTFLemJqZWtF/view

9. From 2006-2011, bicycling in San Francisco increased 71 percent. From 2010-2011, it increased 7 percent, making up 3.5 percent of all trips in the city. The greatest growth in bicycling came on Market Street, which has protected bike lanes. On Market Street, bicycling increased 115 percent from 2006, and 43 percent from 2010.

San Francisco Municipal Transportation Agency, 2012 - 2011 Bicycle Count Report

http://www.sfbike.org/download/bike_count_2011/2011BicycleCountReportsml_002.pdf

10. After New York City installed a protected bike lane on Columbus Avenue, bicycling increased 56 percent on weekdays, crashes decreased 34 percent, speeding decreased, sidewalk riding decreased, traffic flow remained similar, and commercial loading hours/space increased 475 percent.

New York City Department of Transportation, 2011 - Columbus Avenue parking-protected bicycle path preliminary assessment

http://www.nyc.gov/html/dot/downloads/pdf/2011_columbus_assessment.pdf



1950 Mallard Lane
Klamath Falls, Oregon 97601

City of Klamath Falls
500 Klamath Avenue
Klamath Falls, OR 97601

Dear Council Member: Toffel, Dodson, Seiler, Adams, and Hart

Please accept this letter of support, as I will not be able to attend your city council meeting on June 6th, for the Klamath Falls Urban Trail Master Plan (KFUTMP) and specifically the protected bike lane project being proposed on Oregon Avenue. Since the beginning of 2016, the community has seen many positive efforts coming to fruition to improve our community. The Blue Zone kickoff event, reestablishing the TSA and commercial air service to our airport, the announcement of a 58 million OHSU project at the Sky Lakes campus, the "Meet Me in Klamath" tourism ad campaign being conducted by Discover Klamath is just a few examples of the positive efforts happening in our community. We have a lot to be proud of.

I believe the KFUTMP, with your support, is the next opportunity to continue the positive momentum our community is experiencing and lead Klamath Falls into continued prosperity. With your support, this effort will improve access to our historic downtown district and promote a healthy alternative to travel within the city. My company, Pacific Power, has shown its support for this type of effort when it contributed funds to construct and install the blue bicycle corals located throughout the historic district. We hope you can also see the importance to support this concept to enhance the quality of life in the town we are proud to call home.

Thank you for your service and consideration,

Todd Andres
Regional Business Manager
Pacific Power

Statement for Klamath Falls City Council respecting the Klamath Falls
Urban Trail Master Plan

Good Evening. My name is Mark Clark, and I am Professor of History at the Oregon Institute of Technology and a member of the board of Discover Klamath Visitor and Convention Bureau.

I am here tonight in my role as a member of Discover Klamath's Bicycle Tourism Committee. On behalf of our organization, I want to state in the strongest possible terms our endorsement of the Urban Trail Master Plan under consideration this evening. Adoption of this plan would support the efforts of Discover Klamath to increase tourism and grow our local economy.

Discover Klamath has identified bicycle-related tourism as one of our main areas of focus in our strategic plan. We support the Spence Mountain Trails Project, are investigating Klamath becoming an IMBA Ride Center Designated Community, and are working towards other strategic initiatives that will result in significant positive economic impacts to the community. Marketing Klamath Falls as a destination for cycling is at the center of our current campaign, and we feel that the Urban Trail Master plan would be of tremendous help in our efforts.

First of all, adoption of the plan would be a very public sign of the city's commitment to the value of cycling and outdoor recreation. We

would be able to promote the plan as one of a host of indications that Klamath Falls is welcoming to bicycle tourists.

Second, over time the implementation of the plan would aid in providing the optimum experience for visiting cyclists. Bicycle tourists enjoy not just riding trails for recreation, but also want to use their bikes to explore communities, go shopping, and to find places to eat and drink. Trails that link different parts of town and make it easy to go from hotels to recreation areas and then to businesses by bicycle will ensure that bicycle tourists will find our town inviting.

Finally, bicycle tourists are a demographic that is ideal for Klamath Falls. They are young, value outdoor recreation, they tend to stay for longer than other types of tourists, and they spend significant amounts of money while they are here. They are exactly the kind of guests we want to attract and keep coming back.

Adoption of the Urban Trail Master Plan will go a long way towards helping Discover Klamath market bicycle tourism, and that tourism will have a positive economic impact on our community. We respectfully request that council members approve and implement the plan as soon as possible.

Thank you, and I will be happy to answer any questions you might have.

Hi, my name is Justin Rodriguez. I am here to speak in support of both the Klamath Falls Urban Trail Master Plan and, specifically, the Oregon Avenue protected bike lane project.

As some of you may know, I am a Civil Engineer. For the last 20 years, I have worked on planning water, wastewater, and storm water infrastructure --both here and in other cities. For the past 16 years, I have lived in Klamath Falls. As a pedestrian, biker, parent, and driver, I have navigated both our street and trail systems.

As I was thinking how best to describe the current state of our pedestrian and biking systems, I thought of a water system: with appropriately-sized small pipes to serve the neighborhoods, and a few large, expensive transmission mains to move water across the City. Unfortunately, in our trail system, there are breaks and bottlenecks in the large mains that convey people across the City, and from one neighborhood to another.

The Urban Trails Master Plan has been carefully developed with input from both transportation professionals and the public-- many of whom are in this room now. It has been developed to take the assets we already possess, remove the bottlenecks, and bring the system to its full potential. Thus realizing our community's past investments and planning for future generations as well. It will give more people the opportunity to integrate exercise into their commute and their daily lives. It will give people a choice.

When I worked as an engineer for the City, non-technical decisions on day to day projects often hinged on needing "direction from Council." I am not speaking for City Public Works now, but I have this prior perspective. By approving this plan, you will help City staff know that these projects are a priority, and if possible should be completed as stand-alone projects or integrated into future street improvements. Your leadership will give staff the direction they need to assist our generous community partners in bringing these projects to fruition.

As I was reading through the master plan, I saw a study cited that "56 percent of the people surveyed described themselves as interested in biking but concerned." I am one of those people.

As a parent of two children, I have tried to use walking and biking to run errands around town. I have had limited success. From my parents' house in Pacific Terrace, we are able to walk to downtown businesses, check our mail at the post office, go to the library, and grab a bite to eat. This walkable feature is what made the Pacific Terrace location desirable for my parents as older adults. These projects are not just for young, active, adults. It is for every segment of our community.

However, not everyone in our community has similar opportunities as those who live in the Pacific Terrace neighborhood. My children attend Pelican Elementary. Although the distance from that neighborhood to downtown is not very far by bike, there is no route that I feel comfortable navigating with my children. Please give people the opportunity to make healthier choices without taking undue risks. Please support both the Urban Trail Master Plan and the Oregon Avenue protected bike lane project.

Thank you.

Kendall Bell

I have 2 perspectives to share as a downtown business owner and advocate. Parking concerns seem to capture so many downtown development discussions. Encouraging safe, well connected bike commuting options is a powerful tool for helping revitalize Klamath's historic downtown commercial district.

In addition, the developers, consultants and Main Street experts that have visited the area over the last few years unanimously agree that connectivity which includes trails, bike lanes and sidewalks, ~~may be one of the most important~~ ^{is an important} aspects of revitalization efforts. It is also very important to the recruitment and retention of our "millennial" population. I have a growing respect for this group because of their interest and investment in our community, especially the downtown. They are my inspiration and I believe, vital to the future health and growth of our community.

As the great Dan Burden, built environment expert said during his recent visit, "Successful communities plan for the future, not for today". Let's show the younger generations that we care about what is important to them and adopt the Urban Trails Master Plan.

My name is Katherine Pope and I am the Program Director of the Sky Lakes Wellness Center. First, I want to thank you for hearing so many of us speak tonight. We are grateful to be here.

I have been fortunate to be a part of this project from the beginning. I helped Joe write the TGM grant, attended the meetings related to the project, and, as you know, have been working on the protected bike lane project for over a year. I have talked about how these projects improve the economy, improve health, decrease accidents, and inspire more people to relocate to a town. You have probably heard me or my business partner, Stephanie, discuss this countless times.

However, **for me**, I'm not sure that it really sank in until recently. My son, Milo, is now almost 9 months old and is just about ready to bike with us. I have been so excited to cart him around on the rides that I used to do regularly, but haven't done much since he was born. And then I realized... *I can't*.

I have been clipped or nearly hit several times while riding in Klamath, but I **absolutely** cannot take that risk with my son. I can't take him to the park or the grocery store or the movie theater or downtown. There is no safe route for me to take. I want to teach my kid the joy of bicycling, but with our current trails, it is far too dangerous.

I want to actively commute on my bike and often did before Milo was born. But, because of poor trail connectivity and the lack of safe bikeways, I can't do it with Milo. I would always be nervous. I would never feel safe.

The Urban Trail Master Plan is the best start to fix this and ensure that we have safe and **connected** trails for all ages and skill levels. Please vote yes for this plan – for the good of the community and for the safety of my son.

Thank you for allowing me to talk with you briefly tonight.

I do hope that you will seriously consider supporting the Urban Trail Master Plan that the City Planning Commission unanimously recommended to you recently. This proposed plan of nearly 50 projects would improve sidewalks, enhance biking routes, and help complete trails throughout our city.

The UTMP emphasizes safety. My wife and I walk regularly and having an improved sidewalk system would help us to feel safer during our walks. Our family truly enjoys biking, but with a 13 year-old and an 8 year-old we feel very unsafe riding our bikes on many of the streets of Klamath Falls. We would especially appreciate a comprehensive plan that puts a high priority on safety for both walking and biking throughout our community.

I was raised in Bend and still have family living there. In fact, I was just visiting my parents there this weekend. For many years Bend has heavily promoted recreation and has a multitude of recreational amenities. During my short visit there I saw tennis courts being repainted, strolled on a walking trail in Juniper Park, saw the amazing Juniper Aquatic and Fitness Center, and witnessed a Breast Cancer awareness walk in Drake Park with hundreds of participants. Additionally, many cyclists were cruising the streets of Bend.

What I also saw were many new housing developments being constructed. It is just amazing to see the growth that they are experiencing. Now, Bend may be growing too fast, but I see that we could just as easily promote recreation and active lifestyles by adopting and promoting the UTMP and just perhaps could foster more growth and prosperity here.

Research shows that civic leaders who are migrating their cities from a car dominant city to a more walking and biking friendly community, who are putting in pedestrian and cycling infrastructure, are seeing their cities thrive relative to others. These leaders decided they couldn't afford not to do this. And these are the cities where people are indicating, with their feet and their money, that they want to live.

I understand that some of you rightly have concerns about various aspects of this plan, but I hope that the UTMP can be adopted, and in the near future with an attitude of flexibility and compromise specific details can be addressed with expert engineers and designers who have successfully created similar plans in other cities so that we can move forward with a system of pedestrian and cycling routes that benefit our entire community.



409 Pine Street
Klamath Falls
Oregon 97601
www.klamathsustainablecommunities.org
541 882-6509

To: The City of Klamath Falls City Council
500 Klamath Avenue, Klamath Falls, OR 97601

From: Klamath Sustainable Communities
409 Pine Street, Klamath Falls, OR 97601

Date: June 6, 2016

Dear Mayor and all City Council Members,

On behalf of the Board of Directors of Klamath Sustainable Communities, I would like to urge you and all of the City Councilors to vote "Yes" for adopting the Urban Trails Master Plan (UTMP) during the upcoming City Council meeting on June 6, 2016.

UTMP is a foundational document and the first step for improving, integrating, and developing pedestrian and bicycle infrastructure in Klamath Falls. Accessible and well-connected sidewalks, trails, and bike paths are critical for fostering healthy behaviors, increasing safety, and stimulating economic growth. As you may know, about 60% of adults in Klamath County are overweight or obese (Sky Lakes, 2013, p. 5), and one of the main causes for obesity is a lack of physical activity. While UTMP alone won't solve this complex problem, it is definitely a part of the solution, as it will contribute to promoting healthy modes of transportation such as walking and biking. Furthermore, well-designed and intentional bike paths would improve safety on our roads by clearly separating foot, bike and car traffic. According to the study by Tesche and colleagues (2012) protected bike lanes could lead to almost 90% fewer injuries among bikers as compared with cyclists who ride directly on streets with cars. This statistic is especially relevant in the context of the recent poll according to which 71% of Americans are interested in biking but currently find it unsafe (Royal & Miller-Steiger, 2008). Therefore, we encourage you to view UTMP as an important public safety measure that would enable more people in Klamath to bike and walk. Finally, more foot and bike traffic supports local businesses. Studies from other cities in the US and Canada show that businesses located alongside protected bike lanes report significant increase in sales and revenue (The Clean Air Partnership, 2009). Consequently, we invite you to see UMTP as an important element in the economic revitalization of Klamath Falls.

As a non-profit organization dedicated to eco-friendly and sustainable solutions for our community, Klamath Sustainable Communities supports the adoption of the Urban Trails Master Plan. On behalf of our members and our Board of Directors, I hope that you, too, see the benefits of UTMP for our community.

Best regards,

Cherie Swenson
President, Klamath Sustainable Communities

Enclosed: List of References

If you make a decision and wonder how it will affect your children, then you are thinking sustainably.
KSC is a 501(c)(3) organization dedicated to creating and promoting collaboration to protect, restore, and maintain healthy, equitable communities both human and natural, for the benefit of present and future residents of the Klamath Basin. Tax ID: 20-0945673

ATTACHMENTS

AGENDA ITEM 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

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.

475B.260. Attempted purchase of marijuana item by person under 21; entry of licensed premises by person under 21; penalties; exceptions

- (1)(a) A person under 21 years of age may not attempt to purchase, purchase or acquire a marijuana item.
- (b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and acquiring a marijuana item includes consuming a marijuana item, provided that the consumption of the marijuana item occurred no more than 24 hours before the determination that the person consumed the marijuana item.
- (2) Except as authorized by the Oregon Liquor Control Commission by rule, or as necessary 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.
- (3) A person who violates subsection (1) or (2) of this section commits a Class B violation.
- (4) In addition to and not in lieu of any other penalty established by law, a court may require a person under 21 years of age who violates subsection (1) of this section through misrepresentation of age to perform community service, and the court may order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.
- (5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.260 (4).

(6) In addition to and not in lieu of any penalty established by law, the court may order a person to undergo assessment and treatment if the person has previously been found to have violated this section.

(7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(9)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation of this section was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

Added by Laws 2015, c. 1, § 49 (Measure 91, approved Nov. 4, 2014), eff. Dec. 4, 2014, operative July 1, 2015. Amended by Laws 2015, c. 614, § 25, eff. June 30, 2015, operative Jan. 1, 2016.

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.

475B.250. Homegrown marijuana in public view prohibited :

- (1) A person may not produce, process, possess or store homegrown marijuana, cannabinoid products or cannabinoid concentrates if the homegrown marijuana, cannabinoid products or cannabinoid concentrates can be seen by normal unaided vision from a public place.
- (2) A person may not possess or store a cannabinoid extract if the cannabinoid extract can be seen by normal unaided vision from a public place.
- (3) A violation of subsection (1) or (2) of this section is a Class B violation.

Added by Laws 2015, c. 1, § 56 (Measure 91, approved Nov. 4, 2014), eff. Dec. 4, 2014, operative July 1, 2015. Amended by Laws 2015, c. 614, § 55, eff. June 30, 2015, operative Jan. 1, 2016; Laws 2016, c. 24, § 37, eff. March 3, 2016, operative March 1, 2016.

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.**

475.860. Delivery of marijuana

- (1) Except for licensees and licensee representatives that are engaged in lawful activities, and except for a person acting within the scope of and in compliance with ORS 475B.245, it is unlawful for any person to deliver marijuana.
 - (2) Unlawful delivery of marijuana is a Class A misdemeanor.
 - (3) Notwithstanding subsection (2) of this section, unlawful delivery of marijuana is a Class C felony, if:
 - (a) A person who is at least 21 years of age delivers the marijuana to a person who is under 18 years of age.
 - (b) A person delivers marijuana extracts that were not purchased from a marijuana retailer that holds a license under ORS 475B.110.
 - (4) Notwithstanding subsection (3)(a) of this section, unlawful delivery of marijuana is a Class A misdemeanor if a person who is under 24 years of age delivers, for no consideration, less than one ounce of usable marijuana to a person who is at least 16 years of age.
- Added by Laws 2005, c. 708, § 31, eff. Aug. 16, 2005; Amended by Laws 2009, c. 610, § 1, eff. Jan. 1, 2010; Laws 2011, c. 597, § 88, eff. July 1, 2011, operative Jan. 1, 2012; Laws 2015, c. 1, § 78 (Measure 91, approved Nov. 4, 2014), eff. Dec. 4, 2014, operative July 1, 2015; Laws 2015, c. 614, § 122, eff. June 30, 2015; Laws 2016, c. 24, § 44, eff. March 3, 2016, operative March 1, 2016.

5.449 Unlawful Possession of Marijuana

(1) Except for licensees and licensee representatives, 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.**

475.864. Possession of marijuana plant, usable marijuana, cannabinoid concentrate, cannabinoid extract, or cannabinoid product

(1) Except for licensees and licensee representatives acting in accordance with ORS 475B.010 to 475B.395, and any rule adopted under ORS 475B.010 to 475B.395, it is unlawful for any person 21 years of age or older knowingly or intentionally to possess:

- (a) An amount of marijuana plants in excess of the amount of marijuana plants allowed under ORS 475B.245 (1).**
- (b) More than one ounce of usable marijuana in a public place.**
- (c) More than eight ounces of usable marijuana.**
- (d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.**
- (e) More than 72 ounces of cannabinoid products in liquid form.**
- (f) More than one ounce of cannabinoid extracts.**
- (g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license under ORS 475B.110.**

* * *

(2) "A violation of subsection (1)(a) to (f) of this section is a:

* * *

(c) Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (1)(a) to (f) of this section."

Added by Laws 2005, c. 708, § 33, eff. Aug. 16, 2006. Amended by Laws 2011, c. 597, § 89, eff. July 1, 2011, operative Jan. 1, 2012; Laws 2013, c. 581, § 2, eff. July 1, 2013; Laws 2015, c. 1, § 79 (Measure 81, approved Nov. 4, 2014), eff. Dec. 4, 2014, operative July 1, 2015; Laws 2015, c. 614, § 123, eff. June 30, 2015; Laws 2016, c. 24, § 46, eff. March 3, 2016, operative March 1, 2016.

Medical Marijuana Facilities

475B.500. City or county may adopt ordinances regulating medical marijuana facilities

<Text subject to final change by the Oregon Office of the Legislative Counsel.>

(1) For purposes of this section, "reasonable regulations" includes:

- (a) Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;
- (b) Reasonable conditions on the manner in which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may transfer usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;
- (c) Reasonable requirements related to the public's access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary; and
- (d) Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.

(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county.

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 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.

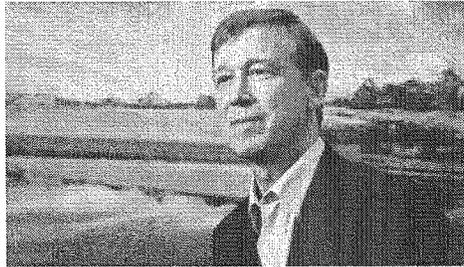
7.255 Marijuana-Infused Products

(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.

NATION

Governor who called legalization 'reckless' now says Colorado's pot industry is working



Colorado Gov. John Hickenlooper appears to have softened his views on marijuana legalization. (Mark Boster / Los Angeles Times)

By David Kelly

MAY 17, 2016, 6:00 AM | REPORTING FROM DENVER

When Colorado voted to legalize recreational marijuana four years ago, one of the move's chief critics was Gov. John Hickenlooper.

The moderate Democrat said that if he could "wave a magic wand" to reverse the decision, he would. Then he called voters "reckless" for approving it in the first place, a remark he later downgraded to "risky."

"Colorado is known for many great things," Hickenlooper said. "Marijuana should not be one of them."

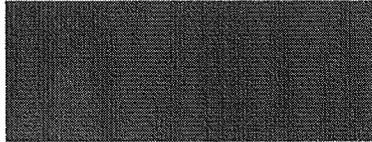
But the governor's views have softened. During a recent panel discussion at the Milken Institute

Global Conference in Los Angeles, he said that despite opposing the legalization of pot, his job was to "deliver on the will of the people of Colorado."

"If I had that magic wand now, I don't know if I would wave it," he said. "It's beginning to look like it might work."

It was the latest in a series of comments Hickenlooper has made signaling what looks like an evolution of his views on marijuana. In April last year, during an interview with Fox Business host María Bartiromo, Hickenlooper said legal weed was "not as vexing as we thought it was going to be."

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And during an appearance on "60 Minutes," he predicted that Colorado might "actually create a system that could work" in successfully regulating marijuana.

Why the change?

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"The predictions of fire and brimstone have failed to materialize," said Mason Tvert, spokesman for the Marijuana Policy Project, a national group working to reform pot laws. "Most Coloradoans, including the governor, recognize that the law is working."

From the start, Hickenlooper saw the legalization of marijuana as a great national experiment, something utterly new in this country and fraught with potential public health and safety issues.

He fretted about a potential rise in drug use among children and was clearly uncomfortable with an amendment directly conflicting with federal law, which considers pot an illegal drug on par with cocaine.

There were plenty of snags at first. Marijuana edibles proved especially problematic because few people had experience with them. High-profile overdoses made national news. Just last week a

lawsuit was filed against the maker of a marijuana-laced candy, alleging the product triggered a "psychotic episode" that caused a man to kill his wife in 2014.

“

The predictions of fire and brimstone have failed to materialize. Most Coloradoans, including the governor, recognize that the law is working.

— Mason Tvert, spokesman for the Marijuana Policy Project

Still, none of Hickenlooper's worst fears were realized.

Colorado is booming. The state has a 4.2% unemployment rate, one of the best in the country. High-tech companies are moving in. Small towns across the state, some once teetering on the brink of bankruptcy, have been saved by tax revenues from pot dispensaries. And the \$1-billion-a-year cannabis business will pump \$100 million in taxes into state coffers this year.

Andrew Freedman, director of marijuana coordination for Colorado, said the governor's views reflect a growing sense of optimism about how the industry is regulated.

"In the short run, there have been a lot fewer public safety and health issues than the governor feared in the beginning," said Freedman, who is often referred to as the state's marijuana czar. "In the beginning, we had problems with edibles and hash oil fires but now, for the most part, Colorado looks a lot like it did before legalization."

Marijuana consumption has not changed much from pre-legalization levels and there has been no significant increase in public health and safety problems, he said.

As for the \$100 million in tax revenue, Freedman noted, that's out of a \$27-billion state budget.

Some 70% of the money is earmarked for school construction, public health initiatives and other projects. The rest goes back into regulating the industry.

"The governor has called this a grand experiment from the beginning. He looks at data points as he goes along and I think he's pleasantly surprised that there were not as many challenges as he thought," Freedman said.

"He would say the jury is still out on this experiment but he's optimistic."

Some are less circumspect.

"The state's image is actually rising. We were just ranked as the best place to live in America," Tvert said. "The idea that businesses would not relocate here or conferences wouldn't be held here was untrue. In fact, attendees at conferences are now offered pot tours as day trips."

Kelly is a special correspondent based in Denver.

ALSO

California is poised to become the center of cannabis culture

If California legalizes marijuana, consumption will likely increase. But is that a bad thing?

From marijuana laws to paper bags, Californians could see up to 18 propositions on the November ballot

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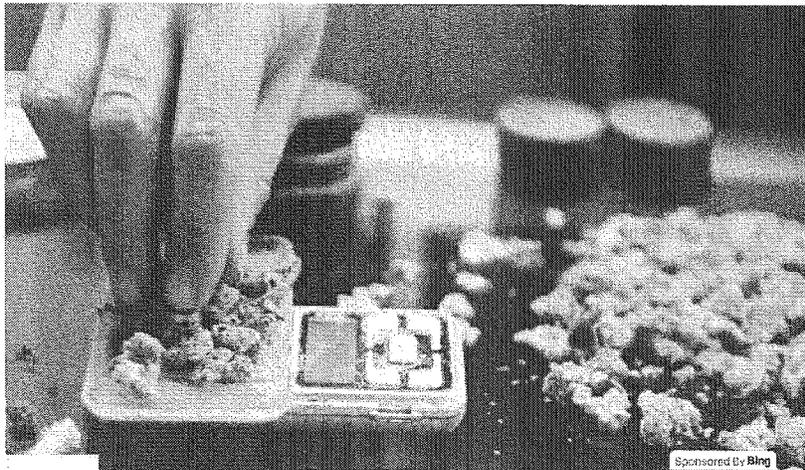
RETAIL MARIJUANA

Colorado's Legal Marijuana Industry Is Worth \$1 Billion

by Tom Huddleston, Jr.

@tjhuddle

FEBRUARY 11, 2016, 10:19 AM EDT



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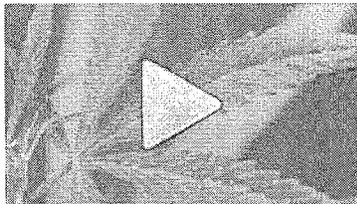
As sales jumped by more than 42%

Legal pot sales jumped by more than 42% in Colorado last year, pushing the Centennial State's revenue from marijuana taxes and fees to a new high.

Colorado saw \$996.2 million in legal sales of medical and recreational pot in 2015, according to the *Denver Post's* calculations of ~~TAX DATA~~ reported this week (and throughout 2015) by the state's Department of Revenue. In 2014, the state's legal pot vendors sold roughly \$699 million of the drug.

The *Post* also reports that the state, where legal recreational marijuana sales began two years ago and medical pot has been legal since 2000, collected more than \$135 million in taxes and license fees related to legal cannabis sales last year, which is up nearly 78% from the \$76 million in taxes and fees collected the previous year. Of that total, more than \$35 million will go toward school construction projects, as per the state's excise tax on recreational pot sales, while other tax revenue funds could also go toward youth and substance-abuse programs in the state, as they have in the past.

"The additional tax revenue far exceeds the cost of regulating the system," Mason Tvert, a spokesman for industry advocacy group the Marijuana Policy Project, said in a statement provided to *Fortune*. "Regulating and taxing marijuana has been incredibly successful in Colorado, and it represents a model for other states to follow."

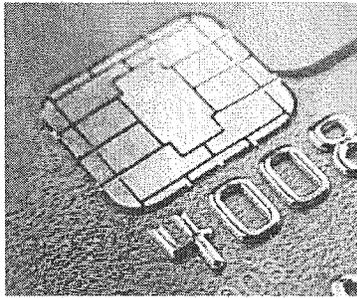


Colorado is one of four U.S. states with legalized recreational marijuana (along with Washington, D.C.), with Washington state also establishing its own legal market for recreational sales in 2014 while Oregon's pot dispensaries opened for business last year. Lawmakers in the fourth state, Alaska, are still formalizing the regulations for that state's market.

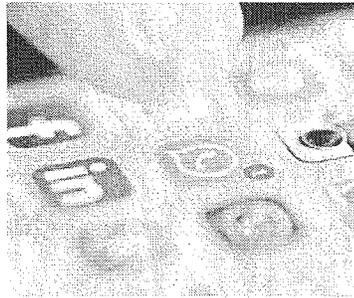
As more and more states legalize some form of marijuana sales, the blossoming industry's revenue continues to soar. As a matter of comparison, California—where medical marijuana has been legal for two decades—sees an estimated \$1 billion in annual sales of medical pot alone and the state could vote to legalize recreational sales as soon as this fall. A recent report from ArcView Market Research predicted that the legal cannabis market will grow by 25% this year to reach \$6.7 billion in total U.S. sales, and that the total could approach \$22 billion in sales by 2020.

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 Comments

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Original Investigation

Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in the United States, 1999-2010

Marcus A. Bachhuber, MD; Brendan Saloner, PhD; Chikazo O. Cunningham, MD, MS; Colleen L. Barry, PhD, MPP

Invited Commentary
page 1673

IMPORTANCE: Opioid analgesic overdose mortality continues to rise in the United States, driven by increases in prescribing for chronic pain. Because chronic pain is a major indication for medical cannabis, laws that establish access to medical cannabis may change overdose mortality related to opioid analgesics in states that have enacted them.

OBJECTIVE: To determine the association between the presence of state medical cannabis laws and opioid analgesic overdose mortality.

DESIGN, SETTING, AND PARTICIPANTS: A time-series analysis was conducted of medical cannabis laws and state-level death certificate data in the United States from 1999 to 2010; all 50 states were included.

EXPOSURES: Presence of a law establishing a medical cannabis program in the state.

MAIN RESULTS AND CONCLUSIONS: Age-adjusted opioid analgesic overdose death rate per 100 000 population in each state. Regression models were developed including state and year fixed effects, the presence of 3 different policies regarding opioid analgesics, and the state-specific unemployment rate.

RESULTS: Three states (California, Oregon, and Washington) had medical cannabis laws effective prior to 1999. Ten states (Alaska, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Rhode Island, and Vermont) enacted medical cannabis laws between 1999 and 2010. States with medical cannabis laws had a 24.8% lower mean annual opioid overdose mortality rate (95% CI, -37.5% to -9.5%; $P = .002$) compared with states without medical cannabis laws. Examination of the association between medical cannabis laws and opioid analgesic overdose mortality in each year after implementation of the law showed that such laws were associated with a lower rate of overdose mortality that generally strengthened over time: year 1 (-19.9%; 95% CI, -30.6% to -7.7%; $P = .002$), year 2 (-25.2%; 95% CI, -40.6% to -5.9%; $P = .01$), year 3 (-23.6%; 95% CI, -41.1% to -1.0%; $P = .04$), year 4 (-20.2%; 95% CI, -33.6% to -4.0%; $P = .02$), year 5 (-33.7%; 95% CI, -50.9% to -10.4%; $P = .008$), and year 6 (-33.3%; 95% CI, -44.7% to -19.6%; $P < .001$). In secondary analyses, the findings remained similar.

CONCLUSIONS AND RELEVANCE: Medical cannabis laws are associated with significantly lower state-level opioid overdose mortality rates. Further investigation is required to determine how medical cannabis laws may interact with policies aimed at preventing opioid analgesic overdose.

Author Affiliations: Author affiliations are listed at the end of this article.

Corresponding Author: Marcus A. Bachhuber, MD, Center for Health Equity Research and Promotion, Philadelphia Veterans Affairs Medical Center, 423 Guadalupe Dr, Bldg A, Bldg 100, Philadelphia, PA 19104 (marcus.bachhuber@gmail.com).

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Chronic noncancer pain is common in the United States,⁷ and the proportion of patients with noncancer pain who receive prescriptions for opioids has almost doubled over the past decade.⁸ In parallel to this increase in prescriptions, rates of opioid use disorders and overdose deaths have risen dramatically.⁹⁻¹¹ Policies such as prescription drug monitoring programs, increased scrutiny of patients and providers, and enhanced access to substance abuse treatment have been advocated to reduce the risk of opioid analgesics¹²; however, relatively less attention has focused on how the availability of alternative nonopioid treatments may affect overdose rates.

As of July 2014, a total of 23 states have enacted laws establishing medical cannabis programs¹³ and chronic or severe pain is the primary indication in most states.¹⁴⁻¹⁶ Medical cannabis laws are associated with increased cannabis use among adults.¹⁷ This increased access to medical cannabis may reduce opioid analgesic use by patients with chronic pain, and therefore reduce opioid analgesic overdoses. Alternatively, if cannabis adversely alters the pharmacokinetics of opioids or serves as a "gateway" or "stepping stone" leading to further substance use,¹²⁻¹⁴ medical cannabis laws may increase opioid analgesic overdoses. Given these potential effects, we examined the relationship between implementation of state medical cannabis laws and opioid analgesic overdose deaths in the United States between 1999 and 2010.

Methods

The opioid analgesic overdose mortality rate in each state from 1999 to 2010 was abstracted using the Wide-ranging Online Data for Epidemiologic Research interface to multiple cause-of-death data from the Centers for Disease Control and Prevention.¹⁸ We defined opioid analgesic overdose deaths as fatal drug overdoses of any intent (*International Statistical Classification of Diseases, 10th revision [ICD-10]*, codes X40-X44, X50-X64, and Y10-Y14) where an opioid analgesic was also coded (T40.2-T40.4). This captures all overdose deaths where an opioid analgesic was involved including those involving polypharmacy or illicit drug use (eg, heroin). Analysis of publicly available secondary data is considered exempt by the University of Pennsylvania Institutional Review Board.

Three states (California, Oregon, and Washington) had medical cannabis laws effective prior to 1999.¹⁶ Ten states (Alaska, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Rhode Island, and Vermont) implemented medical cannabis laws between 1999 and 2010. Nine states (Arizona, Connecticut, Delaware, Illinois, Maryland, Massachusetts, Minnesota, New Hampshire, and New York) had medical cannabis laws effective after 2010, which is beyond the study period. New Jersey's medical cannabis law went into effect in the last quarter of 2010 and was counted as effective after the study period. In each year, we first plotted the mean age-adjusted opioid analgesic overdose mortality rate in states that had a medical cannabis law vs states that did not.

Next, we determined the association between medical cannabis laws and opioid analgesic-related deaths using linear time-series regression models. For the dependent variable, we

used the logarithm of the year- and state-specific age-adjusted opioid analgesic overdose mortality rate. Our main independent variable of interest was the presence of medical cannabis laws, which we modeled in 2 ways.

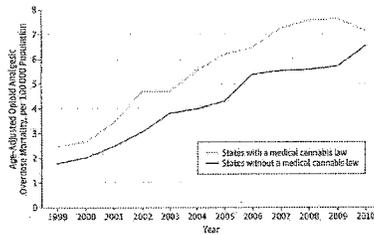
In our first regression model, we included an indicator for the presence of a medical cannabis law in the state and year. All years prior to a medical cannabis law were coded as 0 and all years after the year of passage were coded as 1. Because laws could be implemented at various points in the year, we coded the law as a fraction for years of implementation (eg, 0.5 for a law that was implemented on July 1). The coefficient on this variable therefore represents the mean difference, expressed as a percentage, in the annual opioid analgesic overdose mortality rate associated with the implementation of medical cannabis laws. To estimate the absolute difference in mortality associated with medical cannabis laws in 2010, we calculated the expected number of opioid analgesic overdose deaths in medical cannabis states had laws not been present and subtracted the actual number of overdose deaths recorded.

In our second model, we allowed the effect of medical cannabis laws to vary depending on the time elapsed since enactment, because states may have experienced delays in patient registration, distribution of identification cards, and establishment of dispensaries, if applicable. Accordingly, we coded years with no law present as 0, but included separate coefficients to measure each year since implementation of the medical cannabis law for states that adopted such laws. States that implemented medical cannabis laws before the study period were coded similarly (eg, in 1999, California was coded as 3 because the law was implemented in 1996). This model provides separate estimates for 1 year after implementation, 2 years after implementation, and so forth.

Each model adjusted for state and year (fixed effects). We also included 4 time-varying state-level factors: (1) the presence of a state-level prescription drug monitoring program (a state-level registry containing information on controlled substances prescribed in a state),¹⁹ (2) the presence of a law requiring or allowing a pharmacist to request patient identification before dispensing medications,²⁰ (3) the presence of regulations establishing increased state oversight of pain management clinics,²¹ and (4) state- and year-specific unemployment rates to adjust for the economic climate.²² Collinearity among independent variables was assessed by examining variance inflation factors; no evidence of collinearity was found. For all models, robust standard errors were calculated using procedures to account for correlation within states over time.

To assess the robustness of our results, we performed several further analyses. First, we excluded intentional opioid analgesic overdose deaths from the age-adjusted overdose mortality rate to focus exclusively on nonsuicide deaths. Second, because heroin and prescription opioid use are interrelated for some individuals,²³⁻²⁵ we included overdose deaths related to heroin, even if no opioid analgesic was coded. Third, we assessed the robustness of our findings to the inclusion of state-specific linear time trends that can be used to adjust for differential factors that changed linearly over the study period (eg, hard-to-measure attitudes or cultural changes). Fourth, we tested whether trends in opioid analgesic overdose mortality

Figure 1. Mean Age-Adjusted Opioid Analgesic Overdose Death Rate



States with medical cannabis laws compared with states without such laws in the United States, 1999-2010.

Table. Association Between Medical Cannabis Laws and State-Level Opioid Analgesic Overdose Mortality Rates in the United States, 1999-2010

Independent Variable ^a	Percentage Difference in Age-Adjusted Opioid Analgesic Overdose Mortality in States With vs Without a Law		
	Primary Analysis		Secondary Analysis
	Estimate (95% CI) ^b	Estimate (95% CI) ^c	Estimate (95% CI) ^d
Medical cannabis law	-24.8 (-37.5 to -9.5) [*]	-31.0 (-42.2 to -17.5) [*]	-23.1 (-37.1 to -5.0) [*]
Prescription drug monitoring program	3.7 (-12.7 to 23.3)	3.5 (-13.4 to 23.7)	7.7 (-11.0 to 30.3)
Law requiring or allowing pharmacists to request patient identification	5.0 (-10.4 to 23.1)	4.1 (-11.4 to 22.5)	2.3 (-15.4 to 23.7)
Increased state oversight of pain management clinics	-7.6 (-19.1 to 5.5)	-11.7 (-26.7 to -1.7) [*]	-3.9 (-21.7 to 18.0)
Annual state unemployment rate ^e	4.4 (-0.3 to 9.2)	5.2 (0.1 to 10.6) [*]	2.5 (-2.3 to 7.5)

^aAll models adjusted for state and year (fixed effects).

^bR² = 0.876.

^cAll intentional (suicide) overdose deaths were excluded from the dependent variable; opioid analgesic overdose mortality is therefore deaths that are unintentional or of undetermined intent. All covariates were the same as in the primary analysis; R² = 0.873.

^dFindings include all heroin overdose deaths, even if no opioid analgesic was

involved. All covariates were the same as in the primary analysis. R² = 0.842.

^eP ≤ .05.

^{*}P ≤ .001.

^fAn association was calculated for a 1-percentage-point increase in the state unemployment rate.

predicted the implementation of medical cannabis laws by including indicator variables in a separate regression model for the 2 years before the passage of the law.²⁴ Finally, to test the specificity of any association found between medical cannabis laws and opioid analgesic overdose mortality, we examined the association between state medical cannabis laws and age-adjusted death rates of other medical conditions without strong links to cannabis use: heart disease (ICD-10 codes I00-I09, I11, I13, and I20-I51)²⁵ and septicemia (A40-A41). All analyses were performed using SAS, version 9.3 (SAS Institute Inc).

Results

The mean age-adjusted opioid analgesic overdose mortality rate increased in states with and without medical cannabis laws during the study period (Figure 1). Throughout the study period, states with medical cannabis laws had a higher opioid analgesic overdose mortality rate and the rates rose for both groups; however, between 2009 and 2010 the rate in states with medical cannabis laws appeared to plateau.

In the adjusted model, medical cannabis laws were associated with a mean 24.8% lower annual rate of opioid analgesic overdose deaths (95% CI, -37.5% to -9.5%; P = .002) (Table), compared with states without laws. In 2010, this translated to an estimated 1729 (95% CI, 549 to 3151) fewer deaths than expected. Medical cannabis laws were associated with lower rates of opioid analgesic overdose mortality, which generally strengthened in the years after passage (Figure 2): year 1 (-19.9%; 95% CI, -30.6% to -7.7%; P = .002), year 2 (-25.2%; 95% CI, -40.6% to -5.9%; P = .01), year 3 (-23.6%; 95% CI, -41.1% to -1.0%; P = .04), year 4 (-20.2%; 95% CI, -33.6% to -4.0%; P = .02), year 5 (-33.7%; 95% CI, -50.9% to -10.4%; P = .008), and year 6 (-33.3%; 95% CI, -44.7% to -19.6%; P < .001). The other opioid analgesic policies, as well as state unemployment rates, were not significantly associated with opioid analgesic mortality rates.

In additional analyses, the association between medical cannabis laws and opioid analgesic mortality rates was similar after excluding intentional deaths (ie, suicide) and when including all heroin overdose deaths, even if an opioid analgesic was not involved (Table). Including state-specific linear time trends

in the model resulted in a borderline significant association between laws and opioid analgesic overdose mortality (-17.9% ; 95% CI, -32.7% to 0.3% ; $P = .054$). When examining the years prior to law implementation, we did not find an association between medical cannabis laws and opioid analgesic overdose mortality 2 years prior to law implementation (-13.1% ; 95% CI, -45.5% to 38.6% ; $P = .56$) or 1 year prior (1.2% ; 95% CI, -41.2% to 74.0% ; $P = .97$). Finally, we did not find significant associations between medical cannabis laws and mortality associated with heart disease (1.4% ; 95% CI, -0.2% to 2.9% ; $P = .09$) or septicemia (-1.8% ; 95% CI, -7.6% to 4.3% ; $P = .55$).

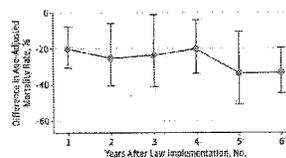
Discussion

In an analysis of death certificate data from 1999 to 2010, we found that states with medical cannabis laws had lower mean opioid analgesic overdose mortality rates compared with states without such laws. This finding persisted when excluding intentional overdose deaths (ie, suicide), suggesting that medical cannabis laws are associated with lower opioid analgesic overdose mortality among individuals using opioid analgesics for medical indications. Similarly, the association between medical cannabis laws and lower opioid analgesic overdose mortality rates persisted when including all deaths related to heroin, even if no opioid analgesic was present, indicating that lower rates of opioid analgesic overdose mortality were not offset by higher rates of heroin overdose mortality. Although the exact mechanism is unclear, our results suggest a link between medical cannabis laws and lower opioid analgesic overdose mortality.

Approximately 60% of all opioid analgesic overdoses occur among patients who have legitimate prescriptions from a single provider.²³ This group may be sensitive to medical cannabis laws; patients with chronic noncancer pain who would have otherwise initiated opioid analgesics may choose medical cannabis instead. Although evidence for the analgesic properties of cannabis is limited, it may provide analgesia for some individuals.^{22,28} In addition, patients already receiving opioid analgesics who start medical cannabis treatment may experience improved analgesia and decrease their opioid dose,^{29,30} thus potentially decreasing their dose-dependent risk of overdose.^{31,32} Finally, if medical cannabis laws lead to decreases in polypharmacy—particularly with benzodiazepines—in people taking opioid analgesics, overdose risk would be decreased. Further analyses examining the association between medical cannabis laws and patterns of opioid analgesic use and polypharmacy in the population as a whole and across different groups are needed.

A connection between medical cannabis laws and opioid analgesic overdose mortality among individuals who misuse or abuse opioids is less clear. Previous laboratory work has shown that cannabinoids act at least in part through an opioid receptor mechanism^{33,34} and that they increase dopamine concentrations in the nucleus accumbens in a fashion similar to that of heroin and several other drugs with abuse potential.^{35,37} Clinically, cannabis use is associated with modest reductions in opioid withdrawal symptoms for some people,^{36,37} and therefore may reduce opioid use. In contrast, cannabis use has been linked with increased use of other drugs, including opioids,^{14,38-40} however,

Figure 2. Association Between Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in Each Year After Implementation of Laws in the United States, 1999-2010



Point estimate of the mean difference at the opioid analgesic overdose mortality rate in states with medical cannabis laws compared with states without such laws; whiskers indicate 95% CI.

a causal relationship has not been established.^{14,41} Increased access to cannabis through medical cannabis laws could influence opioid misuse in either direction, and further study is required.

Although the mean annual opioid analgesic overdose mortality rate was lower in states with medical cannabis laws compared with states without such laws, the findings of our secondary analyses deserve further consideration. State-specific characteristics, such as trends in attitudes or health behaviors, may explain variation in medical cannabis laws and opioid analgesic overdose mortality, and we found some evidence that differences in these characteristics contributed to our findings. When including state-specific linear time trends in regression models, which are used to adjust for hard-to-measure confounders that change over time, the association between laws and opioid analgesic overdose mortality weakened. In contrast, we did not find evidence that states that passed medical cannabis laws had different overdose mortality rates in years prior to law passage, providing a temporal link between laws and changes in opioid analgesic overdose mortality. In addition, we did not find evidence that laws were associated with differences in mortality rates for unrelated conditions (heart disease and septicemia), suggesting that differences in opioid analgesic overdose mortality cannot be explained by broader changes in health. In summary, although we found a lower mean annual rate of opioid analgesic mortality in states with medical cannabis laws, a direct causal link cannot be established.

This study has several limitations. First, this analysis is ecologic and cannot adjust for characteristics of individuals within the states, such as socioeconomic status, race/ethnicity, or medical and psychiatric diagnoses. Although we found that the association between medical cannabis laws and lower opioid overdose mortality strengthened in the years after implementation, this could represent heterogeneity between states that passed laws earlier in the study period vs those that passed the laws later. Second, death certificate data may not correctly classify cases of opioid analgesic overdose deaths, and reporting of opioid analgesics on death certificates may differ among states; misclassification could bias our results in either direction. Third, although fixed-effects models can adjust for time-invariant characteristics of each state and state-invariant time

effects, there may be important time- and state-varying confounders not included in our models. Finally, our findings apply to states that passed medical cannabis laws during the study period and the association between future laws and opioid analgesic overdose mortality may differ.

Conclusions

Although the present study provides evidence that medical cannabis laws are associated with reductions in opioid anal-

gesic overdose mortality on a population level, proposed mechanisms for this association are speculative and rely on indirect evidence. Further rigorous evaluation of medical cannabis policies, including provisions that vary among states,^{14,42} is required before their wide adoption can be recommended. If the relationship between medical cannabis laws and opioid analgesic overdose mortality is substantiated in further work, enactment of laws to allow for use of medical cannabis may be advocated as part of a comprehensive package of policies to reduce the population risk of opioid analgesics.

ARTICLE INFORMATION

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Author Affiliations: Center for Health Equity Research and Promotion, Philadelphia Veterans Affairs Medical Center, Philadelphia, Pennsylvania (Bachhuber); Robert Wood Johnson Foundation Clinical Scholars Program, University of Pennsylvania, Philadelphia (Bachhuber, Saloner, Barry); Leonard Davis Institute of Health Economics, University of Pennsylvania, Philadelphia (Bachhuber, Saloner, Barry); Robert Wood Johnson Health and Society Scholars Program, University of Pennsylvania, Philadelphia (Saloner); Division of General Internal Medicine, Montefiore Medical Center/Albert Einstein College of Medicine, Bronx, New York (Cunningham); Department of Health Policy and Management, the Johns Hopkins Bloomberg School of Public Health, Baltimore, Maryland (Barry).

Author Contributions: Dr Bachhuber had full access to all the data in the study and takes responsibility for the integrity of the data and the accuracy of the data analysis.

Study concept and design: Bachhuber, Saloner, Barry.
Acquisition, analysis, or interpretation of data: Bachhuber, Cunningham, Barry.
Drafting of the manuscript: Bachhuber, Saloner.
Critical revision of the manuscript for important intellectual content: All authors.

Statistical analysis: Bachhuber, Saloner, Barry.
Study supervision: Cunningham, Barry.

Conflict of Interest Disclosures: Dr Cunningham's husband was recently employed by Pfizer Pharmaceuticals and is currently employed by Quest Diagnostics. No other disclosures are reported.

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Role of the Sponsors: The sponsors had no role in the design or conduct of the study; collection, management, analysis, and interpretation of the data; preparation, review, or approval of the manuscript; and decision to submit the manuscript for publication.

Disclaimer: The findings and conclusions of this article are those of the authors and do not necessarily reflect the position or policy of the Department of Veterans Affairs or the US government.

Corrections: This article was corrected on August 27, 2014, to fix a typographical error in Figure 1 and on September 10, 2014, to fix an incorrect term in the Discussion.

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Invited Commentary

Legalization of Medical Marijuana and Incidence of Opioid Mortality

Marie J. Hayes, PhD, Mark S. Brown, MD

The rapid acceleration of prescription opioid-related overdose deaths in the United States is correlated with the availability of stronger opioid medications, as well as a change in medical practice from withholding opioid medication because of dependence risk¹ to treating patients with

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chronic pain with opioids. Subsequently, the pendulum of concern has swung again, driven by the public health crisis of rising opioid analgesic addiction, overdose, and death. Opioid medications are problematic as a treatment for chronic pain. Opioid pharmaceuticals cause other adverse effects when used for long-term use, such as tolerance, hyperalgesia, and gastrointestinal complications, making this class of drugs a poor choice for long-term use. As is well known, prescription opioids also have great abuse potential due to their influence on stress and reward circuits in the brain, promoting nonmedical use and abuse and diversion of prescription medications.

In this issue, Bachhuber et al² examine the link between medical marijuana laws and unintentional overdose mortality in which an opioid analgesic was identified. Using Centers for Disease Control and Prevention data, states with and without medical marijuana laws were contrasted for age-adjusted, opioid-related mortality. Overall, the incidence of opioid analgesic-associated mortality rose dramatically across the study period (1999-2010). States with medical marijuana laws had higher overdose rates than did those without such laws when population-adjusted mortality was analyzed across years,

although the rise in deaths over the study period was similar for both groups. In contrast, a convincing protective effect of medical marijuana laws was found in a covariate-adjusted, time-series model in which opioid analgesic mortality declined steadily based on years since medical marijuana laws were enacted, termed *implementation*. The model included an analysis of the impact of critical policies for prescription opioid regulatory efforts: prescription monitoring programs, pharmacist collection of patient information, state and oversight of pain management clinics, as well as state unemployment rates. In states with medical marijuana laws, age-adjusted overdose deaths in which opioids were present declined in yearly estimates since medical marijuana law implementation. Indeed, across the 13 states that approved medical marijuana laws in the study period, the decline in opioid overdose mortality strengthened over time, achieving a mean decline of 24.5%. Worthy of note, a weak contribution was found for state oversight policies such as prescription monitoring and pain management clinics; this finding has been reported previously.³ The striking implication is that medical marijuana laws, when implemented, may represent a promising approach for stemming runaway rates of nonintentional opioid analgesic-related deaths. If true, this finding upsets the applecart of conventional wisdom regarding the public health implications of marijuana legalization and medicinal usefulness.

The difficulty in endorsing the medical marijuana protective hypothesis is that medical marijuana laws are heterogeneous across states, engender controversy in state legisla-

**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 1b

Date: June 20, 2016

Department: Support Services

Staff Presenter: Sue Kirby

City Manager Review: _____

A handwritten signature in black ink, appearing to be "SK", written over a horizontal line.

Contact/Title: Support Services Director

Telephone No.: 541-883-5326

Email: sgkirby@ci.klamath-falls.or.us

TOPIC: Authorization for City Insurance Coverage for Fiscal Year 2016-2017 from Various Insurance Carriers as Proposed by the City's Insurance Agent of Record, Great Basin Insurance

SUMMARY AND BACKGROUND:

At the beginning of each fiscal year, the City renews its various lines of insurance, including coverage for property damage, automobile damage, automobile liability, general liability, airport liability, and workers' compensation. Attached is the premium summary Staff received from Great Basin Insurance for coverage as provided by our Agent of Record, Matt Hurley. Overall, the increase is \$30,754 or 5.8% primarily driven by the \$29,459 or 16% increase in Commercial Public Entity General Liability and \$5,105 or 14.7% in Commercial Automobile Liability offset slightly by a small decrease in Workers' Compensation (\$2,484) and the Blanket Public Official Bond (\$2,484). The stand-alone Bond for employee dishonesty and depositors forgery will not be renewed as a stand-alone policy, the coverage was moved to be part of the CIS coverage, resulting in \$50,000 additional coverage and savings of over \$2,000.

The Commercial General Liability is a major driver of our increased premiums this year. This increase continues to be driven within the CIS insurance pool by increased employment claims and police-related claims. The increase in Auto Physical Damage of \$5,105 or 14.7% is reflective of the number of auto accidents reported by members. This is one area where the City has a high claims ratio.

The City continues to take advantage of all the discounts and bonus programs available through CIS.

Staff believes the City is adequately insured. Staff recommends approval of the insurance coverage as proposed by CIS, SAIF, and Northwest Insurance Group, Inc.

FINANCIAL IMPACT:

\$559,540.62 Total Annual Premium for all coverage.

1b

DOCUMENTS ATTACHED:

- Premium Summary

REQUESTED MOTION/ACTION:

Move to authorize insurance coverage for fiscal year 2016-2017 as proposed by Great Basin Insurance

NOTICE SENT TO:

Matt Hurley, Great Basin Insurance

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 1c

Date: June 20, 2016

Department: Maintenance

Contact/Title: Kelly Brennan/Maintenance
Manager

Staff Presenter: Kelly Brennan

Telephone No.: (541) 883-5397

City Manager Review: 

Email: kbrennan@klamathfalls.city

TOPIC: Execute a 10 Year Intergovernmental Traffic Signal Maintenance Agreement with Oregon Department of Transportation

SUMMARY AND BACKGROUND:

The previous Traffic Signal Agreement between the City of Klamath Falls and the Oregon Department of Transportation (ODOT) was voided in 2007 due to new jurisdictional ownerships of parts of the local traffic signal systems. ODOT has been working on a new agreement since that date, but the two entities have continued to operate under the same terms and conditions of the prior agreement. The new agreement continues operations as they have previously existed between the City and ODOT.

The new contract will be for a period of 10 years with an understanding that both agencies have budgeted funds of no less than \$7,500 per year for requested maintenance services such as trouble calls, routine inspections and support. With this agreement in place, the City will be able to utilize traffic timing software procured under ODOT contract, work with ODOT personnel for timing issues and procure conflict monitor testing on a yearly basis. It also enables the City to receive State funded dollars for safety upgrades like new traffic controllers and hardware such as reflectorized back plates and countdown timers. If Council authorizes approval of this agreement, ODOT will begin upgrading our controllers on Washburn Way shortly thereafter.

FINANCIAL IMPACT:

- Funds have been allocated for the terms of this contract in the Street Division's Materials and Services budget – Signal and Sign Maintenance and Repairs.

COUNCIL OPTIONS:

- Approve the Traffic Signal Maintenance Agreement with Oregon Department of Transportation.
- Reject the Traffic Signal Maintenance Agreement with Oregon Department of Transportation. Direct Staff to renegotiate contract.

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DOCUMENTS ATTACHED:

- ODOT Traffic Signal Agreement No. 31165

RECOMMENDED MOTION/ACTION:

- Move to execute a 10 year Intergovernmental Traffic Signal Maintenance Agreement with the Oregon Department of Transportation.

NOTICE SENT TO:

- Oregon Department of Transportation

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TRAFFIC SIGNAL MAINTENANCE AGREEMENT
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 "City," both herein referred to individually or collectively as "Party" or "Parties".

RECITALS

1. The Streets identified in Exhibit A are under the jurisdiction and control of the City. The roads identified on Exhibit B are part of the state highway system and under the jurisdiction and control of the Oregon Transportation Commission (OTC).
2. 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.
3. 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.
4. State and City have determined that it is both to their mutual benefit and to the general public's benefit if they jointly utilize State and City maintenance resources.
5. This Agreement will allow the city of Klamath Falls to utilize traffic timing software procured under ODOT contract.

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. This agreement supersedes all signal maintenance agreements previously entered into, if any there be, for the signals listed in Exhibits A and B. Said agreements shall terminate upon execution of this new agreement. Power costs for traffic signals not identified in Exhibits A and B of this Agreement shall survive the termination of any preceding Agreements.
2. Parties agree to enter into this Agreement for the purpose of the maintenance and

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annual inspections of City and State owned traffic signals, hereinafter referred to as "Project". The approximate locations and the ownership or maintenance of the signals associated with the Project are approximate, as shown on the lists attached hereto, marked Exhibits A and B, and by this reference made a part hereof.

3. Parties agree that State shall provide maintenance and annual inspections as requested by City for the traffic signals listed on Exhibit A. Costs for the maintenance of these signals shall be the responsibility of the City.
4. Parties agree that City shall provide maintenance requested by State for the traffic signals listed in Exhibit B. Costs for the maintenance of these signals shall be the responsibility of the State.
5. The Parties hereto mutually agree to the maintenance response terms and conditions set forth in Exhibit C, attached hereto and by this reference made a part hereof
6. The project will be financed at an estimated total cost of \$150,000 in City and State funds. The estimate of the total Project cost is subject to change.
7. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing requested maintenance for the facilities listed in Exhibits A and B for a period of time not to exceed ten (10) years, unless extended by a fully executed amendment prior to termination of this Agreement. The City's responsibility to pay for power, for the facilities as specifically identified in Exhibit A, shall be ongoing throughout the term of this agreement.
8. Parties agree to meet every (5) years or as-needed for the duration of this Agreement to review the Project for re-negotiation and cost adjustments, as additional traffic signals are added to the local system, or if available funding is exhausted prior to termination date of this Agreement. Any changes to the terms or costs shall be added via a fully executed amendment to this Agreement.

CITY OBLIGATIONS

1. City shall be responsible for 100 percent of all power costs for the signals listed in Exhibit A.
2. City shall, upon receipt of an invoice from State, reimburse State for 100 percent of all costs attributable to requested maintenance and annual inspections performed on traffic signals identified in Exhibit A within 45 days of receipt of invoice. Materials shall be replaced by the benefited party with identical replacement parts within 30 days of a parts replacement request from the party performing the maintenance. City's obligation shall not exceed a total of \$75,000 for the duration of this agreement unless revised via a fully executed amendment to this agreement. Typical yearly maintenance charges are expected to be approximately \$15,000.

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City of Klamath Falls/ODOT
Agreement No. 31165

3. City shall invoice State on a monthly basis for 100 percent of the costs associated with all requested maintenance performed on the traffic signals identified in Exhibit B and performed by City. All invoices shall be sent to the attention of the ODOT contact identified in this Agreement.
4. City shall be responsible for all utility locating information for signals listed in Exhibit A as requested by any third party and shall not hold State liable for failure to locate said facilities. All such utility location responsibilities shall be as per the Utility Notification Laws of the State of Oregon, ORS 757.551.
5. City hereby grants State the right to enter into and occupy City right of way for the performance of requested maintenance and annual inspections of the traffic signal equipment identified in Exhibit A, including vehicle detector loops.
6. City shall, at State's expense, perform all requested maintenance of the traffic signals listed in Exhibit B including, but not limited to:
 - a. Vehicle detector systems
 - b. Signal heads and lamps
 - c. Pedestrian heads and lamps
 - d. Signal control equipment.
7. City shall respond to State signal maintenance issues based on the priority of the signal. These categories are assigned to each signal and recorded in Exhibits A and B.
8. City may not modify signal timing without prior written approval of the State Region Traffic Engineer.
9. All employers, including City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. City shall ensure that each of its contractors complies with these requirements.
10. City certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within City's current appropriations or limitation of the current annual budget.
11. City's Project Manager for this Project is Kelly Brennan, Maintenance Manager, 1190 S Spring St., Klamath Falls, OR 97601 or assigned designee upon individual's absence. City may replace the person acting as project manager upon written notice to State.

STATE OBLIGATIONS

1. State shall be responsible for 100 percent of all power costs for the signals listed in

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Exhibit B

2. State shall, upon receipt of an invoice from City, reimburse City for 100 percent of all costs attributable to requested maintenance performed on traffic signals identified in Exhibit B within 45 days of receipt of invoice. Materials shall be replaced by the benefited party with identical replacement parts within 30 days of a parts replacement request from the party performing the maintenance. States' obligation shall not exceed a total of \$75,000 for the duration of this agreement unless revised via a fully executed amendment to this agreement.
3. State shall invoice City on a monthly basis for 100 percent of all maintenance provided in the traffic signals identified in Exhibit A and performed by ODOT. All invoices shall be sent to the attention of the City contact identified in this Agreement.
4. State shall be responsible for all utility locating information for signals listed in Exhibit B as requested by any third party and shall not hold City liable for failure to locate said facilities. All such utility location responsibilities shall be as per the Utility Notification Laws of the State of Oregon, ORS 757.551.
5. State grants City the right to enter onto State right of way for the performance of duties as set forth in this Agreement.
6. State shall, at City's expense, perform all requested maintenance of the traffic signals listed in Exhibit A including, but not limited to:
 - a. Vehicle detector systems
 - b. Signal heads and lamps
 - c. Pedestrian heads and lamps
 - d. Signal control equipment
 - e. Communications and Intelligent Traffic Systems (ITS) infrastructure
 - f. Timing established for the operation of the traffic signals
7. State shall retain the right to review the traffic signal timing and to require City to make timing adjustments when needed.
8. State shall respond to City signal maintenance issues based on the priority of the signal. These categories are assigned to each signal and recorded in Exhibits A and B.
9. State shall perform and invoice City for the annual inspection of all signals listed in Exhibit A. This inspection shall be to department standards established by Traffic Signal Services Unit. A copy of the results of this inspection will be provided to City.
10. 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 appropriations or limitation of the current biennial budget.
11. State's Project Manager for this Project is David Hirsch, Region 4 Traffic Signals Coordinator, 53066 N. Hwy 97, Bend, OR 97701, 541-3886472

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City of Klamath Falls/ODOT
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david.hirsch@odot.state.or.us or assigned designee upon individual's absence.
State may replace the person acting as project manager upon written notice to the
City.

GENERAL PROVISIONS

1. State may terminate this Agreement effective upon delivery of written notice to City, or at such later date as may be established by State, under any of the following conditions:
 - a. If City fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If City 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.
 - c. If City fails to provide payment of its share of the cost of the Agreement.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
2. City may terminate this Agreement effective upon delivery of written notice to State, or at such later date as may be established by City, under any of the following conditions:
 - a. If State fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If State fails to provide payment of its share of the cost of the Agreement.
 - c. If City fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow City, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - d. 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 City is prohibited from paying for such work from the

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planned funding source.

3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
4. Both Parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Both Parties expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
5. 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 City 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.
6. With respect to a Third Party Claim for which the State is jointly liable with City (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 City in such proportion as is appropriate to reflect the relative fault of State on the one hand and of City 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 City 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.
7. With respect to a Third Party Claim for which City is jointly liable with State (or would be if joined in the Third Party Claim), City 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

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appropriate to reflect the relative fault of City 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 City 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. City'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.

8. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
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 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

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City of Klamath Falls/ODOT
Agreement No. 31165

CITY OF KLAMATH FALLS, by and through
its elected officials

By _____
City Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Council

Date _____

City Contact

Kelly Brennan - Maintenance Manager
1190 S Spring St.
Klamath Falls, OR 97601

State Contact

David Hirsch - Region 4 Traffic Signals
Coordinator
53066 N. Hwy 97
Bend, OR 97701

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 4 Manager

Date _____

APPROVAL RECOMMENDED

By _____
State Traffic Engineer

Date _____

By _____
Region 4 Maintenance and Operations
Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

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EXHIBIT A

CITY OF KLAMATH FALLS SIGNALS MAINTAINED BY STATE				
NO	SIGNAL ID	LOCATION	STATUS	PRIORITY
1	11004	Campus Way @ Dahlia St	Existing	3
2	11005	S 6 th St @ Avalon St	Existing	2
3	11006	S 6 th St @ Main St	Existing	2
4	11007	S 6 th St @ Washburn Way	Existing	1
5	11008	S 6 th St @ Austin St	Existing	1
6	11015	S 6 th St @ Shasta Way	Existing	2
7	11030	Washburn Way @ Shasta Way	Existing	1
8	11031	Washburn Way @ Crosby Ave	Existing	1
9	11032	Washburn Way @ Hilyard Ave	Existing	1
10	11033	Washburn Way @ Laverne Ave	Existing	1
11	11036	Washburn Way @ OC&E Trail – PED SIGNAL	Existing	3
12	11056	Shasta Way @ Avalon St	Existing	2
13	11213	Washburn Way @ Onyx Ave	Existing	1

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EXHIBIT B

STATE SIGNALS MAINTAINED BY CITY OF KLAMATH FALLS				
NO	SIGNAL ID	LOCATION	STATUS	PRIORITY
1	11001	Crater Lake Pkwy (OR39) @ Campus Dr	Existing	1
2	11002	Crater Lake Pkwy (OR39) @ Esplanade Ave	Existing	1
3	11003	Crater Lake Pkwy (OR39) @ Washburn Way	Existing	1
4	11009	S 6 th St @ Altamont Dr	Existing	2
5	11010	S 6 th St @ Crest St	Existing	2
6	11011	S 6 th St @ Summers Ln	Existing	1
7	11012	S 6 th St @ Crater lake Pkwy (OR39)	Existing	1
8	11013	S 6 th St (OR39) @ Hope St	Existing	1
9	11014	S 6 th St (OR39) @ Homedale Rd	Existing	1
10	11017	S 6 th St (OR39) @ Madison St	Existing	1
11	11018	S 6 th St (OR39) @ Gettle St - FIRE	Existing	1
12	11020	S 6 th St (OR39) @ Patterson St	Existing	1
13	11021	S 6 th St (OR39) @ Home Depot	Existing	1
14	11022	S 6 th St (OR39) @ Malin Jct (OR140)	Existing	1
15	11024	Crater Lake Pkwy (OR39) @ Portland St - PHB	Existing	2
16	11025	Crater Lake Pkwy (OR39) @ Shasta Way	Existing	1
17	11026	Crater Lake Pkwy (OR39) @ Main St	Existing	1
18	11035	Falls Hwy (OR140) @ Greensprings D (OR66)	Existing	2
19	11038	Southside Expy (OR 140) @ Washburn Way	Existing	2

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EXHIBIT c

A. Categories shall be assigned to each signal listed on Exhibits A and B. These categories are:

1. (HIGHEST LEVEL OF RESPONSE) Intersections operating at Level of Service (LOS) F when in flash condition during the 9th highest hour of the day. This condition requires a high priority response to a trouble call.
2. (INTERMEDIATE LEVEL OF RESPONSE) Intersections operating at LOS F when in flash condition during the peak traffic hour but not during the 8th highest hour of the day. This condition requires a response to a trouble call before the next known rush hour.
3. (LOWEST LEVEL OF RESPONSE) Typically remote location intersections operating at LOS E or better in flash condition during the peak traffic hour of the day. Response to a trouble call will be made before the end of the next regular work shift.

B. ODOT and City agree to the following definitions:

EMERGENCY: When the situation seriously impedes the flow of traffic or a serious hazard to the public exists. Listed below are some examples which should be classified as emergency situations. These are high priority responses and are responded to as quickly as circumstances allow. The list shown below is not meant to be all-inclusive, and other situations may arise which could be classified as emergency:

- Traffic signal knock down (poles, cabinet, etc.)
- All signal indications are out (excluding power outages)
- Category 1 intersections on flash

NON-EMERGENCY: When the situation has little or no effect on traffic and does not appear to pose a serious problem to the public as determined by Region 4 Traffic Manager. These are regular work priority responses and are responded to as resources are available. Listed below are some examples which should be classified as non-emergency situation. The list shown is not meant to be all-inclusive, and other situations may arise which may be classified as non-emergency:

- A single indicator of a dual indication movement burned out
- Damaged signal hardware (intersection still functioning)
- Stuck pedestrian push button
- Malfunctioning vehicle detector

Response times to signal modifications or major reconstruction will be agreed upon between ODOT and City for each project requested.

**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. ld

Date: June 20, 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 Amendment Number 01 to Local Agency Agreement No. 29197 Between the City of Klamath Falls and the Oregon Department of Transportation for the City's Congestion Mitigation and Air Quality (CMAQ) Additional Paving Project

SUMMARY AND BACKGROUND:

In 2008, the City applied for funding from the Oregon Department of Transportation (ODOT) under the Congestion Mitigation and Air Quality Program (CMAQ). CMAQ is a Federal air quality grant program administered by the State to improve air quality under the PM-10 (particulate matter – 10 ppm) criteria. The purpose of the program was to reduce particulate matter generated from unpaved roads within the basin.

In 2011, construction of the unpaved streets began. The City was able to expand the original project scope of work due to additional fund availability associated with bid prices being lower than originally budgeted. The City also requested and was granted additional funding (on top of funds left over from the original work) for additional unpaved areas. Due to weather and unforeseen conditions, there were delays during construction; some of the additional paving work was not completed.

In July of 2012, the City re-requested CMAQ funds to complete the work identified in 2011. This additional work was identified in Local Agency Agreement No. 29197, which authorized the City to expend \$342,000 of available Federal Highway funds allocated to the City through the CMAQ Program. The agreement requires the City to match 10.27% of the total project cost, establishing a total spending limit in 2012 of \$381,143. These funds were to be used for design, bid and construction of the additional paving project. The attached Exhibits 'A', 'B' and 'C' illustrate the locations of each project identified under Agreement No. 29197.

Since 2012, additional regulatory requirements have been placed on the use of Federal Highway funds for CMAQ projects. Following commencement of design work, the City was required to perform an archeological cultural study near the Link River area of the project. The City was also required to test the existing soils throughout the limits of the project for contamination. Although the archeological study yielded negative results, the contaminated soils study tested positive for various contaminants, which resulted in a requirement that the soil be disposed of as a hazardous material. The additional studies and the contaminated soils disposal requirements caused substantial increase to the project cost. Due to the regulatory changes requiring hazardous materials testing and the archeological cultural study, the attached Amendment Number 01 to

Agreement No. 29197 was recently drafted by ODOT for execution by the City of Klamath Falls. This amendment allows the use of CMAQ funds to cover the additional expenses. These costs increased the estimated project budget to \$833,606 with a matching 10.27% to be paid by City funds.

This project was publically bid by ODOT and bids were opened on May 12, 2016 with one company supplying a bid. ODOT reviewed the bid from Rocky Mountain Construction and found the documentation to be in order and the bid to be acceptable. A summary of the Local Agency Agreement amounts (spending limits) and actual anticipated expenditures can be seen below.

Local Agency Agreement No. 29197 (spending limit)	\$ 342,000
Amendment 01 to Agreement No. 29197 (revised spending limit)	\$ 833,606
Rocky Mountain Construction Bid	\$ 549,549
ODOT contingency (3.5%)	\$ 19,234
WH Pacific Engineering and Project Management (through ODOT)	<u>\$ 92,324</u>
Total Estimated Project Costs Based on Bids	= \$ 661,108
Estimated future City of Klamath Falls Match (10.27%)	= \$ 67,896
Estimated future Street Department Portion of Match	= \$ 57,711
Estimated future Water Department Portion of Match	= \$ 10,184

At this point in the process, the City has the option to opt out of this project by not signing Amendment 01 to Local Agency Agreement No. 29197 and denying the use of CMAQ money. However, should the City choose to opt out, the City will be responsible for all design costs with WH Pacific and administrative costs with ODOT. Those costs to date total approximately \$95,000.

FINANCIAL IMPACT:

Amendment 01 to Agreement No. 29197 would increase the total Project cost to an estimated \$833,606, establishing the City's spending limit of CMAQ funds to a potential of \$747,995 with a match of 10.27% of City funds totaling a potential \$85,611. However, the Total Estimated Project Cost based on received bids is estimated at \$661,107. Based on the City match obligation of 10.27%, the estimated match would be \$67,896. The Streets Division's portion of the required match is estimated at \$57,711 and they have allotted \$20,000 of Forest Timber Receipt Funds, which are identified in the Proposed FY2016/17 Budget toward this project. If Council authorizes approval of the amendment, the remaining funds would either come from delaying another project or by seeking an amendment to the budget. The Water Division's portion of the required match is estimated at \$10,184 and they have identified \$18,000 in the Water Capital Outlay fund of the Proposed FY2016/17 Budget toward this project.

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COUNCIL OPTIONS:

1. Approve signing Amendment Number 01 to Local Agency Agreement No. 29197 between the City of Klamath Falls and the Oregon Department of Transportation for the City's Congestion Mitigation and Air Quality (CMAQ) Additional Paving Project.
2. Reject signing Amendment Number 01 to Local Agency Agreement No. 29197 between the City of Klamath Falls and the Oregon Department of Transportation for the City's Congestion Mitigation and Air Quality (CMAQ) Additional Paving Project. This option would cancel the project and cause the City to be responsible for roughly \$95,000 of design and administrative costs incurred to date.

DOCUMENTS ATTACHED:

- Additional Paving Cover Letter, dated July 17, 2012
- Location Exhibits 'A', 'B' & 'C'
- Local Agency Agreement No. 29197, executed July 1, 2013
- Amendment 01 to Local Agency Agreement No. 29197

RECOMMENDED MOTION/ACTION:

Move to authorize execution of Amendment Number 01 to Local Agency Agreement No. 29197 between the City of Klamath Falls and the Oregon Department of Transportation for the City's Congestion Mitigation and Air Quality (CMAQ) Additional Paving Project.

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City of Klamath Falls
Public Works Department - Engineering Division
PO Box 237, Klamath Falls, OR 97601
Capital Projects Section
TEL (541) 883-5283; FAX (541) 882-3513
alakey@ci.klamath-falls.or.us
<http://www.kfallsengineering.com>

July 17, 2012

Michelle Eraut
Acting Planning and Program Development Team Leader Environmental Protection Specialist
Federal Highway Administration
530 Center Street NE., Suite 100
Salem, OR 97301

RE: CMAQ Fund Distribution

This letter is to request Bidding and construction approval for the Unpaved Streets Projects using Congestion Mitigation and Air Quality (CMAQ) dollars available to the City of Klamath Falls.

Last year the City retained the services of WH Pacific for design and bidding of the 2011 Unpaved Streets Project. Rocky Mountain Construction, LLC won the bid and performed the construction services for the project. During construction the City requested additional sites to be paved and the request was submitted as CCO#2 (Please see the attached). The request was approved and WH Pacific performed the design and supplied the plans to facilitate construction. Due to weather and time constraints only the Streets Compound portion of additional work was constructed.

The Unpaved Streets and Alleys Project consists of paving existing unimproved streets located within the City of Klamath Falls maintenance areas as defined by the City of Klamath Falls Streets Division (see attached drawing package). Per the Klamath Falls PM10 Maintenance SIP, Appendix E, Table E-1 (see attached table) approved in 2002 the total emissions per mile for an unpaved road in Klamath Falls is 334.5g. Also identified are the total emissions per mile for a paved road in Klamath Falls at 2.44g. This Unpaved Streets and Alleys Project will significantly improve air quality by reduce PM10 emissions by 20.22 kg/day throughout the City.

Attached are results of the calculations used to rank the unpaved streets using the Cost Effectiveness Rating. The Cost Effectiveness Ranking is derived from the cost per emission rate saved, i.e. the amount of dust in the air that can be cost effectively reduced. Also attached are the Typical Sections the City plans to use for paving the unimproved streets. These sections have been used on past CMAQ projects and have been approved by the City of Klamath Falls Public Works Department.

The City, through internal Staff reviews and Council work sessions, has determined the Unpaved Streets project to be a cost effective alternative congestion mitigation project. A preliminary cost estimate was performed and it was determined that \$342,000 is needed for design and construction costs associated with this project. It is our understanding this project is fully funded and there is no match required by the City of Klamath Falls at this time.

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City of Klamath Falls
Public Works Department - Engineering Division
PO Box 237, Klamath Falls, OR 97601
Capital Projects Section
TEL (541) 883-5283; FAX (541) 882-3513
alakey@ci.klamath-falls.or.us
<http://www.kfallsengineering.com>

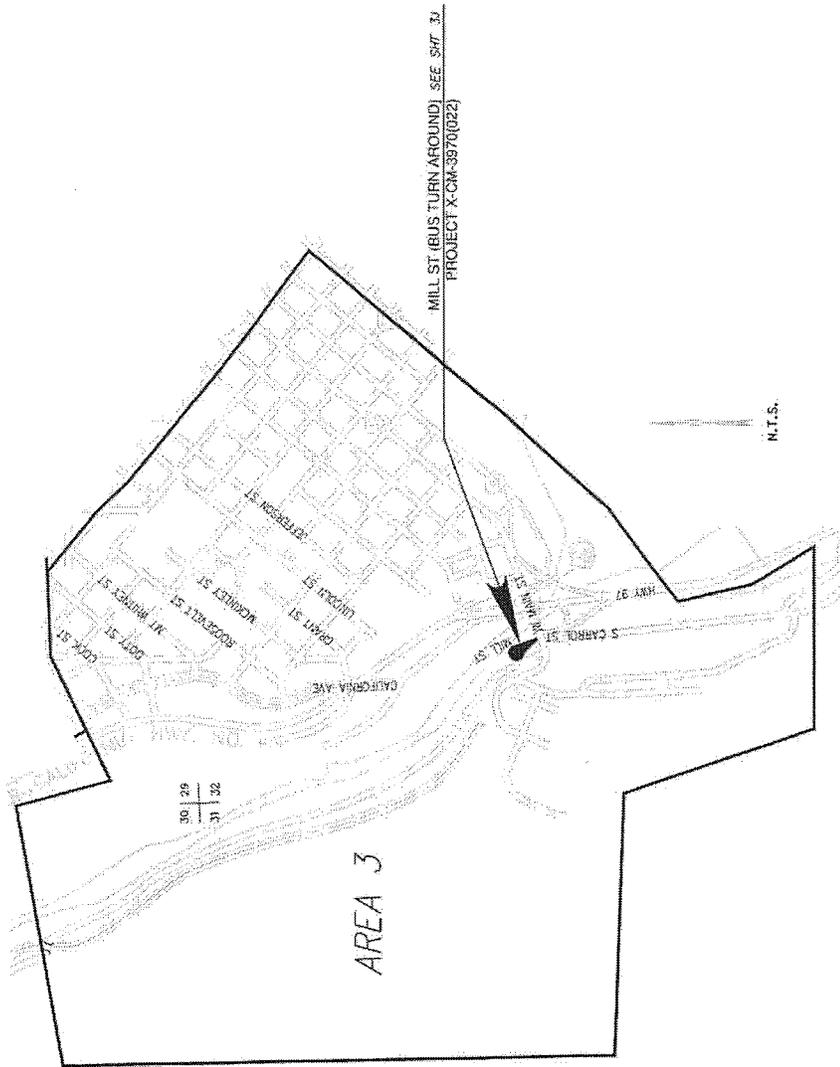
The design portion of the Unpaved Streets Project is scheduled to occur in the Fall and Winter of 2012 with construction and paving to occur during the 2013 construction and paving season. It is the City's intent to reconstruct and pave only existing gravel and or dirt roads in the maintenance areas and not to construct new roads as a part of this project.

For these reasons, the City of Klamath Falls is requesting the use of \$342,000 of CMAQ funding to implement the Unpaved Streets and Alleys Project. Please contact me with any questions or requests

Sincerely,

Chuck Cox
Street Division Manager
P.O. Box 237
Klamath Falls, OR 97601
Phone: 541-883-5385
Fax: 541-883-5381

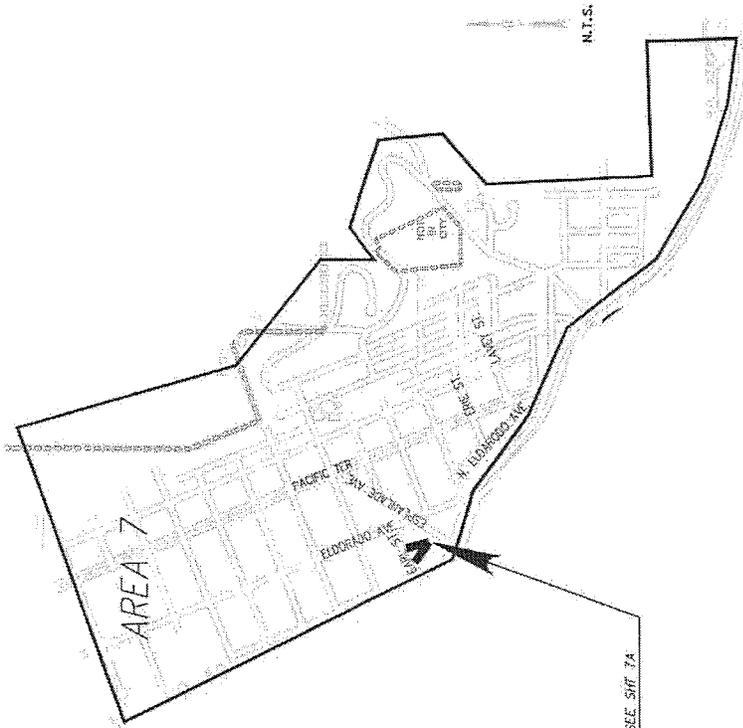
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 OREGON DEPARTMENT OF TRANSPORTATION WHPacific 10101 CLATSOP ST PORTLAND, OR 97202 503.281.4800 www.odot.gov	
CITY OF KLAMATH FALLS STREET PAVING PROJECT Klamath County Reviewed By: T. ZIMONIA Designed By: D. Bergmann Written By: S. Manoy	
INDEX OF ADDITIONAL SHEETS CONT'D	SHEET NO. 1A-2A

PS:\DDOT\AG-35172\SHEETS\DRAWINGS\CH\1A-ADD\1GNAL - STREET'S\SHT INDEX AREA-3.DWG 1/21/2011 9:27 PM DERGMANN

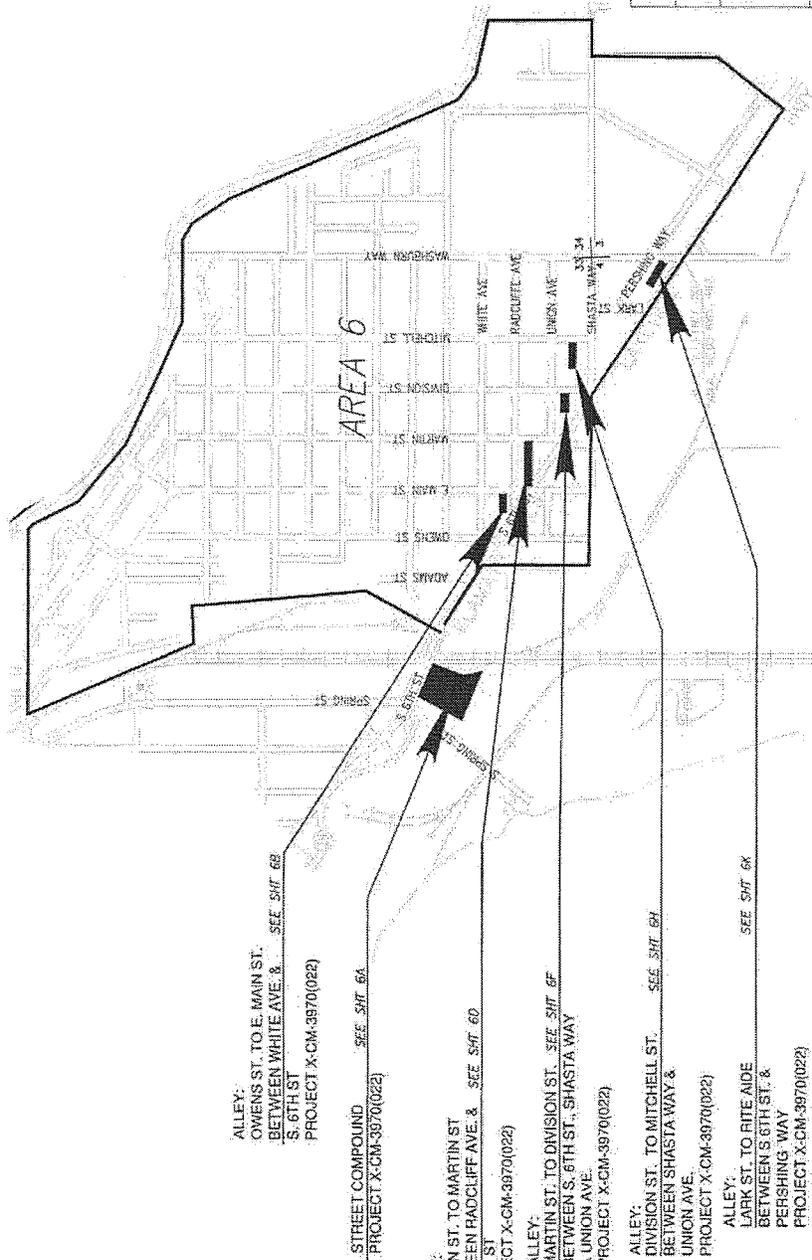
1d



ALLEYS:
BETWEEN EDGEMOOR AVE
& EARL ST
PROJECT X-CM-3970(022)
SEE SH 74

WHIPacific <small>27250 UNIVERSITY SUITE 100 PORTLAND, OR 97203</small>	
CITY OF KLAMATH FALLS 8 STREET PAVING PROJECT	
Klamath County Reviewed By - T. SZYMANSKI Designed By - D. BERONSON Drafted By - S. MURPHY	
INDEX OF ADDITIONAL SHEETS CONT'D	SHEET JA-5A

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N.T.S.

ALLEY:
OWENS ST. TO E. MAIN ST.
BETWEEN WHITE AVE. & S. 6TH ST
SEE SHF 6B
PROJECT X-CM-3970(022)

STREET COMPOUND
SEE SHF 6A
PROJECT X-CM-3970(022)

ALLEY:
E. MAIN ST. TO MARTIN ST
BETWEEN RADCLIFF AVE. & S. 6TH ST
SEE SHF 6D
PROJECT X-CM-3970(022)

ALLEY:
MARTIN ST. TO DIVISION ST.
BETWEEN S. 6TH ST., SHASTA WAY
& UNION AVE.
SEE SHF 6F
PROJECT X-CM-3970(022)

ALLEY:
DIVISION ST. TO MITCHELL ST.
BETWEEN SHASTA WAY &
UNION AVE.
SEE SHF 6H
PROJECT X-CM-3970(022)

ALLEY:
LARK ST. TO RITE AIDE
BETWEEN S. 6TH ST. &
PERSHING WAY
SEE SHF 6K
PROJECT X-CM-3970(022)

<p>OREGON DEPARTMENT OF TRANSPORTATION</p>	<p>WHIPacific</p> <p>2025 Commercial 1000 NE Oregon St Portland, OR 97232 www.whipacific.com</p>	<p>603.837.7443 603.837.7443 www.whipacific.com</p>
	<p>CITY OF KLAMATH FALLS 8TH STREET PAVING PROJECT</p>	
<p>Klamath County</p>		<p>Prepared By: T. Schwaninger Checked By: J. Schwaninger Designed By: S. Wardy</p>
<p>INDEX OF ADDITIONAL SHEETS CONT'D.</p>		<p>SHEET NO. IA-6A</p>

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**LOCAL AGENCY AGREEMENT
CONGESTION MITIGATION AND AIR QUALITY PROGRAM
Klamath Falls Street Paving
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. The streets as shown on the attached list attached hereto, marked Exhibit A, and by this reference made a part hereof, are a part of the city street system under the jurisdiction and control of city.
2. 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. Under such authority, State and Agency agree to all phases of the resurfacing of various city streets, hereinafter referred to as "Project." The location of the Project is approximately as shown on the sketch maps attached hereto, marked "Exhibit A," and by this reference made a part hereof.
2. This Project shall be conducted as a part of the Congestion Mitigation and Air Quality (CMAQ) Program under Title 23, United States Code. The total Project cost is estimated at \$381,143, which is subject to change. The CMAQ funds are limited to \$342,000, with Agency providing the match and any non-participating costs, including all costs in excess of the available federal funds. Agency shall be responsible for determining the amount of federal funds to be applied to each phase of the Project. Agency is not guaranteed the use of unspent funds for a particular phase of work. It is Agency's responsibility to notify State in advance of State obligating the funds for a subsequent phase if Agency wants to release funds on the current authorized phase(s) of work.
3. The federal funding for this Project is contingent upon approval by the Federal Highway Administration (FHWA). Any work performed prior to acceptance by FHWA

Key No. 18278

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City of Klamath Falls/ODOT
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or outside the scope of work will be considered nonparticipating and paid for at Agency expense.

4. State considers Agency a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number for this Project is 20.205, title Highway Planning and Construction.
5. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of State, be indemnified by the contractor and subcontractor from and against any and all Claims.
6. Any such indemnification shall also provide that neither Agency's contractor and subcontractor nor any attorney engaged by Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.
7. 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.
8. This Agreement may be terminated by mutual written consent of the Parties.
9. 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.

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City of Klamath Falls/ODOT
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- 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.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.
10. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
11. 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.
12. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
13. 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.

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City of Klamath Falls/ODOT
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14. 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.
15. 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 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.
16. State's Project Manager for the Agreement is Darrell Newton, Local Agency Programs Coordinator, 63055 N Highway 97, Bldg M, Bend, OR 97701, (541) 388-6272, darrell.r.newton@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.
17. Agency's Project Manager for this Agreement is Mark Willrett – Director of Public Works, 226 South 5th Street/P.O. Box 237, Klamath Falls, OR 97601, (541) 883-5364, willrett@ci.klamath-falls.or.us, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

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 2012-2015 Statewide Transportation Improvement Program, (Key #18728) that was adopted by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

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City of Klamath Falls/ODOT
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CITY OF KLAMATH FALLS, by and
through its elected officials

By [Signature]
Mayor

Date June 18, 2013

APPROVED AS TO LEGAL
SUFFICIENCY

By [Signature]
Agency Counsel

Date June 19, 2013

Agency Contact:
Mark Willrett - Director of Public Works
226 South 5th Street/P.O. Box 237
Klamath Falls, OR 97601
(541) 883-5364
wjllrett@ci.klamath-falls.or.us

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

STATE OF OREGON, by and through
its Department of Transportation

By [Signature]
Region 4 Manager

Date 7/1/13

APPROVAL RECOMMENDED

By [Signature]
CMAQ Program Coordinator

Date 6-26-13

APPROVED AS TO LEGAL
SUFFICIENCY

By [Signature]
Assistant Attorney General

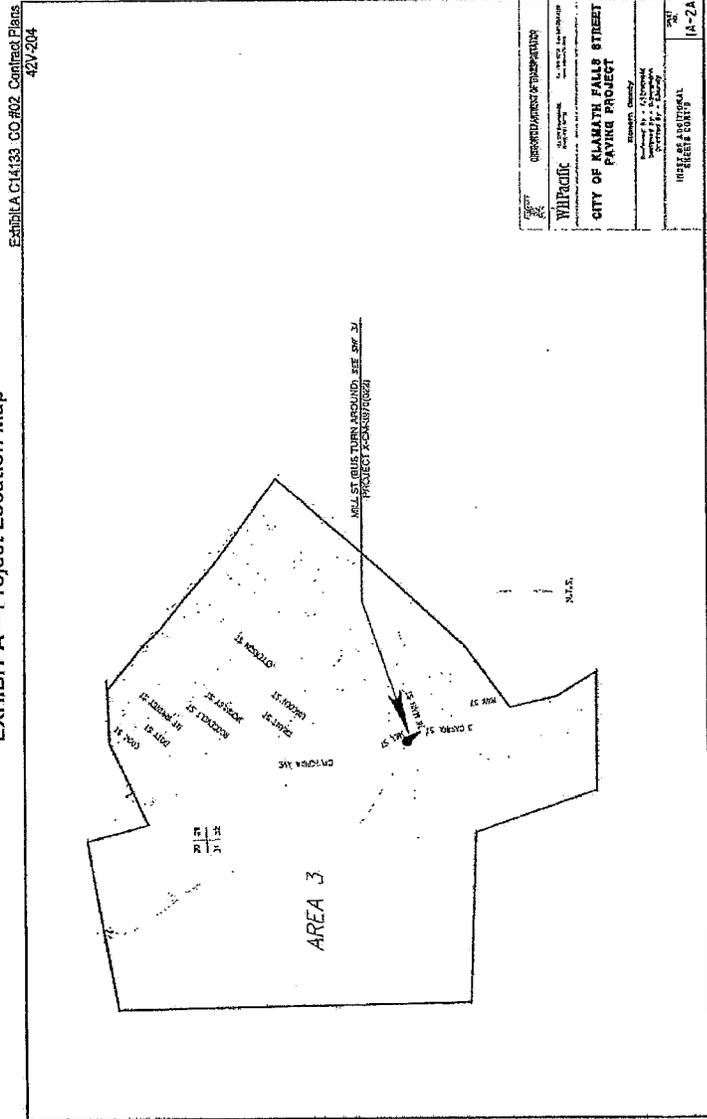
Date 6-24-13

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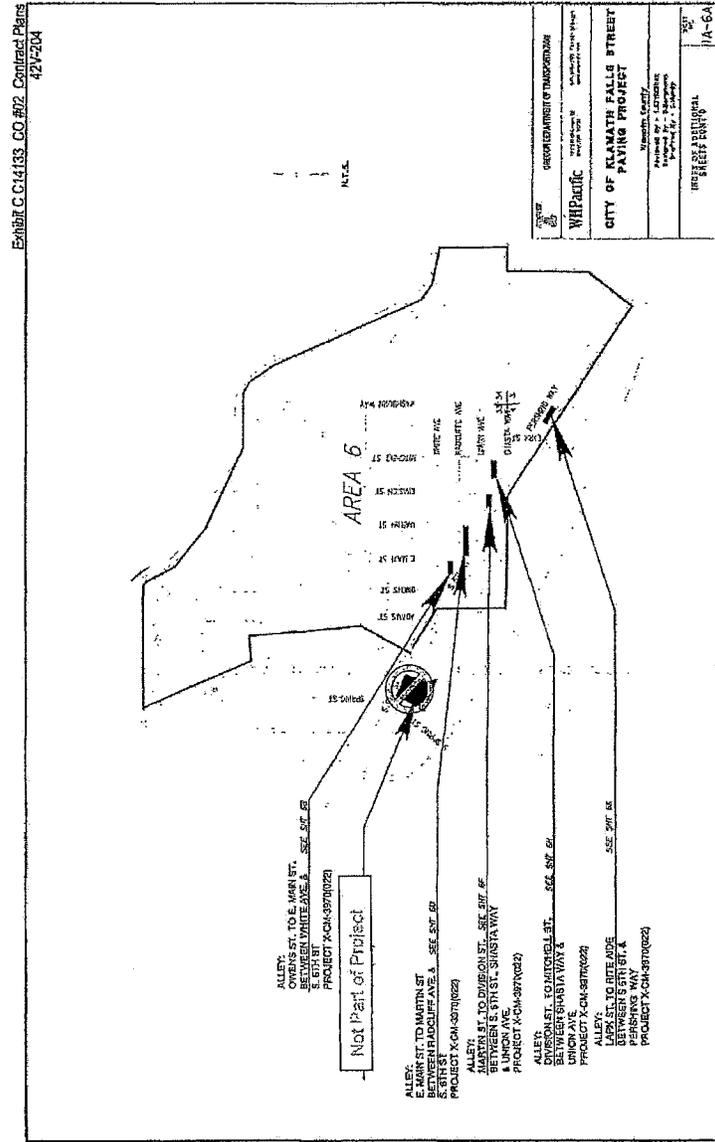
City of Klamath Falls/ODOT
Agreement No. 29197

EXHIBIT A - Project Location Map



City of Klamath Falls/ODOT
 Agreement No. 29197

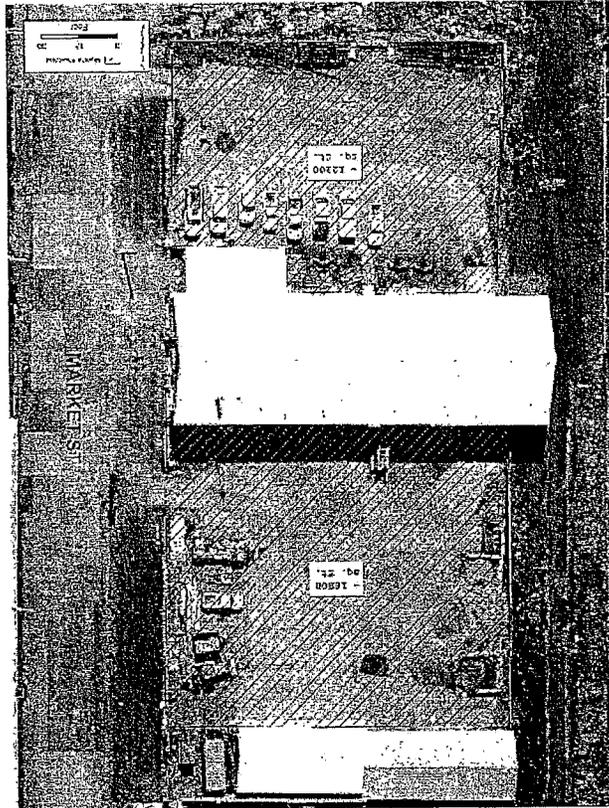
EXHIBIT A – Project Location Map



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City of Klamath Falls/ODOT
Agreement No. 29197

EXHIBIT A - Project Location Map
(Water Division Compound)



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**ATTACHMENT NO. 1 to Agreement No. 29197
SPECIAL PROVISIONS**

1. Agency or its consultant shall, as a federal-aid participating preliminary engineering function, conduct the necessary field surveys, environmental studies, traffic investigations, foundation explorations, and hydraulic studies, identify and obtain all required permits, assist State with acquisition of necessary right of way and/or easements, and perform all preliminary engineering and design work required to produce final plans, preliminary/final specifications and cost estimates.
2. Upon State's award of the construction contract, Agency, or its consultant, shall be responsible to perform all construction engineering, field testing of materials, technical inspection and project manager services for administration of the contract.
3. State may make available Region 4's On-Call Preliminary Engineering (PE), Design and Construction Engineering Services consultant for Local Agency Projects upon written request. If Agency chooses to use said services, Agency agrees to manage the work performed by the consultant and make funds available to the State for payment of those services. All eligible work shall be a federally participating cost and included as part of the total cost of the Project.
4. Indemnification language in the Standards Provisions, Paragraphs 46 and 47, shall be replaced with the following language:
 - a. 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.
 - b. 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

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City of Klamath Falls/ODOT
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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.

- c. 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.
 - d. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
5. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and/or service demand.
 6. Maintenance responsibilities shall survive any termination of this Agreement.

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ATTACHMENT NO. 2

FEDERAL STANDARD PROVISIONS

JOINT OBLIGATIONS 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 further act for Agency in other matters pertaining to the Project. Agency 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 liaison person 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.

PRELIMINARY & CONSTRUCTION ENGINEERING

3. State, Agency, or others may perform preliminary and construction engineering. If Agency or others perform the engineering, State will monitor the work for conformance with FHWA rules and regulations. In the event that Agency elects to engage the services of a personal services consultant to perform any work covered by this Agreement, Agency and Consultant shall enter into a State reviewed and approved personal services contract process and resulting contract document. State must concur in the contract prior to beginning any work. State's personal services contracting process and resulting contract document will follow Title 23 Code of Federal Regulations (CFR) 172, Title 49 CFR 18, ORS 279A.055, the current State Administrative Rules 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. Subcontracts shall contain all required provisions of Agency as outlined in the Agreement. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or its consultant prior to receiving authorization from State to proceed. Any amendments to such contract(s) also require State's approval.
4. On all construction projects where State is the signatory party to the contract, and where Agency is doing the construction engineering and project management, Agency, subject to any limitations imposed by state law and the Oregon Constitution, agrees to accept all responsibility, defend lawsuits, indemnify and hold State harmless, for all tort claims, contract claims, or any other lawsuit arising out of the contractor's work or Agency's supervision of the project.

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**REQUIRED STATEMENT FOR UNITED STATES DEPARTMENT OF
TRANSPORTATION (USDOT) FINANCIAL ASSISTANCE AGREEMENT**

5. If as a condition of assistance, Agency has submitted and the United States Department of Transportation (USDOT) has approved a Disadvantaged Business Enterprise Affirmative Action Program which Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference. That program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of the financial assistance agreement. Upon notification from USDOT to Agency of its failure to carry out the approved program, USDOT shall impose such sanctions as noted in Title 49, CFR, Part 26, which sanctions may include termination of the agreement or other measures that may affect the ability of Agency to obtain future USDOT financial assistance.
6. **Disadvantaged Business Enterprises (DBE) Obligations.** State and its contractor agree to ensure that DBE as defined in Title 49, CFR, Part 26, have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds. In this regard, Agency shall take all necessary and reasonable steps in accordance with Title 49, CFR, Part 26, to ensure that DBE have the opportunity to compete for and perform contracts. Neither State nor Agency and its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. Agency shall carry out applicable requirements of Title 49, CFR, Part 26, in the award and administration of such contracts. Failure by Agency to carry out these requirements is a material breach of this Agreement, which may result in the termination of this contract or such other remedy as State deems appropriate.
7. The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this Agreement.
8. Agency agrees 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.
9. 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 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, 710, and 771; Title 49 CFR Parts 18, 24 and 26; 2 CFR 225, and OMB CIRCULAR NO. A-133, 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 and provisions of Federal-Aid Policy Guide (FAPG).

STATE OBLIGATIONS

PROJECT FUNDING REQUEST

10. State shall submit a Project funding request to FHWA with a request for approval of federal-aid participation in all engineering, right-of-way acquisition, eligible utility relocations and/or construction work for the Project. **No work shall proceed on any activity in which federal-aid participation is desired until such approval has been obtained.** The

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program shall include services to be provided by State, Agency, or others. State shall notify Agency in writing when authorization to proceed has been received from FHWA. Major responsibility for the various phases of the Project will be as outlined in the Special Provisions. All work and records of such work shall be in conformance with FHWA rules and regulations.

FINANCE

11. State shall, in the first instance, pay all reimbursable costs of the Project, submit all claims for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. 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 100 percent of the final total actual cost. Any portion of deposits made in excess of the final total costs of 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.
12. If federal funds are used, State will specify the Catalog of Federal Domestic Assistance (CFDA) number in the Agreement. State will also determine and clearly state in the Agreement if recipient is a subrecipient or vendor, using criteria in Circular A-133.

PROJECT ACTIVITIES

13. State shall, if the preliminary engineering work is performed by Agency or others, review and process or approve all environmental statements, preliminary and final plans, specifications and cost estimates. State shall, if they prepare these documents, offer Agency the opportunity to review and approve the documents prior to advertising for bids.
14. 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.
15. State shall prepare contract and bidding documents, advertise for bid proposals, and award all contracts.
16. Upon State's award of a construction contract, State shall perform independent assurance testing in accordance with State and FHWA Standards, 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.
17. State shall, as a Project expense, assign a liaison person to provide Project monitoring as needed throughout all phases of Project activities (preliminary engineering, right-of-way acquisition, and construction). The liaison shall process reimbursement for federal participation costs.

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RIGHT OF WAY

18. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of the Project. Agency may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project, provided Agency (or Agency's consultant) are qualified to do such work as required by the State's Right of Way Manual and have obtained prior approval from State's Region Right of Way office to do such work.
19. 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. State shall always be responsible for requesting project funding, 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 the State's Region Right of Way offices on all projects. All projects must have right of way certification coordinated through State's Region Right of Way offices (even for projects where no federal funds were used for right of way, but federal funds were used elsewhere on the Project). Agency should contact the State's Region Right of Way office for additional information or clarification.
20. State shall review all right of way activities engaged in by Agency to assure compliance with applicable laws and regulations. Agency agrees that right of way activities shall be in accord with the Uniform Relocation Assistance & Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FHWA Federal-Aid Policy Guide, State's Right of Way Manual and the Code of Federal Regulations, Title 23, Part 710 and Title 49, Part 24.
21. 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.
22. Agency insures that all Project right of way monumentation will be conducted in conformance with ORS 209.155.
23. State and Agency grants each other authority to enter onto the other's right of way for the performance of the Project.

AGENCY OBLIGATIONS

FINANCE

24. 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, unless otherwise agreed to and specified in the intergovernmental agreement.
25. 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

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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 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 canceled. Any unnecessary balance of a cash deposit, 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 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 the Highway Finance Office), or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash.
 - d) Agency may satisfy all or part of any matching funds requirements by use of in-kind contributions rather than cash when prior written approval has been given by State.
26. 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 also pay 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 that Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration outside the Local Agency Guidelines that result in items being declared non-participating, those items will not result in the withholding of Agency's future allocations of federal funds or the future allocations of State Highway Trust Funds.
27. 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.
28. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear 100 percent of all costs as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear 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 development 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.
29. Agency shall follow requirements of the Single Audit Act. The requirements stated in the Single Audit Act must be followed by those local governments and non-profit organizations receiving \$500,000 or more in federal funds. The Single Audit Act of 1984, PL 98-502 as amended by PL 104-156, described in "OMB CIRCULAR NO. A-133", requires local governments and non-profit organizations to obtain an audit that includes internal controls and compliance with federal laws and regulations of all federally-funded programs in which

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the local agency participates. The cost of this audit can be partially prorated to the federal program.

30. 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.
31. Agency shall present invoices for 100 percent of actual costs incurred by Agency on behalf of the Project directly to State's Liaison Person for review and approval. Such invoices shall identify the Project and Agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Billings shall be presented for periods of not less than one-month duration, based on actual expenses to date. All billings received from Agency must be approved by State's Liaison Person prior to payment. Agency's actual costs eligible for federal-aid or State participation shall be those allowable under the provisions of Title 23 CFR Parts 1.11, 140 and 710. Final billings shall be submitted to State for processing within three (3) months from the end of each funding phase as follows: 1) award date of a construction contract for preliminary engineering (PE) 2) last payment for right of way acquisition and 3) third notification for construction. Partial billing (progress payment) shall be submitted to State within three (3) months from date that costs are incurred. Final billings submitted after the three months shall not be eligible for reimbursement.
32. The cost records and accounts pertaining to work covered by this Agreement are to be kept available for inspection by representatives of State and FHWA for a period of six (6) years following the date of final voucher to FHWA. 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 (Title 49 CFR 18.42).
33. State shall request reimbursement, and Agency agrees to reimburse State, for federal-aid funds distributed to Agency if any of the following events occur:
 - a) 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 fiscal year following the fiscal year in which the federal-aid funds were authorized;
 - b) Right of way acquisition is undertaken utilizing federal-aid funds and actual construction is not started by the close of the twentieth fiscal year following the fiscal year in which the federal-aid funds were authorized for right of way acquisition.
 - c) Construction proceeds after the Project is determined to be ineligible for federal-aid funding (e.g., no environmental approval, lacking permits, or other reasons).
34. Agency shall 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 projects are completed in conformance with approved plans and specifications.

RAILROADS

35. Agency shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through State's appropriate Region contact or State's Railroad Liaison. Only those costs allowable under Title 23 CFR Part 646, subpart B and Title 23 CFR Part 140, subpart I, 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, to provide railroad coordination and negotiations. However, State is under no obligation to agree to perform said duties.

UTILITIES

36. Agency shall follow State established Statutes, Policies and Procedures when impacts occur to privately or publicly-owned utilities. Only those utility relocations, which are eligible for federal-aid participation under, the FAPG, Title 23 CFR 645A, Subpart 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. State will arrange for utility relocations/adjustments in areas lying within jurisdiction of State, if State is performing the preliminary engineering. Agency may request State in writing to arrange for utility relocations/adjustments lying within Agency jurisdiction, acting on behalf of Agency. This request must be submitted no later than twenty-one (21) weeks prior to bid let date. However, State is under no obligation to agree to perform said duties.
37. The State utility relocation policy, procedures and forms are available through the appropriate State's Region Utility Specialist or State Utility Liaison. Agency shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility Liaison.

STANDARDS

38. Agency agrees that design standards for all projects on the National Highway System (NHS) and the Oregon State Highway System shall be in compliance to standards specified in the current "State Highway Design Manual" and related references. Construction plans shall be in conformance with standard practices of State for plans prepared by its own staff. All specifications for the Project shall be in substantial compliance with the most current "Oregon Standard Specifications for Highway Construction".
39. Agency agrees that minimum design standards for non-NHS projects shall be recommended AASHTO Standards and in accordance with the current "Oregon Bicycle and Pedestrian Design Guide", unless otherwise requested by Agency and approved by State.
40. Agency agrees and will verify that the installation of traffic control devices shall meet the warrants prescribed in the "Manual on Uniform Traffic Control Devices and Oregon Supplements".
41. All plans and specifications shall be developed in general conformance with the current "Contract Plans Development Guide" and the current "Oregon Standard Specifications for Highway Construction" and/or guidelines provided.

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42. 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.

GRADE CHANGE LIABILITY

43. 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.
44. 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.
45. Agency, if a City, by execution of 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 Agreement.

CONTRACTOR CLAIMS

46. Agency shall, to the extent permitted by state law, indemnify, hold harmless and provide legal defense for State against all claims brought by the contractor, or others resulting from Agency's failure to comply with the terms of this Agreement.
47. Notwithstanding the foregoing defense obligations under Paragraph 46, neither Agency nor any attorney engaged by Agency shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency is prohibited from defending the State of Oregon, or that Agency is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against Agency if the State of Oregon elects to assume its own defense.

MAINTENANCE RESPONSIBILITIES

48. Agency shall, upon completion of construction, thereafter maintain and operate the Project at its own cost and expense, and in a manner satisfactory to State and FHWA.

WORKERS' COMPENSATION COVERAGE

49. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability Insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its contractors complies with these requirements.

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LOBBYING RESTRICTIONS

50. Agency certifies by signing the 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 \$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 \$10,000 and not more than \$100,000 for each such failure.

Paragraphs 36, 37, and 48 are not applicable to any local agency on state highway projects.

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**AMENDMENT NUMBER 01
LOCAL AGENCY AGREEMENT
CONGESTION MITIGATION AND AIR QUALITY PROGRAM
Klamath Falls Street Paving
City of Klamath Falls**

This is Amendment No. 01 to the Agreement 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," entered into an Agreement on July 1, 2013.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to increase the total Project cost, the CMAQ funding amount and update language.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.

2. **Amendment to Agreement.**

a. **Attachment No. 1, Special Provisions, shall be deleted in its entirety and replaced with the attached Revised Attachment No. 1 Special Provisions. All references to "Attachment No. 1, Special Provisions," shall hereinafter be referred to as "Revised Attachment No. 1, Special Provisions."**

b. **Attachment No. 2, Federal Standard Provisions, shall be deleted in its entirety and replaced with the attached Revised Attachment No. 2, Federal Standard Provisions. All references to "Attachment No. 2, Federal Standard Provisions," shall hereinafter be referred to as "Revised Attachment No. 2, Federal Standard Provisions."**

c. **TERMS OF AGREEMENT, Paragraph 2, Page 1, which reads:**

This Project shall be conducted as a part of the Congestion Mitigation and Air Quality (CMAQ) Program under Title 23, United States Code. The total Project cost is estimated at \$381,143, which is subject to change. The CMAQ funds are limited to \$342,000, with Agency providing the match and any non-participating costs, including all costs in excess of the available federal funds. Agency shall be responsible for determining the amount of federal funds to be applied to each phase of the Project. Agency is not guaranteed the use of unspent funds for a particular phase of work. It is Agency's responsibility to notify State in advance of State obligating the funds for a subsequent phase if Agency wants to release funds on the current authorized phase(s) of work

Shall be deleted in its entirety and replaced with the following:

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This Project shall be conducted as a part of the Congestion Mitigation and Air Quality (CMAQ) Program under Title 23, United States Code. The total Project cost is estimated at \$833,606, which is subject to change. The CMAQ funds are limited to \$747,995, with Agency providing the match and any non-participating costs, including all costs in excess of the available federal funds. Agency shall be responsible for determining the amount of federal funds to be applied to each phase of the Project. Agency is not guaranteed the use of unspent funds for a particular phase of work. It is Agency's responsibility to notify State in advance of State obligating the funds for a subsequent phase if Agency wants to release funds on the current authorized phase(s) of work

d. **Insert new TERMS OF AGREEMENT, Paragraph 5, to read as follows:**

5. 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 ODOT to Agency with the Notice to Proceed.
- b. The indirect cost rate for this project at the time the agreement is written is
 - i) Zero percent

e. **Insert new TERMS OF AGREEMENT, Paragraph 6, to read as follows:**

6. The scope, schedule, progress report requirements, and Project Change Request process are described in Exhibit B, attached hereto and by this reference made a part hereof. Agency agrees to the conditions set forth in Exhibit B.

f. **Paragraphs 5 through 17, shall be hereinafter re-numbered as Paragraphs 7 through 19.**

3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

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.

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City of Klamath Falls/ODOT
Agreement No. 29197-01

This Project is in the 2015-2018 Statewide Transportation Improvement Program (STIP), (Key #18278) that was adopted by the Oregon Transportation Commission on December 18, 2014(or subsequently by amendment to the STIP).

CITY OF KLAMATH FALLS, by and through its elected officials

By _____
Mayor

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Agency Counsel

Date _____

Agency Contact:

Mark Willrett – Director of Public Works
226 South 5th Street/P.O. Box 237
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
541-388-6272
darrell.r.newton@odot.state.or.us

STATE OF OREGON, by and through its Department of Transportation

By _____
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Region 4 Manager

Date _____

By _____
CMAQ Program Coordinator

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By: Mark F. Schumock via Email
Senior Assistant Attorney General

Date: 05-09-2016

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**REVISED ATTACHMENT NO. 1 to Agreement No. 29197
SPECIAL PROVISIONS**

1. Agency, or the consultant, shall conduct the necessary field surveys, environmental studies, traffic investigations, foundation explorations, hydraulic studies, assist State with acquisition of necessary right of way and easements; obtain all required permits and arrange for all utility relocations/adjustments.
2. Upon State's award of the construction contract, Agency, or the consultant, shall be responsible for all required materials testing and quality documentation; and prepare necessary documentation with State-qualified personnel, to allow State to 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. Agency guarantees the availability of Agency funding in an amount required to fully fund Agency's share of the Project
4. State may make available the State's On-Call Preliminary Engineering (PE), Design and Construction Engineering Services consultant for Local Agency Projects upon written request. If Agency chooses to use said services, Agency agrees to manage the work performed by the Consultant and reimburse State for payment of any Consultant costs that are not eligible as federal participating costs or that are not included as part of the total cost of the Project.
5. 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. Agency understands that State's costs are estimates only and agrees to reimburse State for actual cost incurred per of this Agreement.
6. State and Agency agree that the useful life of this Project is defined as 20 years.
7. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach. Agency 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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REVISED 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. Agency 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. Non-certified agencies must contract with State or a State certified local public agency to secure services to perform plans, specifications and estimates (PS&E), construction contract advertisement, bid, award, contractor payments and contract administration. Non-certified agencies may use a State-approved consultant to perform preliminary engineering, 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. 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

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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) 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 in 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

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bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.

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 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. Agency shall 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 agrees 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). Agency 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. Agency 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*.

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18. Agency agrees 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. Agency further agrees that for all projects on the NHS, regardless of funding source; any 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. Agency must 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) Agency, c) State-approved consultant, or d) 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 or certified agency shall, if they prepare any of the documents identified in this paragraph, 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.
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/pages/sbe/dbe/dbe_program.aspx#plan. 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

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signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b))."

29. Agency agrees 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 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. Agency 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. Agency may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project provided Agency or the consultant are qualified to do such work, as required by the *ODOT Right of Way Manual*, and Agency has obtained prior approval from State's Region Right of Way office to do such work.
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. Agency 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). Agency shall contact State's Liaison, who will 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. Agency ensures that all project right of way monumentation will be conducted in conformance with ORS 209.155.
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. 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. However, State is under no obligation to agree to perform said duties.

UTILITIES

38. 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. Agency shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility 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. However, State is under no obligation to agree to perform said duties. 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

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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 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.

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. 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

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City of Klamath Falls/ODOT
Agreement No. 29197-01

(\$100,000), and that all such sub recipients 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. 2

Date: June 20, 2016

Department: Finance

Staff Presenter: Sue Kirby

City Manager Review: 

Contact/Title: Sue Kirby, Support Services Director

Telephone No.: 541-883-5326

Email: sgkirby@klamathfalls.city

TOPIC: Resolution for the Receipt of 2016/2017 State Revenue Sharing Funds

SUMMARY AND BACKGROUND:

State law (ORS 221.770) provides for the distribution of certain state revenues to cities in the form of "State Revenue Sharing." Revenue sharing law requires the City to pass an Ordinance or Resolution each year stating the City elects to receive state revenue sharing funds the next fiscal year. The law also requires the City to certify that two public hearings were held to allow public comment on the possible uses of State Revenue Sharing funds. The first public hearing was held before the Budget Committee on May 24, 2016. The second public hearing will be held in conjunction with this agenda item and was advertised as a public hearing before the City Council. The attached Resolution provides for the City's formal election to receive State Revenue Sharing funds for fiscal year 2016/2017.

In the approved budget for Fiscal Year 2016/2017 currently before Council for adoption, the City proposes to use the State Revenue Sharing dollars for general government purposes.

FINANCIAL IMPACT:

The total amount of funds the City will receive will not be known until the end of fiscal year 2017, but the proposed budget estimates State Revenue Sharing revenues of approximately \$542,725.

DOCUMENTS ATTACHED:

- Resolution

REQUESTED MOTION/ACTION:

- Hold a public hearing
- Move to introduce Resolution by title
- Move to approve Resolution

NOTICE SENT TO:

Citizen Members of the Budget Committee

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RESOLUTION NO. 16 - _____

**A RESOLUTION FOR THE RECEIPT OF
2016/2017 STATE REVENUE SHARING FUNDS**

WHEREAS, ORS 221.770 provides for the distribution of certain state revenues to cities in the form of State Revenue Sharing; and

WHEREAS, ORS 221.770 requires the City to annually notify the State of Oregon of the City's election to use state revenue sharing funds for the coming fiscal year; and

WHEREAS, in compliance with ORS 221.770, and after adequate public notice, the City has held two public hearings; one before the Budget Committee on May 24, 2016 and one before the City Council on June 20, 2016, at which citizens were given the opportunity to provide oral and written comments on proposed uses of the State Revenue Sharing distribution; and

WHEREAS, for fiscal year 2016/2017, the City will use the proposed revenue sharing dollars for various general government purposes; NOW THEREFORE,

THE CITY OF KLAMATH FALLS RESOLVES AS FOLLOWS:

Section 1.

Pursuant to ORS 221.770, the City hereby elects to receive state revenues for Fiscal Year 2016/2017 to be used for various general government purposes.

Section 2.

This Resolution shall become effective immediately upon enactment.

Passed by the Council of the City of Klamath Falls, Oregon, the ___ day of June, 2016.

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

Mayor

ATTEST:

City Recorder

2

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 a Resolution duly adopted by the Council of the City of Klamath Falls, Oregon, at the meeting held on the 20th day of June, 2016 and thereafter approved and signed by the Mayor and attested by the City Recorder.

City Recorder

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 3

Date: June 20, 2016

Department: Finance

Staff Presenter: Sue Kirby

City Manager Review: 

Contact/Title: Sue Kirby, Support Services Director

Telephone No.: 541-883-5326

Email: SGKirby@klamathfalls.city

TOPIC: A Resolution Adopting the 2016-2017 Budget of the City of Klamath Falls, Oregon, Making Appropriations for Fiscal Year 2016-2017 and Levying Taxes

SUMMARY AND BACKGROUND:

The 2016-2017 budget was approved as amended by the City's Budget Committee on May 24, 2016. The amendment was to increase Materials & Services in the Economic Development Fund by \$20,000 so that the City could contribute \$40,000 to SCOEDD. Each year following Budget Committee approval, the budget is brought to City Council for adoption, making appropriations, and levying taxes. Staff recommends adopting the budget as approved by the Budget Committee.

Taxes provided for in the adopted budget are at a rate of \$5.4423 per \$1,000 of assessed value for operations, and in the amount of \$185,000 for the General Obligation Bond.

FINANCIAL IMPACT:

When adopted, this budget will be the working document for expending funds at the City of Klamath Falls for the coming fiscal year.

DOCUMENTS ATTACHED:

- 2016-2017 Budget Document – Due to the length of the document, it will be available upon request
- Resolution

REQUESTED MOTION/ACTION:

- Hold a public hearing
- Move to introduce the Resolution by title
- Move to approve the Resolution

NOTICE SENT TO:

- Citizen Members of the Budget Committee
- Notice of the hearing was published in the Herald & News on June 14, 2016

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RESOLUTION NO. 16- _____

**A RESOLUTION ADOPTING THE 2016-2017 BUDGET OF THE CITY
OF KLAMATH FALLS, OREGON, MAKING APPROPRIATIONS
FOR FISCAL YEAR 2016-2017 AND LEVYING TAXES**

WHEREAS, on May 24, 2016 the Klamath Falls Budget Committee conducted a public hearing on the Fiscal Year 2016-2017 budget document, as proposed by the City Manager, and all interested persons were afforded an opportunity to appear and be heard with respect to the proposed budget; and

WHEREAS, on May 24, 2016 the City of Klamath Falls Budget Committee amended the proposed budget by increasing Materials and Services in the Economic Development Fund by \$20,000: approved the Fiscal Year 2016-2017 budget document as amended: and recommended its adoption by the Klamath Falls City Council; and

WHEREAS, a summary of the approved budget for the City of Klamath Falls was duly published in the Herald and News, a newspaper of general circulation in the City on June 14, 2016; and

WHEREAS, on June 20, 2016, the Klamath Falls City Council conducted a public hearing on the 2016-2017 budget document as approved by the Budget Committee, and all interested persons were again afforded an opportunity to appear and be heard with respect to the approved budget; NOW THEREFORE,

THE CITY OF KLAMATH FALLS RESOLVES AS FOLLOWS:

Section 1. – Budget Adoption

The Klamath Falls City Council hereby adopts the budget for fiscal year 2016-2017, in the total amount of \$90,451,900. This budget is now on file at 500 Klamath Avenue in Klamath Falls, Oregon.

Section 2. – Appropriations

The amounts shown below are hereby appropriated for the fiscal year beginning July 1, 2016, for the following purposes:

GENERAL FUND

Municipal Court	\$ 215,900
City Manager	531,875
Legal	234,975
Finance	766,375
Human Resources	286,675
Technology Services	505,025

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Public Works Administration	300,775	
Development Services	933,050	
Police	5,616,100	
Code Enforcement	226,150	
Legislative	106,175	
Maintenance Services	929,125	
Parks Operations	2,604,375	
Ella Redkey Pool	462,375	
Street Maintenance	3,809,225	
Fleet Maintenance	279,900	
Street Lighting	383,950	
<u>Non-Departmental:</u>		
Materials & Services	228,600	
Debt Service	674,400	
Transfers Out	<u>22,000</u>	
Total GENERAL FUND Appropriations.....		\$19,117,025

AIRPORT FUND

Operations	\$ 1,662,800	
FAA Grants	7,988,500	
Debt Service	<u>133,775</u>	
Total AIRPORT FUND Appropriations.....		\$ 9,785,075

PARKING FUND

Parking	\$ 113,775	
Contingency	<u>12,000</u>	
Total PARKING FUND Appropriations.....		\$ 125,775

WASTEWATER FUND

Collections	\$ 2,307,775	
Treatment	3,932,550	
Billing	392,275	
Debt Service	<u>807,800</u>	
Total WASTEWATER FUND Appropriations.....		\$7,440,400

WATER FUND

Operations	\$ 6,989,875	
Billing	806,650	
Geothermal	145,175	
Debt Service	64,250	
Transfers Out	<u>935,225</u>	
Total WATER FUND Appropriations.....		\$8,941,175

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DOWNTOWN MAINTENANCE DISTRICT FUND

Downtown Maintenance	\$ 104,625	
Transfer Out	<u>3,000</u>	
Total DOWNTOWN MAINTENANCE DISTRICT FUND Appropriations...		\$ 107,625

COGENERATION FUND

Materials & Services	\$ 1,500	
Transfers Out	<u>528,825</u>	
Total COGENERATION FUND Appropriations.....		\$ 530,325

ECONOMIC DEVELOPMENT/PROPERTY FUND

Economic Development/Property	\$ 357,525	
Contingency	<u>49,675</u>	
Total ECONOMIC DEVELOPMENT/PROPERTY FUND Appropriations...		\$ 407,200

TECHNOLOGY RESERVE FUND

Transfer Out	\$ 157,825	
Total TECHNOLOGY RESERVE FUND Appropriations.....		\$ 157,825

FOOTPATHS/BICYCLE TRAIL FUND

Footpaths/Bicycle Trail	\$ 28,450	
Total FOOTPATHS/BICYCLE TRAIL FUND Appropriations.....		\$ 28,450

CAPITAL PROJECTS FUND

Total CAPITAL PROJECTS FUND Appropriations.....		\$ 0
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ESCROW RESERVE FUND

Total ESCROW RESERVE FUND Appropriations.....		\$ 0
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DEBT SERVICE FUND

Debt Service	\$ 205,525	
Total DEBT SERVICE FUND Appropriations.....		\$ 205,525

BINET FUND

BINET	\$ 20,000	
Total BINET FUND Appropriations.....		\$ 20,000

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VETERAN'S MEMORIAL AGENCY FUND

Veteran's Memorial	\$	6,525
Total VETERAN'S MEMORIAL AGENCY FUND Appropriations.....	\$	6,525
Total APPROPRIATIONS, All Funds.....		\$ 46,872,925
Total Unappropriated and Reserve Amounts, All Funds.....		<u>43,578,975</u>
TOTAL ADOPTED BUDGET.....		\$ 90,451,900

Section 3. – Levy of Taxes

The City Council of the City of Klamath Falls hereby imposes the taxes provided for in the adopted budget at a rate of \$5.4423 per \$1,000 of assessed value for permanent tax rate and in the amount of \$185,000 for debt service on general obligation bonds; and that these taxes are hereby imposed for tax year 2016-2017 upon the assessed value of all taxable property within the district and categorized as follows:

	General government	Excluded from limitation
Permanent rate tax	\$5.4423/\$1,000	
General obligation bond		\$ 185,000

Section 4.

This Resolution shall become effective immediately upon enactment.

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

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

Mayor

ATTEST:

City Recorder

3

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 a Resolution duly adopted by the Council of the City of Klamath Falls, Oregon, at the meeting held on the 20th day of June, 2016, and thereafter approved and signed by the Mayor and attested by the City Recorder.

City Recorder

**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 4

Date: June 20, 2016

Department: Finance

Staff Presenter: Sue Kirby

City Manager Review: _____

A handwritten signature in black ink, appearing to be "Sue Kirby", written over a horizontal line.

Contact/Title: Sue Kirby, Support Services Director

Telephone No.: 541-883-5326

Email: SGKirby@klamathfalls.city

TOPIC: A Resolution Adopting the 2016-2017 Budget of the Klamath Falls Urban Renewal Agency, Making Appropriations for Fiscal Year 2016-2017 and Levying Taxes

SUMMARY AND BACKGROUND: The 2016-2017 budget of the Klamath Falls Urban Renewal Agency (the Agency) was approved as proposed by the Agency's Budget Committee on May 24, 2016. Each year following Budget Committee approval, the budget is brought to City Council for adoption, making appropriations, and levying taxes. Staff recommends adopting the budget as approved by the Budget Committee.

Taxes provided in the budget are at 100% of the amount from division of taxes for Lakefront and Town Center Urban Renewal Districts.

FINANCIAL IMPACT:

When adopted, this budget will be the working document for expending funds for the Agency at the City of Klamath Falls for the coming fiscal year.

DOCUMENTS ATTACHED:

- Urban Renewal Budget Document – Due to the length of the document, it will be available upon request
- Resolution

REQUESTED MOTION/ACTION:

- Hold a public hearing
- Move to introduce the Resolution by title
- Move to approve the Resolution

NOTICE SENT TO:

- Citizen Members of the Budget Committee
- Downtown Advisory Committee
- Notice of the hearing was published in the Herald & News on June 14, 2016

RESOLUTION NO. 16- _____

**A RESOLUTION ADOPTING THE 2016-2017 BUDGET OF THE
KLAMATH FALLS URBAN RENEWAL
AGENCY, MAKING APPROPRIATIONS FOR
FISCAL YEAR 2016-2017 AND LEVYING TAXES**

WHEREAS, the Klamath Falls City Council acts as the Klamath Falls Urban Renewal Agency (the Agency); and

WHEREAS, on May 24, 2016, the Klamath Falls Budget Committee conducted a public hearing on the Fiscal Year 2016-2017 Agency Budget, approved the Fiscal Year 2016-2017 budget document and recommended its adoption by the Klamath Falls City Council; and

WHEREAS, the approved budget for the Agency was duly published in the Herald and News, a newspaper of general circulation in the City on June 14, 2016; and

WHEREAS, on June 20, 2016, the Klamath Falls City Council conducted a public hearing on the Fiscal Year 2016-2017 Agency Budget document as approved by the Budget Committee; NOW THEREFORE,

THE CITY OF KLAMATH FALLS RESOLVES AS FOLLOWS:

Section 1. – Budget Adoption

The City Council, acting as the Klamath Falls Urban Renewal Agency hereby adopts the budget for fiscal year 2016-2017, in the sum of \$433,600. This budget is now on file at 500 Klamath Avenue in Klamath Falls, Oregon.

Section 2. - Appropriations

The amounts shown below are hereby appropriated for the fiscal year beginning July 1, 2016, for the following purposes:

DOWNTOWN URBAN RENEWAL FUND

Downtown Urban Renewal	\$	127,450	
Total DOWNTOWN URBAN RENEWAL FUND Appropriations.....	\$		127,450

LAKEFRONT URBAN RENEWAL FUND

Lakefront Urban Renewal	\$	125	
Debt Service		<u>78,650</u>	
Total LAKEFRONT URBAN RENEWAL FUND Appropriations.....	\$		78,775

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TOWN CENTER URBAN RENEWAL FUND

Town Center Urban Renewal	\$ 68,575	
Debt Service	<u>158,800</u>	
Total TOWN CENTER URBAN RENEWAL FUND Appropriations.....		\$ 227,375
Total APPROPRIATIONS, All Funds.....		\$ 433,600
Total Unappropriated and Reserve Amounts, All Funds.....		<u>0</u>
TOTAL ADOPTED BUDGET.....		\$ 433,600

Section 3. – Levy of Taxes

The City Council, acting as the Klamath Falls Urban Renewal Agency hereby resolves to certify to the county assessor a request for the Lakefront Urban Renewal Plan Area for the maximum amount of revenue that may be raised by dividing the taxes under Section 1c, Article IX, of the Oregon Constitution and ORS Chapter 457.

The City Council, acting as the Klamath Falls Urban Renewal Agency hereby resolves to certify to the county assessor a request for the Town Center Urban Renewal Plan Area for the maximum amount of revenue that may be raised by dividing the taxes under Section 1c, Article IX, of the Oregon Constitution and ORS Chapter 457.

Section 4.

This Resolution shall become effective immediately upon enactment.

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

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

Mayor

ATTEST:

City Recorder

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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 a Resolution duly adopted by the Council of the City of Klamath Falls, Oregon, at the meeting held on the 20th day of June, 2016, and thereafter approved and signed by the Mayor and attested by the City Recorder.

City Recorder

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 5

Date: June 20, 2016

Department: Support Services
Staff Presenter: Sue Kirby 
City Manager Review: _____

Contact/Title: Support Services Director
Telephone No.: 541.883.5326
Email: sgkirby@ci.klamath-falls.or.us

TOPIC: A Resolution Extending City of Klamath Falls Workers' Compensation Coverage to Certain Public Safety Volunteers from July 1, 2016 through June 30, 2017

SUMMARY AND BACKGROUND:

Since 2005, the City has granted Workers' Compensation Coverage for Firefighter Paramedics and all Reserve Police Officer Volunteers.

Three Firefighter Paramedics employed by Klamath County Fire District #1 (KCFD#1) volunteer their services to the Klamath Falls Special Weapons and Tactics (SWAT) Team. As part of the City's agreement with KCFD#1, the City agrees to extend coverage to the three individuals only while serving on the SWAT Team, at the agreed-upon assumed monthly wage of \$6,000.

Staff recommends the City continue to cover the all active Reserve Police Officers who volunteer over 6,000 man hours annually at the Police Department. The assumed monthly wage for these officers is \$4,074.

Staff also recommends the City grant coverage to six Volunteers in Police Service (VIPS) who provide daily service in the form of vehicle maintenance, deliveries and purchases, vacation house checks, and neighborhood vehicle speed assessment. The assumed monthly wage for these volunteers is \$300.

The City Police Department would like to continue this coverage for the above mentioned volunteers for the period of July 1, 2016, through June 30, 2017, while they perform the much appreciated and necessary community service.

FINANCIAL IMPACT:

It is estimated this coverage will cost approximately \$16,875. The funds to cover this expense will come from the 2016-2017 budget.

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DOCUMENTS ATTACHED:

- Proposed Resolution

REQUESTED MOTION/ACTION:

- Move to introduce the Resolution by title
- Move to approve the Resolution

NOTICE SENT TO:

- Klamath County Fire District #1
- Matt Hurley, Great Basin Insurance

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RESOLUTION NO. 16-__

**A RESOLUTION EXTENDING CITY OF KLAMATH FALLS
WORKERS' COMPENSATION COVERAGE
TO CERTAIN PUBLIC SAFETY VOLUNTEERS
FROM JULY 1, 2016 THROUGH JUNE 30, 2017**

WHEREAS, three Firefighter Paramedics, employed by Klamath County Fire District No. 1, volunteer their services to the City's Special Weapons And Tactics (SWAT) Team; and

WHEREAS, the Police Department, and Fire District No. 1 agree that the City's workers' compensation coverage should cover the Firefighter Paramedic volunteers while they are performing SWAT duties; and

WHEREAS, a number of citizens also volunteer their services as Reserve Police Officers for the City Police Department; and

WHEREAS, a number of citizens also volunteer their time as Police Department volunteers (Volunteers in Police Service or VIPS); and

WHEREAS, A Resolution extending workers' compensation coverage to volunteers of City, in which City elects the following; and NOW, THEREFORE:

THE CITY OF KLAMATH FALLS RESOLVES AS FOLLOWS:

Section 1.

Pursuant to ORS 656.031, workers' compensation coverage will be provided to the classes of volunteers listed in this Resolution, noted on City/County Insurance Services (CIS) payroll schedule, and verified at audit:

1. Public Safety Volunteers

Applicable XX Non-applicable _____

An assumed monthly wage for public safety volunteers in the following volunteer positions:

- Police reserve \$4,074
- Search and rescue
- Firefighter
- Emergency medical personnel \$6,000

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Ambulance drivers

Other Police Department Volunteers (VIPS) \$300

2. Volunteer boards, commissions, and councils for the performance of administrative duties.

Applicable _____ Non-applicable XX

3. Manual labor by elected officials.

Applicable _____ Non-applicable XX

4. Non-public safety volunteers

Applicable _____ Non-applicable XX

5. Public Events

Applicable _____ Non-applicable XX

6. Community Service Volunteers/Inmates

Applicable _____ Non-applicable XX

7. Other Volunteers

Volunteer exposures not addressed here will have workers' compensation coverage if, prior to the onset of the work provided that City:

- a. Provides at least two weeks advance written notice to CIS underwriting requesting the coverage
- b. CIS approves the coverage and date of coverage
- c. CIS provides written confirmation of coverage

City agrees to maintain verifiable rosters for all volunteers including volunteer name, date of service and hours of service and make them available at the time of a claim or audit to verify coverage.

Section 2.

This Resolution shall become effective immediately upon enactment.

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

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

Mayor

ATTEST:

City Recorder

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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 a Resolution duly adopted by the Council of the City of Klamath Falls, Oregon, at the meeting held on the —20th day of June, 2016, and thereafter approved and signed by the Mayor and attested by the City Recorder.

City Recorder

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 6

Date: June 20, 2016

Department: Support Services
Staff Presenter: Sue Kirby
City Manager Review: 

Contact/Title: Support Services Director
Telephone No.: 541-883-5326
Email: sgkirby@klamathfalls.city

TOPIC: Authorization to Execute a Three-Year Collective Bargaining Agreement with AFSCME Local 2451

SUMMARY AND BACKGROUND:

Approximately 70 City employees in our public works and support functions are represented by AFSCME Local 2451. The City and the Union tentatively agreed to terms of a new contract for July 1, 2016 to June 30, 2019, subject to City Council approval. The Union ratified the contract on June 7, 2016.

There are minor changes in a number of areas as shown on the attached contract:

- Changing donations of time to come from the vacation bank of the donating employee rather than the sick bank. This standardizes the policy across the City for all employees.
- Requiring two weeks' notice when scheduling vacation.
- Excluding the Ella Redkey Pool employees from this contract due to their temporary and part-time status.
- The financial terms are discussed below.

FINANCIAL IMPACT:

The contract provides for the employee to pay a greater percentage of their health care costs over the term of the contract. Currently, the City pays, "90% of the premium up to a maximum of \$1600.00 per month and the employee pays 10% of the premium and any remainder above the \$1600 maximum in premium for medical, dental, and vision health care benefits." This contract retains the City maximum and moves the employee percentage to 87% over three years; increasing 1% per year.

The employee wage increases by moving from bi-annual step increases to annual step increases. The number of steps and the ratios within the step chart remain unchanged. In addition to the step increases, the cost of living increase is a range of 0-3% each year based on the CPI-W Western Region January to January.

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The total financial impact over the term of the contract is anticipated to be \$260,000 before payroll benefit costs. This assumes 9% increases to health care costs in future years and 3% CPI increase each year.

COUNCIL OPTIONS:

1. Approve the contract as tentatively agreed.
2. Do not approve the contract and give staff direction on items to renegotiate.

DOCUMENTS ATTACHED:

- Tentatively agreed contract between AFSCME Local 2451 and the City of Klamath Falls
– **Under separate cover**

RECOMMENDED MOTION/ACTION:

Council move to approve the tentatively agreed contract with AFSCME Local 2451 as presented.

NOTICE SENT TO:

Jared Kollen – AFSCME District Representative
Phil Hurtado – AFSCME Local 2451 President

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 7

Date: ~~June 6, 2016~~ Continued to June 20, 2016

Department: Legal

Staff Presenter: Joanna Lyons-Antley

City Manager Review: 

Contact/Title: Joanna Lyons-Antley/City Attorney

Telephone No.: 541-883-5323

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

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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

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 8

Date: June 20, 2016

Department: Public Works
Staff Presenter: Erik Nobel
City Manager Review: 

Contact/Title: Erik Nobel, Planning Manager
Telephone No.: 541-883-5254
Email: nobel@klamathfalls.city

TOPIC: Request to Permit Alcohol Sales and Consumption in a “Beer Garden” in Veterans Park in conjunction with the Lake Jam Oregon Event

SUMMARY AND BACKGROUND:

Michael Nunes, on behalf of the Klamath Falls Downtown Association, requested authorization for public drinking in association with a beer and wine garden on July 30-31, 2016, at Veterans Park. The beer garden is in association with the Lake Jam Oregon event sponsored by the Klamath Falls Downtown Association and is proposed to operate from 12pm to 10pm during the two-day event. There will be other vendors and food booths in association with the event as well as an entertainment stage. The fenced off area for the beer garden will be 17,700 square feet near the rowing shed. It will be fenced and only licensed servers from local restaurants will serve the beer and wine. This is the first Lake Jam event.

Per City Resolution No. 11-08 (attached), new requests to serve beer and wine must be considered by City Council after Parks Advisory Board recommendation and must adhere to the criteria and conditions outlined in the Resolution. Below is an excerpt from the Parks Advisory Board meeting held April 7, 2016:

Lake Jam 3 on 3 Tournament discussion. Staff talked to Mike Nunes who is making progress with OLCC. Not just a little beer garden but making the entire park available for folks to utilize for alcohol use but bounding all sides of the park with security, etc. The PAB would have the opportunity to weigh in when it was finalized. The consensus of members present was supportive of a beer garden for the event; however, not for the entire park.

FINANCIAL IMPACT: There is no financial impact related to making a recommendation to OLCC.

COUNCIL OPTIONS:

- Move to conditionally permit alcohol sales and consumption in a “beer garden” in Veteran’s Park for the Lake Jam event.
- Move to deny alcohol sales and consumption in a “beer garden” in Veteran’s Park for the Lake Jam event.

DOCUMENTS ATTACHED:

- Resolution No. 11-08
- Lake Jam Oregon Layout Map
- OLCC Permit Application

RECOMMENDED MOTION/ACTION:

- Move to conditionally permit alcohol sales and consumption in a “beer garden” in Veteran’s Park for the Lake Jam Oregon Event.

NOTICE SENT TO:

Klamath Falls Downtown Association
Attn: Michael Nunes
P.O. Box 372
Klamath Falls, OR 97601

OLCC
Kent Oldham
107 S 7th Street
Klamath Falls, OR 96701

The City of Klamath Falls Police Department was notified of the proposal and had no reason to deny the application.

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RESOLUTION NO. 11-08

**A RESOLUTION AMENDING CITY COUNCIL POLICY TO ALLOW
ALCOHOL IN VETERANS PARK AND MOORE PARK MARINA
UNDER CERTAIN CONDITIONS AND RESCINDING RESOLUTION NO. 09-25**

WHEREAS, the consumption of alcohol in City parks is generally inconsistent with the use of parks for family recreation; and

WHEREAS, until the passage of Resolution No. 05-23 in 2005, it was the City Council's policy to not permit the consumption of alcohol in City parks; and

WHEREAS, in June 2005, the City Council, on an extended trial basis, approved Resolution No. 05-23 permitting the consumption of beer and/or wine in Veterans Park, subject to the discretion of Council and a number of stringent conditions; and

WHEREAS, in June 2009, in Resolution No. 09-25, the City Council amended the policy to permanently permit, within Council's discretion and under certain conditions, the consumption of beer and/or wine in Veterans Park and Moore Park Marina; and

WHEREAS, Council desires to grant more authority to Community Development Director to authorize applicants to serve beer and/or wine within Veterans Park and Moore Park Marina for those who have had no past alcohol incidents; and

WHEREAS, the Parks Advisory Board and City Council propose to modify the process to permit staff to review routine requests for the use of alcohol in City Parks; NOW,
THEREFORE,

THE CITY OF KLAMATH FALLS RESOLVES AS FOLLOWS:

Section 1.

City Council considers, after Parks Advisory Board's recommendation: (1) new requests to serve beer and/or wine; (2) requests to increase or expand the privilege to serve beer and/or wine; and (3) requests to serve beer and/or wine at an event that previously had incidents. Such requests may be permitted in the discretion of Council in Veterans Park (including the two-acre "trail-head" area) and Moore Park Marina subject to criteria and conditions as outlined below.

Staff considers, in its discretion, requests for consumption of beer and/or wine associated with events where alcohol was served in the past without incident. Such requests may be permitted in Veterans Park (including the two-acre "trail-head" area) and Moore Park Marina subject to criteria and conditions as outlined below.

Criteria:

- 1) The serving of beer and/or wine is done as part of a special event approved pursuant to a special event permit application or special event agreement with the City.
- 2) The special event is open to the public at large.
- 3) The Permittee provides a certificate of appropriate liability insurance coverage which names the City, its officers and employees, and other event sponsors and organizers, as additional insured.
- 4) The Permittee must obtain the appropriate Oregon Liquor Control Commission (OLCC) permits for the event and shall abide by all OLCC requirements and guidelines. A copy of the current 'OLCC Security Plan' shall be attached to the application to the City.
- 5) A permit will not be issued to any applicant that has had any alcohol-related problems with an event in prior years, unless, in the discretion of Council, the causes have been acceptably and adequately addressed by the applicant.
- 6) The consumption must occur only in an area approved by Park staff. If a "beer garden" area is not cordoned off, the entire event must be cordoned off.
- 7) Permits shall only be issued to local vendors who will have a vested interest in a successful, problem-free event.

Conditions:

- 1) Patrons may not consume, carry or transfer alcohol outside of the designated area.
- 2) All beer and/or wine must be served by an employee or agent of the Permittee.
- 3) Beer and/or wine may only be served within the City and OLCC-approved timeframes and restrictions.
- 4) The Permittee shall constantly monitor the event to ensure compliance with these conditions.
- 5) Other conditions as deemed desirable, may be imposed by Staff or Council.

Section 2.

In allowing the consumption of beer and/or wine in Veterans Park and Moore Park Marina in conjunction with community events as provided in Section 1, the City Council and the City do not condone or endorse the consumption of alcohol or drinking and driving. Council

Resolution No. 11-08, Page 2

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encourages everyone participating in these events and consuming alcohol, to do so responsibly and to conduct themselves appropriately.

Section 3.

Alcohol in other City parks shall be prohibited, except for Kiger Stadium, which is privately operated and is subject to an agreement requiring Council approval of alcohol assumption.

Section 4.

Klamath Falls City Council Resolution No. 09-25 relating to the consumption of beer and wine in Veterans Park and Moore Park Marina is hereby rescinded.

Section 5.

This Resolution shall become effective immediately upon enactment.

Passed by the Council of the City of Klamath Falls, Oregon, the 2nd day of May, 2011.

Presented to the Mayor, approved and signed this 3rd day of May, 2011.



Mayor

ATTEST:



City Recorder

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

I, _____, Recorder (Deputy Recorder) for the City of Klamath Falls, Oregon, do hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by the Council of the City of Klamath Falls, Oregon, at the meeting held on the 2nd day of May, 2011, and thereafter approved and signed by the Mayor and attested by the City Recorder.

City Recorder (Deputy Recorder)

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Lake Jam OLCC Map

Red = Licensed Area
Yellow = Fenced Area



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OREGON LIQUOR CONTROL COMMISSION
PLAN TO MANAGE SPECIAL EVENTS

When the expected attendance per day in the area where alcohol will be sold or consumed is 501 or more, any applicant for a Temporary Sales License (TSL), Special Event Winery (SEW), Special Event Grower (SEG), Special Event Brewery-Public House (SEPBH), Special Event Distillery (SED), or a Temporary Use event must complete this form (unless exempted from this requirement by the OLCC) and submit it with the application to the OLCC.

Other applicants (those expecting 500 or fewer attendees per day in the licensed area) may choose to use this form. In some cases, even if the expected daily attendance is 500 or fewer, the OLCC may require this form.

Examples of times when the OLCC may require more detailed information, even if the expected daily attendance in the area where alcohol will be sold or consumed is 500 or fewer, include a licensed area: projecting an emphasis on alcohol consumption; projecting an emphasis on entertainment; or proposing to allow minors and alcohol together in the same area.

Please note that for some licensed areas, in order to convince the OLCC that you will adequately manage the licensed area, the OLCC may require more details in addition to your completed PLAN TO MANAGE SPECIAL EVENTS form or any other information you submitted regarding how you will control the licensed area.

If there will be more than one of the above licensees making alcohol available in the same area(s) of the same event, all licensees may agree to submit and follow one plan.

1. Event Name: Lake Jam Oregon
2. Applicant Name: Klamath Falls Downtown Association
3. Date(s) of event: July 30-31, 2016
4. Start/End hours of alcohol service: 12 AM PM to 10 AM PM
5. Event Street Address: 10 George Nurse Way
6. City: Klamath Falls 7. County: Klamath 8. Zip: 97601
9. Will minors be allowed at the event? Yes No
10. If yes, will minors and alcohol be allowed together in the same area? Yes No
11. Will any portion of the licensed premises be prohibited to minor patrons? Yes No
 If yes, describe your plan to prevent minor patrons from gaining access to the prohibited area:
 Access Points will be restricted to minors and adults without proper credentials (21 & older wristbands) and regulated and enforced by both security and police officers.
12. Estimated total attendance per day in area(s) where alcohol will be sold or consumed: 750

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13. List the names(s) and contact phone(s) of alcohol manager(s) on-duty and in the licensed area:

TBD

14. List the primary activities within the licensed area:

Food & Exhibitors / Cornhole / Music / Viewing Area

15. Do you estimate that 30 percent or more of the people attending the event will be between 15 and 20 years of age? Yes No

16. Do you estimate the number of patrons in the licensed area will be about the same during the entire time that alcohol is sold or consumed? Yes No If no, what are the estimated times that a greater number of patrons will attend? After 5PM

17. At any one time, what is the average range of the number of staff (such as managers, servers, security, alcohol monitors, ID checkers, etc.) on-duty, at the event, and whose job includes monitoring patron behavior?

15-20 staff members including managers, servers, security, alcohol monitors, and ID checkers.

18. Will **Alcohol Monitors** work in the licensed area? (An Alcohol Monitor is a person, in addition to alcohol servers and security staff, who monitors the sale, service, and consumption of alcoholic beverages to help ensure that unlawful sales, service, and consumption of alcoholic beverages do not occur.) Yes No

19. If yes to #18, list the minimum number of **Alcohol Monitors** you estimate will work during the estimated times when a greater number of patrons will attend the estimated times when a regular number of patrons will attend:

3 Minimum number during estimated times of greater patron attendance

3 Minimum number during estimated times of regular patron attendance

20. If yes to #18, describe how **Alcohol Monitors** will be readily identifiable as such to patrons:

Alcohol Monitors will be wearing shirts with Large Print on back identifying them as Staff or Security

21. Will all Alcohol Monitors be required to have a service permit? Yes No

22. If no to #21, those **Alcohol Monitors** without a service permit must be uncompensated volunteers who are directly supervised in the licensed area by an individual who has successfully completed and Alcohol Server Education course within the last five years.

List the name(s) of the supervisor(s) and either their service permit number(s) or server education completion date(s):

tbd

23. Is the applicant a nonprofit or charitable organization with a Registry Number issued by the Oregon Secretary of State's office? Yes No If yes, list the Oregon Registry Number: 26-3926266

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- 24a. If yes to #23, will the applicant use servers who don't hold a service permit? Yes No
- 24b. If yes to #24a, describe the plan to train these people in at least the following: recognizing minors; properly checking identification; and how to recognize and respond appropriately to visibly intoxicated persons:
25. Will security or ID checkers be required to have a service permit? Yes No If no, describe the plan to train these people in at least the following: recognizing minors; properly checking identification; and how to recognize and respond appropriately to visibly intoxicated persons:
26. Will servers, security, or ID checkers wear clothing or other designation which readily identifies them as such to patrons? Yes No If yes, please describe:
 These persons will wear apparel that will clearly identify them as staff or security.
27. Describe the alcoholic beverages for consumption in the licensed area:

	Size of Container	Maximum Amount of Alcohol in the Container
Malt Beverages	14 ounces	14 ounces
Wine	12 ounces	6 ounces
Cider	n/a	n/a
Distilled Spirits	n/a	n/a

28. Describe how containers used to serve alcoholic beverages for consumption in the licensed area will be of a different color and type when compared to containers used to serve nonalcoholic beverages:
 Containers used to serve alcohol will be served in clear containers branded with alcohol partners provided by our alcohol distribution partners. Non-alcoholic beverages will be served in its original container with clearly marked labels.
29. What is the maximum number of containers of alcoholic beverages meant for consumption in the licensed area that a patron may possess at any one time? 1 qualified beverages
30. Describe the level of lighting the licensed area will have to ensure the proper monitoring of patrons:
 A level of lighting sufficient to read common newspaper print; or
 A level of lighting that will be (please describe):
 lit by light towers, stage lights, and permanent park lighting which will be sufficient enough to see cup colors and branding designated for alcoholic beverages.
31. If other methods for adequately managing the licensed area will be used, describe them here (or submit a separate written, dated, and signed plan):

32. Applicant Name: Michael Nunes

33. Applicant Signature:  34. Date: June 6, 2016

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TEMPORARY SALES LICENSES (TSL)

ARE YOU ELIGIBLE TO APPLY FOR A TSL?

YES, if you are:

- A nonprofit or charitable organization registered as such with the State of Oregon; a political committee filed as such under ORS 260.039 or 260.042; a government entity within Oregon; any other person or organization that is not prohibited (see the "no" section).
- A Full On-Premises, Limited On-Premises, Off-Premises, or Brewery-Public House licensee of the OLCC.

NO, if you are:

- A person or organization who makes alcoholic beverages within Oregon or who imports or causes to be imported into Oregon an alcoholic beverage for sale or distribution in Oregon. This includes the following OLCC licensees: Brewery; CERA; CERD; Distillery; Grower Sales Privilege; Warehouse; Wholesale Malt Beverage and Wine; and Winery. This also includes wineries, breweries, distilleries, and wholesalers in other states.

OTHER IMPORTANT INFORMATION

TSL Application Guide - The TSL Application Guide is available at www.oregon.gov/olcc.

OLCC may refuse to process your application if it is not complete or is not submitted in sufficient time for the OLCC to investigate. Typically, an application submitted to the OLCC one to four weeks before the event date (#11 on the application form) is sufficient time to process most applications.

Managing Your Event - Not following your written plan for managing your event may result in liquor law violations and may cause the OLCC to deny your future TSL applications.

DIRECTIONS FOR COMPLETING APPLICATION

1. Fill out your application form completely.
2. Get your application signed by the local government where the event will take place before you submit it to your local OLCC office (the local government is either the local city if the event address is within the city's limits or the local county if the event address is outside the city's limits). The local government may charge you a fee.
3. Submit the application form to your local OLCC office and include the \$50 per day license fee (\$50 per license day or any part of a license day). Make payment by check or money order, payable to OLCC. A license day is from 7:00 am to 2:30 am on the succeeding calendar day.
4. If the expected attendance at your event is 501 or more per day please complete and attach the OLCC form **Plan to Manage Special Events**, unless the OLCC exempts you from this requirement.
5. Submit forms to your OLCC office at least 7 days before the date(s) of an event (#11 on the application form) with 1,000 or fewer expected attendance and at least 30 days before the date(s) of an event with 1,001 or more expected attendance. Determine the **OLCC office** regulating the county in which your event will happen.

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FOOD REQUIREMENTS FOR A TEMPORARY SALES LICENSE (TSL)

WHAT AMOUNT OF FOOD MUST I PROVIDE?

- **TWO:** If you **don't** provide distilled spirits at the event, you must provide at all times and in all areas where alcohol service is available at least two different substantial food items.
- **THREE:** If you provide distilled spirits at the event you must provide at all times and in all areas where alcohol service is available at least three different substantial food items.

WHAT IS A SUBSTANTIAL FOOD ITEM?

This is a food item that is typically served as a main course or entrée. Some examples are fish, steak, chicken, pasta, pizza, and sandwiches. Side dishes, appetizer items, dessert items, and snack items such as popcorn, peanuts, chips and crackers do not qualify as substantial food items.

WHAT DOES "DIFFERENT" MEAN?

"Different" means substantial food items that the OLCC determines differ in their primary ingredients or method of preparation. For example, a turkey sandwich differs from a salami sandwich, a beef burger differs from a turkey burger, and fried chicken differs from baked chicken. Different sizes of the same item are not considered different.

IS THERE AN EXCEPTION TO PROVIDING THE TWO OR THREE DIFFERENT SUBSTANTIAL FOOD ITEMS?

The OLCC must determine that the clearly dominant emphasis is food service at all times in the area where alcohol service is available in order for you to provide only one substantial food item if you are **not** providing distilled spirits or one or two different substantial food items if you are providing distilled spirits. The OLCC will work with you to make this determination prior to approving your application.

WHAT DOES IT MEAN TO PROVIDE FOOD SERVICE "AT ALL TIMES AND IN ALL AREAS WHERE ALCOHOL SERVICE IS AVAILABLE"?

Patrons must be able to obtain food service inside the special event licensed area. You may use either of the following two methods to provide food service:

- Within all areas where alcohol service is available, have the minimum required food items available for patrons at all times; or
- Within all areas where alcohol service is available, have a menu of the minimum required food items (plus any other items you may choose to include) available for patrons at all times and be able to provide the food items in the area if a patron chooses to order food. The food items could be kept at a location other than the area where the alcohol is served; however, you must be able to provide the food items to the patron in the area where alcohol service is available.

IS PROVIDING TASTINGS OF ALCOHOL CONSIDERED PROVIDING ALCOHOL SERVICE?

Yes, providing tastings of alcohol is considered providing alcohol service; therefore, the food requirements must be met.

CAN I USE FOOD PROVIDED BY A CONTRACTOR OR CONTRACTORS TO MEET THE FOOD REQUIREMENT?

Yes, the food service may be provided by someone other than you; however, even if food service is provided by a contractor, you are fully responsible for compliance with the food requirements. You may sell or serve alcohol only when food service that meets the requirement is provided to patrons at all times and in all areas where alcohol service is available.

WHO CAN THE CONTRACT FOR THE FOOD SERVICE BE WITH?

The contract can be between:

- You (the TSL licensee) and the food service contractor; or
- The organizer of the event and the food service contractor.

DOES THE FOOD SERVICE CONTRACT NEED TO BE IN WRITING?

No, the food service contract does not need to be in writing; however, you may sell or serve alcohol only when food service that meets the requirement is provided to patrons at all times and in all areas where alcohol service is available.

8



OREGON LIQUOR CONTROL COMMISSION

TEMPORARY SALES LICENSE APPLICATION

The Temporary Sales License (TSL) allows you to sell distilled spirits, malt beverages, wine, and cider for drinking within the special event licensed area, manufacturer-sealed containers of malt beverage, wine, and cider for drinking out of the special event licensed area, and malt beverages, wine, or cider in a securely covered container (i.e. growlers) for taking out of the special event licensed area.

- Process Time: OLCC needs your completed application in sufficient time to approve it. Sufficient time is typically 1 to 3 weeks before the first event date listed in #11 below. Some events may need extra processing time. OLCC may refuse to process your application if it is not submitted in sufficient time for the OLCC to investigate it.
License Fee: \$50 per license day or any part of a license day. Make payment by check or money order, payable to OLCC. A license day is from 7:00 am to 2:30 am on the succeeding calendar day.
License Days: In #11 below, you may apply for a maximum of seven license days per application form.

PLEASE PRINT

1. Applicant Name: Klamath Falls Downtown Association 2. E-Mail:
3. Mailing address: PO Box 372
4. City: Klamath Falls 5. State: Oregon 6. Zip Code: 97601 7. Fax:
8. Contact Person: Michael Nunes 9. Contact Phone: 541-531-0150
10. Event Name: Lake Jam Oregon
11. Date(s) of event (no more than seven days): July 30-31, 2016
12. Start/End hours of alcohol service: 12 AM PM to 10 AM PM
13. Address of Special Event Licensed Area: 10 George Nurse Way Klamath Falls/97601
14. Is the event outdoors? Yes No
14a. If no, in what area(s) of the building is the event located?
14b. If yes, submit a drawing showing the licensed area and how the boundaries of the licensed area will be identified.
15. List the primary activities within the licensed area: Food & Exhibitors / Cornhole / Music / Viewing Area
16. Will minors be allowed at the event? Yes No
17. If yes, will minors and alcohol be allowed in the same area? Yes No
18. What is the expected attendance per day in the licensed area (where alcohol will be sold or consumed)? 750

PLAN TO MANAGE THE SPECIAL EVENT LICENSED AREA: If your answer to #18 is 501 or more, in addition to your answers to questions 19, 20, and 21, you will need to complete the OLCC's Plan to Manage Special Events form, unless the OLCC exempts you from this requirement.

- 19. Describe your plan to prevent problems and violations. Prevention of problems & violations will start with proper training and education of event security staff, working closely with contracted local law enforcement, and clear communication through electronic channels and on-site signage indicating prohibited actions and proper procedure for notifying event staff & security if such problems or violations exist.
20. Describe your plan to prevent minors from gaining access to alcoholic beverages and from gaining access to any portion of the licensed premises prohibited to minors. All adults purchasing & consuming alcohol will be required to provide government issued ID showing proof of age, which entitles them to a unique colored wristband to order and consume alcohol. Adults may still be able to enter the 21 & older areas without wristbands by providing ID to security at access points. Security & Monitors will be enforcing false ID & underage consumption.
21. Describe your plan to manage alcohol consumption by adults. Our designated alcohol monitors will assist our trained servers & security in preventing over-drinking, underage drinking, and unlawful consumption or sales. Unique colored wristbands will be worn by adults 21 & over and containers used for alcohol consumption will have a unique color different from containers provided for non-alcoholic beverages.

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A nonprofit or charitable organization with a Registry Number issued by the Oregon Secretary of State's office (see TSL Application Guide) may use servers who don't hold a service permit. These servers must attend training provided by the applicant and read, sign, and date the OLCC provided brochure What Every Volunteer Alcohol Server Needs to Know.

22. Nonprofit or Charitable Organization Oregon Registry Number (or "N/A" if not applicable): 26-3926266

23. List name(s) and service permit number(s) of alcohol manager(s) on duty and in the licensed area:

LIQUOR LIABILITY INSURANCE: If the licensed area is open to the public and expected attendance is 301 or more per day in the licensed area, you must have at least \$300,000 of liquor liability insurance coverage as required by ORS 471.168.

24. Insurance Company: R.V. Nuccio & Associates 25. Policy #: XXC80498440 26. Expiration Date: 08/01/2016

27. Name of Insurance Agent: Robert Nuccio 28. Phone: (800) 364-2433

29. Will you serve distilled spirits by the drink? Yes No

If yes, list three different substantial food items; if no, list two:

1) _____ 2) _____ 3) _____

GOVERNMENT RECOMMENDATION: Once you've completed this form to this point, you must obtain a recommendation from the local city or county named in #30 below before submitting this application to the OLCC.

30. Name the city if the event address is within a city's limits or name the county if the event address is outside the city's limits:

City of Klamath Falls

I affirm that I am authorized to sign this application on behalf of the applicant.

31. Applicant Name (please print): Michael Nunes

32. APPLICANT SIGNATURE:  33. Date: June 6, 2016

<p>CITY OR COUNTY USE ONLY</p> <p>The city/county named in #30 above recommends:</p> <p><input type="checkbox"/> Grant <input type="checkbox"/> Acknowledge <input type="checkbox"/> Deny (attach written explanation of deny recommendation)</p> <p>City/County Signature: _____ Date: _____</p>
--

FORM TO OLCC: This license is valid only when signed by an OLCC representative. Submit this form to the OLCC office regulating the county in which your special event will happen.

<p>OLCC USE ONLY</p> <p>Fee Paid: _____ Date: _____ Receipt #: _____</p> <p>License is: <input type="checkbox"/> Approved <input type="checkbox"/> Denied</p> <p>OLCC Signature: _____ Date: _____</p>

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 9

Date: June 20, 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 Jesse Rodriguez Construction for the Pelican City Booster Station Phase I (Water Line) Project in an Amount Not-to-Exceed \$644,510.30

SUMMARY AND BACKGROUND:

The City's 2010 Water Master Plan identifies the need for additional water supply from the Conger Well Field to the areas surrounding the hospital. The Pelican City Booster Station Project will be a multi-phased project over the next three years comprised of both water transmission mains and a new booster pump station. Phase I of this project will include installation of approximately 3600 lineal feet of new 12" and 16" water transmission main along Montelius Street between Nevada Avenue and Gage Road and along Gage Road between Montelius Street and Alma Alley.

Rhine Cross Group was hired to aide in the preparation of the plans and technical specifications for this project. A formal request for construction bids was publicly advertised in the Herald and News and the Daily Journal of Commerce. A non-mandatory pre-bid meeting was held on May 24, 2016 where bidders had the opportunity to discuss the project with the design team and staff. Bids were received from three companies on June 2, 2016.

The design team and staff reviewed the bids and found an error in the required supporting documentation of the apparent low bidder. The First-Tier Subcontractor Disclosure Form [ORS 279C.370] requires bidders to submit the name, business address, and portion of work for each first tier subcontractor that will be used on the project. Bidders shall disclose the category of work that the subcontractor will be performing and the dollar value of the subcontract. In this instance, the apparent low bid did not include the dollar value of the contract for one of their disclosed subcontractors and; therefore, did not conform to this requirement. Due to this error, their bid was rejected and on June 6, 2016 the City sent a Notice of Intent to Award to the first responsible bidder.

The bidders and their prices are listed on the attached Confirmation of Bid opening. Staff noted a minor math error in the bid submitted by Jesse Rodriguez Construction. The corrected bid amount for Jesse Rodriguez Construction is \$644,510.30. The published engineer's estimate for this project was between \$580,000 and \$620,000, which is lower than the bid prices received. After comparing the engineer's estimate to the received bids, the differences in prices are due to a 7% increase in piping material costs within hours of the bid opening. The bidders and their bid

amounts are listed below.

<u>Engineers Estimate (Published)</u>	<u>\$ 580,000 - \$ 620,000</u>
Bob's Excavating, Inc.	\$ 671,753.00
Grimes Construction	\$ 568,371.80
Jesse Rodriguez Construction	\$ 644,511.00

FINANCIAL IMPACT:

Design Phase and Bid Phase expenditures total \$37,720. Staff anticipates an additional allowance of **\$8,500** for project oversight, construction inspection and materials testing during construction. The total anticipated project expenditure equals **\$690,731**. 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 Water Division Capital Fund. A **\$700,000** allowance from this fund was allocated for the Pelican City Booster Station Phase I (Water Line) Project.

COUNCIL OPTIONS:

1. Approve a Contract with Jesse Rodriguez Construction in an amount not-to-exceed \$644,510.30.
2. Reject a Contract with Jesse Rodriguez Construction, modify the project scope and rebid the project.
3. Reject a Contract with Jesse Rodriguez Construction and postpone the project.

DOCUMENTS ATTACHED:

- Confirmation of Bid Opening
- Bid Analysis Form
- Grimes Bid Rejection Letter
- Notice of Intent to Award
- Sample Contract

RECOMMENDED MOTION/ACTION:

Move to authorize a Construction Services Contract with Jesse Rodriguez Construction for the Pelican City Booster Station Phase I (Water Line) Project in an amount not-to-exceed \$644,510.30

NOTICE SENT TO:

All parties who submitted bids for this project as listed in the attached Confirmation of Bid Opening.

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CONFIRMATION OF BID OPENING

BID PROJECT NAME: Pelican City Booster Station – Phase 1

DATE AND TIME OPENED: June 2, 2016

STAFF REPRESENTATIVE(S) PRESENT:

Elisa Olson, City Recorder
 Andrew Lakey, Associate Engineer/Project Manager
 Randy Travis, Water Manager
 Rod Denson, Water Supervisor

BIDDER NAME & ADDRESS	CCB#	BID BOND INCLUDED	ADDENDUM(S) ACKNOWLEDGED (if applicable)	BID AMOUNT
Bob's Excavating, Inc. 4821 Tingley Lane Klamath Falls, OR 97603	159856	Yes	Yes	\$671,753.00
Grimes Construction 12049 Highway 140 East Klamath Falls OR 97603	64579	Yes	Yes	\$568,371.80
Jesse Rodriguez Construction 3098 Cascade Hwy Silverton, OR 97381	161987	Yes	Yes	\$644,511.00

/s/ Elisa Olson

 Elisa Olson
 City Recorder

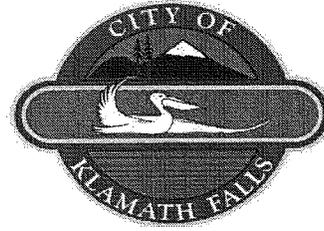
TENTATIVE DATE BID TO BE AWARDED BY COUNCIL: June 20, 2016

Email to: bids@bidocean.com, Webmaster, Legal (Contracts), Public Works (Admin), Engineering, Water

V:\ADMIN\DOCS\ADMIN FORMS\BID CONFIRMATION FORM-PELICAN CITY BOOSTER STATION - PHASE 1.DOC

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



Date: 9-Jun-16

Prepared By: Andrew Lakey Associate Engineer/Project Manager

Pre-Bid Post-Bid (check one)

Project Name: Pelican City Booster Station Phase I (Water Line) Project

Project No: 267715

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	\$ 28,419	\$ 1,381	\$ 29,800
Engineering Staff Costs	\$ 7,318	\$ -	\$ 7,318
Easement Procurement			
Bidding advertisement	\$ 602	\$ -	\$ 602
SUBTOTAL =	\$ 36,339	\$ 1,381	\$ 37,720
<u>CONSTRUCTION PHASE</u>			
Construction Contract: <input type="checkbox"/> Estimate <input checked="" type="checkbox"/> Bid (check one)	\$ -	\$ 644,511	\$ 644,511
Consultant Construction Inspection	\$ -	\$ 1,000	\$ 1,000
Materials Testing	\$ -	\$ 1,000	\$ 1,000
Engineering Division	\$ -	\$ 6,500	\$ 6,500
SUBTOTAL =	\$ -	\$ 653,011	\$ 653,011
<u>OTHER COSTS</u>			
	\$ -	\$ -	\$ -
TOTAL =	\$ 36,339	\$ 654,392	\$ 690,731
<u>Budgeted Funds</u>			
Pelican City Booster/Water Main			\$ 700,000

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

Date: June 6, 2016

To: James Grimes
Grimes Construction
12049 Hwy 140E
Klamath Falls, OR 97603

Re: Rejection of Bid for the Pelican City Booster Station Phase I (Water Main) Project

Thank you for your interest and submitting a bid on this project. In accordance with the City of Klamath Falls policies and procedures for awarding contracts, the City is hereby notifying Grimes Construction of rejection-of-Bid for the City's Pelican City Booster Station Phase I (Water Main) Project.

The Bid submitted by Grimes Construction for this project did not meet the requirements set forth in Section 00330 FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM [ORS 279C.370]. Therefore, the City has disqualified you as a bidder and intends to award a construction services contract to the lowest responsible bidder.

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

Respectfully,

Andrew Lakey, PE
Associate Engineer/Project Manager

CC: Mark Willrett; Elisa Olson; Gina Johnson; Randy Travis; Scott Souders

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

Date: June 6, 2016

To: All parties who submitted Bids for the Pelican City Booster Station Phase I (Water Main) Project

From: Andrew Lakey

CC: Mark Willrett; Elisa Olson; Gina Johnson; Randy Travis; Scott Souders

Re: Notice of Intent to Award

Thank you for your interest and submitting a bid 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 bid for the Pelican City Booster Station Phase I (Water Line) Project of intent to award.

The apparent low bidder for this project did not meet the requirements set forth in Section 00330 FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM [ORS 279C.370]. Therefore, the City has disqualified this bidder and intends to award a construction services contract to the lowest responsible bidder.

The City of Klamath Falls intends to award a construction services contract to Jesse Rodriguez Construction for the Pelican City Booster Station Phase I (Water Main) Project in the not to exceed amount of \$644,510.30 at the City's June 20, 2016 City Council meeting.

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

Respectfully,

Andrew Lakey, PE
Associate Engineer/Project Manager

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**SECTION 00410
CONTRACT AGREEMENT**

THIS AGREEMENT, made and entered into on the date last executed below, by and between the City of Klamath Falls, Oregon, hereinafter called the "City" and JESSE RODRIGUEZ doing business as JESSE RODRIGUEZ CONSTRUCTION, hereinafter called the "Contractor".

WITNESSETH:

On May 15, 2016, a City Improvement project, known as: Pelican City Booster Station Phase I (Water Main) Project published notice calling for bids for the construction of said improvements.

That on the June 2, 2016, the day fixed for opening and considering such bids, the Contractor submitted a Bid for said improvement, which Bid is attached hereto and made a part of the Contract Documents, said Bid having been regularly and duly accepted on the 6th day of June, 2016, all in full compliance with the "Contract Documents" referred to herein.

The "Bidding Requirements and General Conditions", the "Plans and Specifications," the "Drawings" and "Addendum or Addenda" hereby by reference made a part of this Contract as the "Contract Documents", and shall have the same force and effect as though all of the same were fully inserted herein.

NOW THEREFORE, the Contractor, in consideration of the sums to be paid it by the City in the manner and at the times as provided in the Contract Documents, and of the other covenants, agrees to complete the Work herein before described within the time limit specified herein and to accept as full payment hereunder the amounts computed as determined by the Contract Documents and based on said **Base Bid** and the following Alternate Bids: **NONE**

Any or all of the Alternates, if applicable, may be accepted or reinstated by the City at any time within 60 Calendar Days after the date of Contract Award by the City. If any or all of the Alternates are accepted or reinstated, payment or deductions shall be made at the respective amounts identified herein. If, prior to acceptance of any Alternate Bid, other Work is undertaken which affects the Alternate Bid Work, the Alternate Bid Sum shall be adjusted accordingly.

Payment of State Prevailing Wages and Fringe Benefits: Contractor acknowledges that this Contract is subject to the prevailing wage rate requirements of ORS 279C.800 through 279C.870 and agrees to pay the wage rate and fringe benefits listed in the BOLI publication titled "Prevailing Wage Rates for Public Works Contracts in Oregon" which is incorporated by this reference. The applicable prevailing wage rates (including all amendments) are those in effect at the time the project was first advertised for bid. See Section 00620 for the specific wage rates and conditions that apply.

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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It is agreed that the time allowed for the completion of this Contract is based upon the Bid and the appropriate clauses of the Contract Documents. In the event the Contractor fails to complete the Work within the time limit or the extended time limit agreed upon, as more particularly set forth in the Contract Documents, liquidated damages shall be computed at the rate set forth in the Contract Documents. Saturdays, Sundays and legal holidays shall be excluded in determining days of default.

IN WITNESS WHEREOF, we, the parties hereto, each herewith subscribed the same this ____ day of _____, 2016.

CONTRACTOR

CITY OF KLAMATH FALLS, OREGON

By: _____

By: _____
Mayor

Date: _____

Date: _____

Approved as to form:

Attest:

City Attorney

City Recorder

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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**SECTION 00310
BID**

TO: The Honorable Mayor and Council
of the City of Klamath Falls
City Hall
Klamath Falls, Oregon 97601

**Project Name: Pelican City Booster Station Phase I (Water Main) Project, Master
File# 267715**

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this Bid are those named herein; that this Bid is in all respects fair and without fraud; that it is made without collusion with any official of the City of Klamath Falls; and that the Bid is made without any connection or collusion with any person making another Bid on this Contract.

The Bidder further declares that he has carefully examined the Contract Documents for the construction detailed therein; that he has personally inspected the site; that he has satisfied himself as to the quantities and qualities of materials, items of equipment and conditions of Work involved, the means and technique of construction, and that this Bid is made according to the provisions and under the terms of the Contract Documents.

The Bidder agrees to furnish all machinery, tools, labor, apparatus and other means of construction, and do the Work and furnish all the material necessary to complete the Work as specified in the Contract Documents.

The Bidder further agrees to commence Work promptly after the effective date of the "Notice to Proceed" and to **fully** complete the project no later than **90 Calendar Days**. In the event a Bidder is awarded the Contract and fails to complete the Work within the time limit, or extended time limit agreed upon, as set forth in the Contract Documents, liquidated damages shall be paid to the City by the Bidder at the rate set forth in the Contract Documents (**see Section 00800-1.01**) per working day until the Work is completed.

The award of the contract will be based on the Base Bid and any Alternates. The Bidder further proposes to accept as full payment for the Work proposed herein the lump sum amounts or unit price amounts listed as follows:

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BID AND

SCHEDULE OF BID PRICES

The name of the Bidder is:

Jesse Rodriguez Construction
PELICAN CITY BOOSTER STATION PHASE I (WATER MAIN) PROJECT
CITY PROJECT #: 267715

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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REVISED BID SCHEDULE 'A'
Base Bid

PRJ#267715 Pelican City Booster Station Phase 1 - General Requirements					
Bid Item	Description	Quantity	Unit	Unit Price	Total
1	Mobilization	1	Lump Sum	60,000	60,000
2	Temporary Protection and Direction of Traffic	1	Lump Sum	28,000	28,000
3	Erosion Control & Sweeping	1	Lump Sum	2,700	2,700
4	Construction Surveying	1	Lump Sum	10,750	10,750
5	Record Drawings (As-Builts)	1	Lump Sum	1,500	1,500
				Total	102,950

PRJ#267715 Pelican City Booster Station Phase 1
System Improvements

May 2016

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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REVISED BID SCHEDULE 'B'
Base Bid

PRJ#267715 Pelican City Booster Station Phase 1 - Water System Improvements					
Bid Item	Description	Quantity	Unit	Unit Price	Total
6	Saw-cut, Excavate, Install, and Granular Backfill Pipe - 4"	8	LF	125	1000 ⁰⁰
7	Excavate, Install, and Granular Pipe Zone Backfill with Native Above - 6"	14	LF	45 ⁰⁰	630 ⁰⁰
8	Saw-cut, Excavate, Install, and Granular Backfill Pipe - 6"	40	LF	55 ⁰⁰	2,200 ⁰⁰
9	Saw-cut, Excavate, Install, and Granular Backfill Pipe - 8"	32	LF	65 ⁰⁰	2,080 ⁰⁰
10	Saw-cut, Excavate, Install, and Granular Backfill Pipe - 12"	711	LF	105 ⁰⁰	74,655 ⁰⁰
11	Saw-cut, Excavate, Install, and Granular Pipe Zone Backfill with C.D.F. Above - 12"	190	LF	200 ⁰⁰	38,000 ⁰⁰
12	Excavate, Install, and Granular Pipe Zone Backfill with Native Above - 16"	1180	LF	102	120,360 ⁰⁰
13	Saw-cut, Excavate, Install, and Granular Backfill Pipe - 16"	1526	LF	111 ⁰⁰	169,386 ⁰⁰
14	Saw-cut, Excavate, Install, and Granular Pipe Zone Backfill with C.D.F. Above - 16"	35	LF	200	7000 ⁰⁰
15	Connection to Existing Main	9	EA	2000	18,000 ⁰⁰
16	Hydrant Assembly, Concrete Pad	6	EA	5900	35,400 ⁰⁰
17	1" Water Service Connections (Long Side)	5	EA	1500	7,500 ⁰⁰
18	1" Water Service Connections (Short Side)	5	EA	1100	5,500 ⁰⁰
19	2" Water Service Connections (Short Side)	1	EA	1250	1250 ⁰⁰
20	Testing and Disinfection	1	Lump Sum		5000 ⁰⁰
21	Shoulder Aggregate	150	Ton	25 ⁰⁰	3,750 ⁰⁰
22	Asphalt Patching	190	Ton		42,350 ⁰⁰
23	1" Water Service Connection w/ Duplex Box (Long Side)	1	EA	1500 ⁰⁰	1,500 ⁰⁰
Total					541,561

TOTAL OF ALL BID SCHEDULES \$ 644,511⁰⁰

COMPANY SUBMITTING BID JESSE Rodriguez Construction

PRJ#267715 Pelican City Booster Station Phase 1 System Improvements

May 2016

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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

JESSE Rodriguez Construction
doing business at 3098 CASCADE Hwy
(Street Address)
Silverton Marion OREGON
City County State

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

I (We), acknowledge that **Addenda numbers** 1 **through** 1 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 Bidder are hereby made a part of this Bid.

The Contractor and/or each Subcontractor, in preparing the Bid 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 Bid are:

The name of the Bidder is: JESSE Rodriguez Construction

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

161987
Contractor Board License Number

Jesse Rodriguez
Signature of Bidder (attach proof of signing authority)

Title: OWNER

Date: 6-1-16

The name of the Bidder is: JESSE Rodriguez Construction
PELICAN CITY BOOSTER STATION PHASE I (WATER MAIN) PROJECT
CITY PROJECT #: 267715

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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**SECTION 00320
CERTIFICATION OF BIDDER AS PRIMARY CONTRACTOR**

I, JESSE Rodriguez, as a principal official of the Bidder, certify that JESSE Rodriguez Construction is directly responsible for and will accomplish a minimum of thirty-three percent (33%) of the dollar value of the project based on the Bid prices submitted. "Directly responsible for and will accomplish" means that employees of the Bidder will perform all those work tasks not indicated as being performed by separate subcontractors. As an additional condition, the Bidder represents that he, or she, shall be responsible for the greatest share of the dollar value of the Work, i.e., no subcontractor is responsible for a greater share of the dollar value of the Work.

Jesse Rodriguez
Signature

6-1-16
Date

JESSE Rodriguez, OWNER
Name & Title of Signer
(Please Print or Type)

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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**SECTION 00330
FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM
[ORS 279C.370]**

Project Name: Pelican City Booster Station Phase I (Water Main)
Project, City Master File # 267715
Bid Closing Date and Time: June 2, 2016 at 2:00p.m.

**DEADLINE FOR SUBMISSION OF THIS DISCLOSURE FORM:
June 2, 2016 at 4:00 p.m.**

In accordance with ORS 279C.370, Each Bidder shall submit to the City Recorder, within two working hours of the date and time of when the Bids are due, this completed "First-Tier Subcontractors Disclosure Form". This form shall be submitted to the City Recorder at the same location where the Bids are identified to be received. The Bidder shall submit the name, business address, and portion of Work (description of Work to be performed) for each subcontractor that will be used in the Project if the Bidder is awarded the contract. The disclosure shall include all first-tier subcontractors that are proposed to furnish labor, or labor and materials whose contract value equals or exceeds: five percent (5%) of the Contract Price or \$15,000, whichever is greater; or \$350,000, regardless of the percentage of the contract bid. Bidders shall disclose the category of Work that the subcontractor will be performing and the dollar value of the subcontract. Enter "NONE" if there are no subcontractors that need to be disclosed. **Failure to submit this form by the disclosure deadline will result in a non-responsive bid that will not be considered for award (even if no subcontractors need to be disclosed).**

1. Bid Item No.(s) 22, Bid Item Name(s): Asphalt
 Subcontractor Name: Rocky Martinia Construction
 CCB License # 124715 Address: 4815 Fingley Lane Klondike Falls
 Dollar Value of Contract 48,356
 Description of Services/Category of Work: Asphalt Paving
2. Bid Item No.(s) _____, Bid Item Name(s): _____
 Subcontractor Name: _____
 CCB License # _____ Address: _____
 Dollar Value of Contract _____
 Description of Services/Category of Work: _____
3. Bid Item No.(s) _____, Bid Item Name(s): _____
 Subcontractor Name: _____
 CCB License # _____ Address: _____
 Dollar Value of Contract _____
 Description of Services/Category of Work: _____

Page 20 of 111 00330 STATEMENT OF SUBCONTRACT
 The name of the Bidder is: JESSE Rodriguez Construction
PELICAN CITY BOOSTER STATION PHASE I (WATER MAIN) PROJECT
 CITY PROJECT #: 267715

Construction Contract
 Jesse Rodriguez dba Jesse Rodriguez Construction
 Pelican City Booster Station Phase I (Water Main) Project, #267715

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4. Bid Item No.(s) _____, Bid Item Name(s): _____
 Subcontractor Name: _____
 CCB License # _____ Address: _____
 Dollar Value of Contract _____
 Description of Services/Category of Work: _____
5. Bid Item No.(s) _____, Bid Item Name(s): _____
 Subcontractor Name: _____
 CCB License # _____ Address: _____
 Dollar Value of Contract _____
 Description of Services/Category of Work: _____
6. Bid Item No.(s) _____, Bid Item Name(s): _____
 Subcontractor Name: _____
 CCB License # _____ Address: _____
 Dollar Value of Contract _____
 Description of Services/Category of Work: _____

JESSE Rodriguez Construction
 Name of Bidder

6-1-16
 Date

Jesse Norris
 Signature
 Title: Owner

***NOTE: If you have more than six subcontractors, submit the above information for each on a separate sheet.

***NOTE: Any proposed changes in the above list after award shall be subject to the prior review and approval of the City, and in no case shall have the effect of increasing the Contract Amount.

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STATEMENT OF SUBCONTRACT

The name of the Bidder is: JESSE Rodriguez Construction
 PELICAN CITY BOOSTER STATION PHASE I (WATER MAIN) PROJECT
 CITY PROJECT #: 267715

Construction Contract
 Jesse Rodriguez dba Jesse Rodriguez Construction
 Pelican City Booster Station Phase I (Water Main) Project, #267715

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**SECTION 00340
BIDDER CERTIFICATIONS**

The Bidder hereby certifies the following:

A. Non-discrimination: The Bidder certifies that he or she does not and will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not and will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Bidder agrees that he will obtain identical certifications from proposed subcontractors exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files. The Bidder further certifies pursuant to ORS 279A.110 that Bidder has not discriminated against minority women or emerging small business enterprises in obtaining any required subcontractors.

B. Resident Bidder: The Bidder hereby certifies that it: is is not a "resident bidder". Resident Bidder means a Bidder that has a business address in the State of Oregon and has paid unemployment taxes or income taxes in Oregon during the twelve (12) calendar months immediately preceding submission of the bid. In accordance with ORS 279A-120, preference to Oregon residents will be given when awarding this Contract by adding to a non-resident's Bid the same percentage, if any, given to the Bidder by the Bidder's home State. Accordingly, Bidders will be required to indicate on the Bid Form whether or not the Bidder is an Oregon Resident Bidder.

C. Employee Drug Testing Program: The Bidder hereby certifies that it has an employee drug testing program in place and will produce evidence of such if requested by the City. [ORS 279C.505(2)]

D. Public Works Bond: Bidder certifies it will file the public works bond with the Construction Contractors Board before executing the Contract with the City, unless exempted. [ORS 279C.830(3)(a)] Bidder certifies it will include in every subcontract under this project, a provision requiring the subcontractor to have a public works bond filed with the CCB before starting Work on this Project, unless exempted. [ORS 279C.830(3)(b)]

E. Prevailing Wages: Bidder certifies it shall pay workers the applicable minimum wage rates as follows: The state prevailing wages, including amendments, under ORS 279C.800 to 279C.870; or the federal prevailing rates of wage under the Davis-Bacon Act (40 U.S.C. 3141 et seq.) including amendments; or the higher of the state and federal prevailing rates of wage rate (including amendments). See Section 00620 for the wage rates applicable for this project. [ORS 279C.830(1)(c); OAR 839-025-0020(3)] Any person employed on a public works project and whose duties are manual or physical in nature are workers required to be paid the applicable prevailing wage rate. [OAR 839-025-0004(30)]

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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F. Compliance with State Rules and Regulations: CONTRACTOR shall comply with all rules and regulations as contained in all applicable Federal, State and local laws, rules and regulations and shall require any and all subcontractors to comply with all applicable provisions of the same and of this Contract, including the following Oregon Statutory provisions:

- a. 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 279B.220(1)&(3)]
- b. 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 279B.220(2)]
- c. CONTRACTOR shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. [ORS 279B.220(4)]
- d. CONTRACTOR shall comply with the overtime and maximum hours of labor provisions of ORS 279B.020 and 279B.235.
- e. CONTRACTOR, and all other employers working under this Contract, will comply with the workers' compensation provisions of ORS 656.017 (unless CONTRACTOR or other employers are exempt under ORS 656.126.) [ORS 279B.230(2)]
- f. 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 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)]
- g. 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 279B.230(1)]
- h. If this Contract is for landscaping services, CONTRACTOR shall, if feasible and cost-effective, compost or mulch yard waste material at an appropriate site. [ORS 279C.510(2)]
- i. 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.

JESSE Rodriguez Construction OWNER
 Name of Bidder Title (Please Print or Type)
JESSE Rodriguez

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BIDDER CERTIFICATIONS

PELICAN CITY BOOSTER STATION PHASE I (WATER MAIN) PROJECT
 CITY PROJECT #: 267715

Construction Contract
 Jesse Rodriguez dba Jesse Rodriguez Construction
 Pelican City Booster Station Phase I (Water Main) Project, #267715

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**SECTION 00350
NONDISCRIMINATION IN EMPLOYMENT**

To: The City of Klamath Falls, Oregon

Regarding a Construction Contract for: **Pelican City Booster Station Phase I (Water Main) Project**

You are advised that, under the provisions of the above Contract(s) or subcontract(s) and in accordance with Section 202 of Executive Order No. 11246 dated September 24, 1965, the undersigned will not discriminate against any employee or applicant for employment because of race, color, creed or national origin. This obligation not to discriminate in employment includes, but is not limited to, the following:

EMPLOYMENT, UPGRADING, TRANSFER OR DEMOTION

RECRUITMENT AND ADVERTISING

RATES OF PAY OR OTHER FORMS OF COMPENSATION

SELECTION FOR TRAINING INCLUDING APPRENTICESHIP, LAYOFF OR TERMINATION

This notice is furnished you pursuant to the provisions of the above contract(s) or subcontract(s) and Executive Order No. 11246.

Copies of this notice will be posted by the undersigned in conspicuous places to employees or applicants for employment upon award of the above Contract(s).

Jesse Rodriguez Construction
Contractor or Subcontractor

Jan [Signature] *6-1-16*
Signature Date

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00350 NONDISCRIMINATION IN EMPLOYMENT
PELICAN CITY BOOSTER STATION PHASE I (WATER MAIN) PROJECT
CITY PROJECT #: 267715

Construction Contract
Jesse Rodriguez dba Jesse Rodriguez Construction
Pelican City Booster Station Phase I (Water Main) Project, #267715

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 10

Date: June 20, 2016

Department: Airport	Contact/Title: John Barsalou, Airport Director
Staff Presenter: John Barsalou	Telephone No.: 541-883-5373
City Manager Review: 	Email: jbarsalou@flykfalls.com

TOPIC: Federal Aviation Administration (FAA) Grant Application #3-41-0030-036 for Airport Improvement Program (AIP) (Modoc Wetland Mitigation)

SUMMARY AND BACKGROUND:

The Airport requests authorization to submit an application to the FAA for Airport Improvement Program Grant No. 3-41-0030-036 (AIP-36) and to accept the funding when offered. This grant application is for \$226,193.18, which will fund Modoc wetland mitigation site improvements. Contracts covered under this grant application include construction by Bob's Excavating (pending bid award) and construction administration by Mead & Hunt (pending contract approval).

FINANCIAL IMPACT:

The total grant application is for \$241,272.73 with the FAA funding 93.75% of the referenced projects (\$226,193.18) and the Airport providing a match of 6.25% (\$15,079.55), which is budgeted in the Airport's FY 2017 budget.

COUNCIL OPTIONS:

1. Deny request to submit grant application and abandon plans for Modoc wetland mitigation site improvements.
2. Authorize submission of grant application and acceptance of funds.

DOCUMENTS ATTACHED:

- Grant Application 3-41-0030-036 – Due to the length of the document it is available upon request

RECOMMENDED MOTION/ACTION:

Move to authorize staff to submit application #3-41-0030-036 to Federal Aviation Administration (FAA) for Airport Improvement Program (AIP) grant in the amount of \$226,193.18 and to accept funding when offered.

NOTICE SENT TO: N/A

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 11

Date: June 20, 2016

Department: Airport	Contact/Title: John Barsalou, Airport Director
Staff Presenter: John Barsalou	Telephone No.: 541-883-5373
City Manager Review:	Email: jbarsalou@flykfalls.com

TOPIC: Federal Aviation Administration (FAA) Grant Application #3-41-0030-037 for Airport Improvement Program (AIP) (Taxiway B)

SUMMARY AND BACKGROUND:

The Airport requests authorization to submit an application to the FAA for Airport Improvement Program Grant No. 3-41-0030-037 (AIP-37) and to accept the funding when offered. This grant application is for \$7,303,385.41, which will fund the construction of Taxiway B pending award of bid to Rocky Mountain Construction.

Construction administration by Mead & Hunt along with a portion of the construction costs of Taxiway B will be funded by unallocated funds remaining in the AIP-35 grant.

FINANCIAL IMPACT:

The total grant application is for \$7,790,277.77 with the FAA funding 93.75% of the referenced projects (\$7,303,384.41) and the Airport providing a match of 6.25% (\$486,892.36), which is budgeted in the Airport's FY 2017 budget.

COUNCIL OPTIONS:

1. Deny request to submit grant application and abandon plans to construct Taxiway B.
2. Authorize submission of grant application and acceptance of funds.

DOCUMENTS ATTACHED:

- Grant Application 3-41-0030-037- Due to the length of the document it is available upon request

RECOMMENDED MOTION/ACTION:

Move to authorize staff to submit application #3-41-0030-037 to Federal Aviation Administration (FAA) for Airport Improvement Program (AIP) grant in the amount of \$7,303,385.41 and to accept funding when offered.

NOTICE SENT TO: N/A

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**KLAMATH FALLS CITY COUNCIL
AGENDA REPORT**



Agenda Item No. 12

Date: June 20, 2016

Department: Airport	Contact/Title: John Barsalou, Airport Director
Staff Presenter: John Barsalou	Telephone No.: 541-883-5373
City Manager Review: 	Email: jbarsalou@flykfalls.com

TOPIC: Award of Bid to Rocky Mountain Construction, LLC for Taxiway B Construction

SUMMARY AND BACKGROUND:

Taxiway B (formally named Taxiway J) is designed to run parallel to the east of Runway 14/32 from the north end of the airfield to approximately opposite of Taxiway E. Included in the project is a four-inch asphalt overlay of the eastside aircraft ramp adjacent to Taxiway B so that the ramp can accommodate heavier aircraft.

The design and environmental assessments for construction of Taxiway B began in late 2012. The Airport received approval from the Federal Aviation Administration (FAA) to begin final design in April 2015 upon a Finding of No Significant Impact at the conclusion of the environmental assessment process. On May 5, 2016, the FAA approved the final plans and specifications for the project and authorized the Airport to seek bids for the construction of Taxiway B. Council approved Mead & Hunt to prepare the design on January 19, 2016.

An advertisement for bids was placed in the Daily Journal of Commerce on April 29th and May 2nd and in the Herald and News on April 29th and May 1st. A pre-bid meeting was held on May 12th and the following bids were received on June 2nd:

Rocky Mountain Construction, LLC	\$7,777,777.77
K&E Excavating	\$8,173,995.00
Kodiak Pacific Construction	\$8,524,771.50 (sum of unit prices \$8,522,971.50)

Bids have been reviewed by Mead & Hunt, the engineers for the project, and they recommend awarding the contract to Rocky Mountain Construction, LLC. The FAA and the Airport concurs with Mead & Hunt's recommendation. Notice to Proceed will be dependent upon receipt of FAA funding, which is expected in the next 90 days.

The engineer's estimate was \$7,154,762.25. As described in the recommendation letter from Mead & Hunt, the low bid is 8.7% higher than the engineer's estimate. The main differences between the engineer's estimate and the low bid are:

- Low bid is 6.7% lower than the engineer's estimate on General Items (\$68,024.48)
- Low bid is 6.4% lower than the engineer's estimate on Electrical Items (\$22,980.00)

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- Low bid is 11.1% higher than the engineer's estimate on Site Work Items (\$714,030.00)

The main deviation in the engineer's estimate and the low bidder was in the "aggregate base and subbase materials" for a total of \$532,150.00 of the \$714,030.00 of the Site Work Items stated above. These prices are higher than in other parts of the State. This could be contributed to the local market for construction materials. We would also like to note that the FAA no longer requires an explanation for bids not within 10% of the engineer's estimate. This FAA requirement was updated in 2014 and now only requires a price analysis for bids where there are two or more bidders. Under FAA guidance, both old and current, the bid is considered acceptable by FAA standards.

FINANCIAL IMPACT:

The bid is for \$7,777,777.77 with the FAA funding 93.75% of the cost (\$7,291,666.55) and the Airport providing a match of 6.25% (\$486,111.22), which is budgeted in the Airport's FY 2017 budget.

COUNCIL OPTIONS:

1. Reject all bids and abandon plans to build Taxiway B.
2. Reject all bids and rebid the project.
3. Award bid to Rocky Mountain Construction.

DOCUMENTS ATTACHED:

- Engineer's Recommendation
- Bid Tabulation/Comparison
- FAA Concurrence Letter

RECOMMENDED MOTION/ACTION:

Council move to award bid for Taxiway B Construction and authorize staff to execute contract with, Rocky Mountain Construction, LLC in the amount of \$7,777,777.77 with Notice to Proceed dependent on receiving FAA funding.

NOTICE SENT TO:

K&E Excavating
Kodiak Pacific Construction
Rocky Mountain Construction, LLC

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Mead & Hunt, Inc.
M & H Architects Group, Inc.
9900 NE Cascades Parkway, Suite 100
Portland, Oregon 97220
503-548-1404
meadhunt.com

June 7, 2016

Mr. John Barsalou
Airport Director
Crater Lake – Klamath Regional Airport
6775 Arnold Avenue
Klamath Falls, OR 97603

Re: Crater Lake - Klamath Regional Airport
Taxiway B Construction – Recommendation of Award
AIP: 3-41-0030-33/35

Dear John:

We have completed our review of the Contractor's bid proposals for the aforementioned project and have the following comments and recommendations.

Bids were received from Rocky Mountain Construction LLC, K&E Excavating Inc., and Kodiak Pacific Construction. A summary of bids received:

BIDDER	Total
Rocky Mountain Construction, LLC	\$7,777,777.77
K&E Excavating, Inc.	\$8,173,995.00
Kodiak Pacific Construction	\$8,524,771.50*
<i>Engineer's Estimate</i>	\$7,154,752.25
<i>Mean Estimate</i>	\$8,158,848.09

*sum of unit prices \$8,522,971.50

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Mr. John Barsalou
June 7, 2016
Page 2

All three bidders are licensed by the Oregon Construction Contractors Board and provided the necessary bid bond. After review of the bids, a mathematical error was found in Kodiak Pacific's bid. The written total on the Summary Bid Form was \$8,524,771.50. After adding the sum of the individual unit price bid items, the corrected total is \$8,522,971.50.

A price analysis was performed by comparing the competitive bids and we find the apparent low bid fair and reasonable. The three bids received were within 5% of the mean value. The median was 0.2% from the mean value. The low bid deviated 8.7% from the engineer's estimate.

We recommend the City issue Notice of Intent to Award the contract to Rocky Mountain Construction, LLC, contingent on Federal Aviation Administration (FAA) grant offer. Please contact me at 503-548-1494 with any questions.

Sincerely,

Mead & Hunt, Inc.



Byron Henicle, P.E.
Project Engineer

Attachments

1. Bid Tabulations and Summary
2. QuestCDN Plan Holder List
3. Bid – Rocky Mountain Construction, LLC
4. Bid – K&E Excavating, Inc.
5. Bid – Kodiak Pacific Construction

Cc: Linda Tepper, Crater Lake – Klamath Regional Airport (via E-mail)
Mat Wilder, FAA-ADO (via E-mail)

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BID TABULATION

By: B. Henkle
 Date orig: Revisions: Bid
 Date: June 3, 2015

Location: CRATER LAKE-KLAMATH REGIONAL AIRPORT
 Project Name: TAXIWAY B CONSTRUCTION
 M&H Project No: 1145200-121174-D1

Scope: BASE BID - Taxiway B Construction

ITEM	SECTION/ ITEM	ITEM DESCRIPTION	General			Engineer's Estimate			Rocky Mountain Construction			K&E Excavating			Kodiak Pacific Construction		
			EST. QUANT.	UNITS	UNIT PRICE	BASE BID COST	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	
1	GP-50-08	Construction Survey	1	LS	\$90,719.25	\$90,719.25	\$90,000.00	\$50,000.00	\$50,000.00	\$90,000.00	\$50,000.00	\$50,000.00	\$26,500.00	\$26,500.00			
2	GP-50-11	Repair and Restoration of Haul Roads	1	T&M	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00			
3	GP-105	Mobilization	1	LS	\$789,350.25	\$789,350.25	\$789,350.25	\$789,350.25	\$789,350.25	\$789,350.25	\$789,350.25	\$789,350.25	\$789,350.25	\$789,350.25			
4	Section 013523	Airfield Safety and Traffic Control	1	LS	\$182,157.75	\$182,157.75	\$182,157.75	\$182,157.75	\$182,157.75	\$182,157.75	\$182,157.75	\$182,157.75	\$182,157.75	\$182,157.75			
5	Section 013523	Portable Lighted Closure Cross	1	LS	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00			
6	Section 013523	Remove, Salvage, and Relocate Existing Traffic Sign	4	EA	\$150.00	\$600.00	\$150.00	\$150.00	\$600.00	\$150.00	\$600.00	\$150.00	\$600.00	\$150.00	\$600.00		
7	D-701	12-inch RCP Storm Drain - Class III	3320	LF	\$155.00	\$511,600.00	\$155.00	\$116,000.00	\$116,000.00	\$155.00	\$511,600.00	\$155.00	\$511,600.00	\$51.00	\$168,720.00		
8	D-701	15-inch RCP Storm Drain - Class III	1200	LF	\$85.00	\$102,000.00	\$85.00	\$80.00	\$96,000.00	\$85.00	\$102,000.00	\$85.00	\$102,000.00	\$81.00	\$97,200.00		
9	D-701	18-inch RCP Storm Drain - Class III	730	LF	\$90.00	\$65,700.00	\$90.00	\$85.00	\$62,025.00	\$90.00	\$65,700.00	\$90.00	\$65,700.00	\$84.00	\$61,320.00		
10	D-701	24-inch RCP Storm Drain - Class III	630	LF	\$100.00	\$63,000.00	\$100.00	\$95.00	\$60,000.00	\$100.00	\$63,000.00	\$100.00	\$63,000.00	\$98.00	\$62,340.00		
11	D-701	24-inch RCP Storm Drain - Class V	230	LF	\$110.00	\$25,300.00	\$110.00	\$120.00	\$27,600.00	\$110.00	\$25,300.00	\$110.00	\$25,300.00	\$105.00	\$24,150.00		
12	D-701	Storm Drain Removal	2870	LF	\$15.00	\$43,050.00	\$15.00	\$22.00	\$63,140.00	\$15.00	\$43,050.00	\$15.00	\$43,050.00	\$24.00	\$69,000.00		
13	D-701	Modify Existing Storm Drain Pipe	1	EA	\$500.00	\$500.00	\$500.00	\$1,400.00	\$1,400.00	\$500.00	\$500.00	\$500.00	\$900.00	\$900.00			
14	D-705	12-inch Perforated Pipe	6360	LF	\$25.00	\$159,000.00	\$25.00	\$25.00	\$159,000.00	\$25.00	\$159,000.00	\$25.00	\$159,000.00	\$42.00	\$266,520.00		
15	D-705	12-inch Rigid Solid Pipe	102	LF	\$35.00	\$3,570.00	\$35.00	\$70.00	\$7,140.00	\$35.00	\$3,570.00	\$35.00	\$3,570.00	\$40.00	\$4,080.00		
16	D-705	Underdrain Connections	16	EA	\$500.00	\$8,000.00	\$500.00	\$1,100.00	\$11,000.00	\$500.00	\$8,000.00	\$500.00	\$8,000.00	\$905.00	\$14,480.00		
17	D-705	Underdrain Connections	24	EA	\$400.00	\$9,600.00	\$400.00	\$1,200.00	\$12,000.00	\$400.00	\$9,600.00	\$400.00	\$9,600.00	\$900.00	\$21,600.00		
18	D-705	Remove Underdrain	1070	LF	\$1,695.00	\$1,813,650.00	\$1,695.00	\$12.00	\$12,840.00	\$1,695.00	\$1,813,650.00	\$1,695.00	\$1,813,650.00	\$9.00	\$9,630.00		
19	D-705	Remove Underdrain	4	EA	\$100.00	\$400.00	\$100.00	\$100.00	\$400.00	\$100.00	\$400.00	\$100.00	\$400.00	\$100.00	\$400.00		
20	D-751	Aircraft Railed Catch Basin - Type A	11	EA	\$55,000.00	\$605,000.00	\$55,000.00	\$10,000.00	\$110,000.00	\$55,000.00	\$605,000.00	\$55,000.00	\$605,000.00	\$6,000.00	\$66,600.00		
21	D-751	Fixed End Section	2	EA	\$2,500.00	\$5,000.00	\$2,500.00	\$3,500.00	\$7,000.00	\$2,500.00	\$5,000.00	\$2,500.00	\$5,000.00	\$4,700.00	\$9,400.00		
22	D-751	Remove Drainage Structure	8	EA	\$5,000.00	\$40,000.00	\$5,000.00	\$8,000.00	\$64,000.00	\$5,000.00	\$40,000.00	\$5,000.00	\$40,000.00	\$6,000.00	\$48,000.00		
23	D-751	Modify Existing Drainage Structure	8	EA	\$2,500.00	\$20,000.00	\$2,500.00	\$5,000.00	\$40,000.00	\$2,500.00	\$20,000.00	\$2,500.00	\$20,000.00	\$2,000.00	\$16,000.00		
24	P-101	Pavement Removal	11750	SY	\$2.00	\$23,500.00	\$2.00	\$2.50	\$29,375.00	\$2.00	\$23,500.00	\$2.00	\$23,500.00	\$3.20	\$37,600.00		
25	P-101	Transition Milling (2")	1150	SY	\$10.00	\$11,500.00	\$10.00	\$12.00	\$13,800.00	\$10.00	\$11,500.00	\$10.00	\$11,500.00	\$12.00	\$13,800.00		
26	P-101	Partial Depth Pavement Repair	4250	LF	\$42.50	\$180,625.00	\$42.50	\$5.00	\$21,250.00	\$42.50	\$180,625.00	\$42.50	\$180,625.00	\$44.00	\$186,500.00		
27	P-101	Pavement Marking Removal	1	LS	\$1,000.00	\$1,000.00	\$1,000.00	\$3,100.00	\$3,100.00	\$1,000.00	\$1,000.00	\$1,000.00	\$3,050.00	\$3,050.00			
28	P-152	Unclassified Excavation (Export)	28210	CY	\$15.00	\$423,150.00	\$15.00	\$18.00	\$507,780.00	\$15.00	\$423,150.00	\$15.00	\$423,150.00	\$14.00	\$394,940.00		
29	P-152	Unclassified Excavation	5696	CY	\$10.00	\$56,960.00	\$10.00	\$20.00	\$113,920.00	\$10.00	\$56,960.00	\$10.00	\$56,960.00	\$13.00	\$74,048.00		
30	P-152	Selective Grading	3210	CY	\$10.00	\$32,100.00	\$10.00	\$18.00	\$57,780.00	\$10.00	\$32,100.00	\$10.00	\$32,100.00	\$13.50	\$43,335.00		
31	P-152	Unsuitable Excavation	2000	CY	\$55.00	\$110,000.00	\$55.00	\$58.00	\$116,000.00	\$55.00	\$110,000.00	\$55.00	\$110,000.00	\$45.00	\$90,000.00		
32	P-152	Recycled Asphalt Base Course	110	CY	\$20.00	\$2,200.00	\$20.00	\$32.00	\$3,520.00	\$20.00	\$2,200.00	\$20.00	\$2,200.00	\$22.00	\$2,420.00		
33	P-152	Gravel	18000	SY	\$40.00	\$720,000.00	\$40.00	\$55.00	\$990,000.00	\$40.00	\$720,000.00	\$40.00	\$720,000.00	\$56.00	\$1,008,000.00		
34	P-154	Subbase Course	14310	CY	\$40.00	\$572,400.00	\$40.00	\$55.00	\$787,050.00	\$40.00	\$572,400.00	\$40.00	\$572,400.00	\$56.00	\$801,360.00		
35	P-156	Temporary Erosion Control	1	LS	\$40,000.00	\$40,000.00	\$40,000.00	\$53,900.00	\$53,900.00	\$40,000.00	\$40,000.00	\$40,000.00	\$150,000.00	\$150,000.00			
36	P-209	Crushed Aggregate Base Course	12700	CY	\$45.00	\$571,500.00	\$45.00	\$70.00	\$889,000.00	\$45.00	\$571,500.00	\$45.00	\$571,500.00	\$65.00	\$825,750.00		
37	P-401	Bluminous Surface Course	12200	TON	\$110.00	\$1,342,000.00	\$110.00	\$100.00	\$1,220,000.00	\$110.00	\$1,342,000.00	\$110.00	\$1,342,000.00	\$107.00	\$1,305,400.00		
38	P-403	Bluminous Base Course	10400	TON	\$100.00	\$1,040,000.00	\$100.00	\$100.00	\$1,040,000.00	\$100.00	\$1,040,000.00	\$100.00	\$1,040,000.00	\$107.00	\$1,112,800.00		
39	P-403	Bluminous Surface Course (Shoulders & Access Roads)	5000	TON	\$100.00	\$500,000.00	\$100.00	\$100.00	\$500,000.00	\$100.00	\$500,000.00	\$100.00	\$500,000.00	\$107.00	\$535,000.00		
40	P-602	Bluminous Prime Coat	15500	GAL	\$2.00	\$31,000.00	\$2.00	\$3.00	\$46,500.00	\$2.00	\$31,000.00	\$2.00	\$31,000.00	\$3.50	\$54,250.00		
41	P-603	Bluminous Tack Coat	15500	GAL	\$2.00	\$31,000.00	\$2.00	\$4.00	\$62,000.00	\$2.00	\$31,000.00	\$2.00	\$31,000.00	\$4.50	\$69,750.00		
42	P-620	Permanent Pavement Marking	16500	SF	\$2.00	\$33,000.00	\$2.00	\$1.50	\$24,750.00	\$2.00	\$33,000.00	\$2.00	\$33,000.00	\$1.40	\$23,100.00		
43	P-620	Surface Painted Holding Position Sign	4	EA	\$500.00	\$2,000.00	\$500.00	\$6,400.00	\$6,400.00	\$500.00	\$2,000.00	\$500.00	\$2,000.00	\$1,500.00	\$6,000.00		
44	T-901	Seeding with Mixture and Fertilizer	15.0	ACRE	\$3,000.00	\$45,000.00	\$3,000.00	\$2,180.00	\$32,700.00	\$3,000.00	\$45,000.00	\$3,000.00	\$45,000.00	\$2,400.00	\$36,000.00		

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BID TABULATION

Location: CRATER LAKE-KLAMATH REGIONAL AIRPORT
 Project Name: TAXIWAY B CONSTRUCTION
 M&H Project No. 11192004121174.01
 By: B. Henicle
 Date of Bid: June 3, 2018
 Revision: Bid
 Date: June 3, 2018

ITEM	SECTION/ITEM	ITEM DESCRIPTION	EST. QUANT.	UNITS	Engineer's Estimate			Rocky Mountain Construction		K&E Excavating		Kodiak Pacific Construction	
					UNIT PRICE	BASE BID COST	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
45	L-108	No. 8 AWG, 5 KV, L-824, Type C Cable	10000	LF	\$1.80	\$18,000.00	\$11,000.00	\$1.10	\$11,000.00	\$1.10	\$11,000.00	\$1.10	\$11,000.00
46	L-108	No. 6 AWG, Solid, Bare Counterpoise Wire	8200	LF	\$2.00	\$16,400.00	\$11,070.00	\$1.35	\$11,070.00	\$1.40	\$11,480.00	\$1.25	\$10,250.00
47	L-109	Misc. Airfield Electrical Vault Work	1	LS	\$10,000.00	\$10,000.00	\$1,850.00	\$1,850.00	\$2,000.00	\$2,000.00	\$1,600.00	\$1,600.00	
48	L-110	Electrical Conduit, 1W-2" Schedule 80 PVC	7700	LF	\$13.00	\$100,100.00	\$98,250.00	\$12.80	\$98,250.00	\$13.00	\$100,100.00	\$12.00	\$92,400.00
49	L-110	Electrical Duct Bank, 2W-3" Schedule 80 PVC, Concrete Encased	530	LF	\$33.00	\$17,490.00	\$21,450.00	\$65.00	\$21,450.00	\$65.00	\$21,450.00	\$61.00	\$20,130.00
50	L-110	Electrical Duct Bank, 4W-3" Schedule 80 PVC, Concrete Encased	145	LF	\$59.00	\$8,555.00	\$12,325.00	\$85.00	\$12,325.00	\$85.00	\$12,325.00	\$80.00	\$11,600.00
51	L-115	Electrical Pullbox	6	EA	\$8,500.00	\$51,000.00	\$9,000.00	\$3,000.00	\$9,000.00	\$3,500.00	\$21,000.00	\$3,400.00	\$20,400.00
52	L-125	High Intensity In-Pavement Runway Edge Light	1	EA	\$4,000.00	\$4,000.00	\$2,100.00	\$3,100.00	\$3,100.00	\$3,100.00	\$3,000.00	\$3,000.00	
53	L-125	Medium Intensity LED Elevated Taxiway Edge Light with Base Can	83	EA	\$1,200.00	\$99,600.00	\$83,000.00	\$1,000.00	\$83,000.00	\$990.00	\$82,170.00	\$940.00	\$78,020.00
54	L-125	Medium Intensity LED Light on Existing Base	19	EA	\$900.00	\$17,100.00	\$4,600.00	\$4,600.00	\$380.00	\$7,230.00	\$354.00	\$6,726.00	
55	L-125	LED Airfield Guidance Sign and Base	10	EA	\$5,000.00	\$50,000.00	\$43,500.00	\$4,350.00	\$43,500.00	\$4,400.00	\$44,000.00	\$4,100.00	\$41,000.00
56	L-125	Remove Runway Edge Light and Base Can	1	EA	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$460.00	\$460.00	\$485.00	\$485.00
57	L-125	Remove and Salvage Existing Taxiway Edge Light	3	EA	\$300.00	\$900.00	\$900.00	\$300.00	\$900.00	\$310.00	\$930.00	\$284.00	\$852.00
58	L-125	Adjust Existing Taxiway Edge Light to Grade	3	EA	\$900.00	\$2,700.00	\$750.00	\$750.00	\$740.00	\$2,220.00	\$700.00	\$2,100.00	
59	L-125	Remove, Salvage, and Relocate Existing Guidance Sign	1	EA	\$2,900.00	\$2,900.00	\$2,100.00	\$2,100.00	\$2,900.00	\$2,900.00	\$2,900.00	\$2,900.00	
60	L-125	Remove and Replace Existing Guidance Sign Legend Panels	1	EA	\$1,600.00	\$1,600.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,350.00	
61	L-125	Remove Cable and Conduit	825	LF	\$1.00	\$825.00	\$9,600.00	\$12.00	\$9,600.00	\$12.00	\$9,900.00	\$11.50	\$9,487.50
CONSTRUCTION SUB TOTAL						\$7,134,752.25		\$7,177,717.17		\$8,173,985.00		\$8,322,977.50	

*\$8,524,771.50 total on bid form

June 6, 2016

BID SUMMARY CHECKLIST

Crazer Lake-Klamath Regional Airport
Taxiway B Construction
11.15200-12.1174.01

Bidder	Bid Amount	Addenda (1-2)	00310 - Bid Form	00310-Bid Schedule	00320-Cert of Bidder as Primary Contractor	00340-Oregon Bidder Certifications	00350-Non-discrimination in Employment	00370-Certification of Non-Segregated Facilities	00371-EEO Compliance	00372-Buy American Preferences	00373-Cert Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion	00374-Trade Restriction Clause	00376-Lobbying and Influencing Federal Employees Certification	00330-First-Tier Subcontractor Disclosure Form
Rocky Mountain Construction, LLC	\$7,777,777.77	X	X	X	X	X	X	X	X	X	X	X	X	X
R&E Erecting, Inc.	\$8,173,995.00	X	X	X	X	X	X	X	X	X	X	X	X	X
Kodiak Pacific Construction	\$8,524,771.50	X	X	X	X	X	X	X	X	X	X	X	X	X

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U.S. Department of Transportation
Federal Aviation Administration
Northwest Mountain Region
Colorado · Idaho · Montana · Oregon · Utah · Washington · Wyoming

June 13, 2016

Mr. John Barsalou
Crater Lake – Klamath Regional Airport
6775 Arnold Avenue
Klamath Falls, OR 97603

Crater Lake – Klamath Regional Airport (LMT)
Klamath Falls, OR
3-41-0030-037-2016
Concurrence in Award

Dear Mr. Barsalou:

I have reviewed the bid documents, and concur with your recommendation to award to **Rocky Mountain Construction**, in the amount of \$7,777,777.77. Furthermore, I accept your statement that the cost is reasonable based on the price/cost analysis performed by you or your consultant. Please maintain a copy of your price/cost analysis for future audit purposes.

You are reminded that your Disadvantage Business Enterprise (DBE) Accomplishments reports are due annually by December 1 for the previous Fiscal Year. Details regarding the Federal Aviation Administration (FAA) Airport DBE Program can be found at the address below:

http://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/

FAA regulations require the sponsor certify that adequate construction supervision and inspection have been arranged. Also, the sponsor ensures that construction conforms to the approved plans and specifications.

Please provide me with the following documents:

1. One copy of the executed contract.
2. A copy of the Notice to Proceed so we will be aware of the beginning construction date. This should be provided only after the sponsor determines that all necessary contracts, bonds, certificates of insurance, etc., are satisfactory, so that a Notice to Proceed may be issued to the contractor.

A preconstruction conference should be scheduled after the contract is awarded. Please inform us of the time and place of this meeting. The contractor's construction schedule and the overall project should be discussed. We will attempt to attend this meeting, however, in the event that we cannot attend the meeting, please include the FAA preconstruction guidance package, in the agenda for your preconstruction meeting. This information can be found in Advisory Circular 150/5300-9. Please provide us with a copy of the minutes of the meeting and a list of those in attendance.

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U.S. Department of Transportation
Federal Aviation Administration
Northwest Mountain Region
Colorado · Idaho · Montana · Oregon · Utah · Washington · Wyoming

Federal participation is contingent upon construction conforming to the approved plans and specifications. To accomplish this, your resident engineer and inspectors must be familiar with the specification requirements and perform testing as required.

Copies of all test results should be available, during construction, at the job site for our review. In addition, Construction Progress and Inspection Reports, using FAA Form 5370-1 must be submitted on a weekly basis during construction.

Changes to the plans and specifications should be made by change order or supplemental agreement. Approval by the FAA should be obtained prior to performing the work to be eligible for participation.

Complete a Strategic Events Submission Form and forward to appropriate FAA Air Traffic Organization (ATO) Planning & Requirements office for any project that requires temporary shutdown of a facility.

If you have questions regarding your responsibilities during construction, please call me at (425) 227-2641.

Sincerely,

Mathew T. Wilder, PE,
Civil Engineer, SEA-XXX
Seattle ADO

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**,

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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 adopted the same amendment to the TSP on April 26, 2016. 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.