

# CITY COUNCIL MONTHLY MEETING CALENDAR

| October-14  |  |   |  |   |                                   |  |   |
|---|--|---|--|---|-----------------------------------|--|---|
| Sunday  | Monday   | Tuesday   | Wednesday  | Thursday  | Friday                            | Saturday   |   |
|   |  |   | Municipal Court<br>Rural Fire 8pm  | 1   | 2                                 | 3  | 4 |
| 5   | 6<br>Planning Comm 7pm   | 7<br>Notary Public Seminar<br>1pm-4pm - Comm Aud  | 8<br>MPAC 5pm  | 9<br>EDC Noon   | 10<br>S&CC 1st Friday             | 11<br>Birds & Brew<br>8am-2pm  |   |
| 12  | 13<br><b>CITY COUNCIL</b><br>5:30 PM - WORK SESSION (L&P Rates)<br>6:30 PM - EXECUTIVE SESSION (Prop)<br>7:00 PM - REGULAR MEETING<br>COMMUNITY AUDITORIUM         | 14<br>Red Cross Blood Drive<br>1pm - 6pm - Comm Aud<br><br>CCI 5:30pm<br>Library 6:30pm | 15<br>Municipal Court<br>P&R 7am<br>CFC 5:15pm<br>CWAC 5:30pm<br>Leader Candidate Forum<br>UCC 6pm-8pm | 16  | 17                                | 18   |   |
| 19  | 20<br>Chamber Luncheon - Noon<br>FGS&CC Bd Mtg 6:30pm<br>Planning Comm 7pm   | 21<br>CCI / GroveLink Summit<br>6pm - Comm Aud<br>Fernhill Wetlands 5pm                 | 22<br>PSAC<br>MPAC 5pm<br>Nyuzen Host Family<br>Orientation 5:30pm Comm                                | 23<br>News Times Candidate Forum<br>5pm - Taylor Hall<br>Sustainability 6pm                         | 24<br>ODF 8am<br>Mayors' Luncheon | 25<br>Mayor's Dinner Ball<br>6pm - Senior Ctr  |   |
| 26  | 27<br><b>CITY COUNCIL</b><br>5:30 PM - WORK SESSION (Law Enf Cams)<br>6:00 PM - WORK SESSION (Sustainability)<br>7:00 PM - REGULAR MEETING<br>COMMUNITY AUDITORIUM | 28<br>HLB 7:15pm  | 29   | 30<br>Welcome Nyuzen Students<br>5pm - Comm Aud<br><br><i>Nyuzen Student Delegation Visit - TBA</i> | 31                                |  |   |
| November-14   |  |   |  |   |                                   |  |   |
| Sunday  | Monday   | Tuesday   | Wednesday  | Thursday  | Friday                            | Saturday   |   |
|   |  |   |  |   |                                   | 1  |   |
| Time Chg 2<br>Nyuzen Students<br>Welcome Dinner<br>4pm-Comm Aud | 3<br>Nyuzen Students Depart 7am<br>Planning Comm 7pm   | 4<br>General Election   | 5<br>Municipal Court<br>Rural Fire 7pm<br>CCRT Open House<br>6pm - Comm Aud                            | 6<br>EDC Noon   | 7<br>S&CC 1st Friday              | 8<br>Community<br>Shred Event 9am<br>CFC Pruning Shop<br>9am - Talisman              |   |
| 9   | 10<br><b>CITY COUNCIL</b><br>7:00 PM - REGULAR MEETING<br>COMMUNITY AUDITORIUM   | 11<br><b>CITY OFFICES CLOSED</b><br>HOLIDAY<br><br>CCI Dec 2nd                          | 12   | 13<br>PAC 5pm   | 14<br>Mayors' Luncheon            | 15   |   |
| 16  | 17<br>Chamber Luncheon - Noon<br>FGS&CC Bd Mtg 6:30pm<br>Planning Comm 7pm   | 18<br>Fernhill Wetlands 5pm   | 19<br>Municipal Court<br>P&R 7am<br>WEA Comm Noon<br>CFC 5:15pm<br>CWAC 5:30pm                         | 20<br>Sustainability 6pm<br>Dairy Creek Food 7:30pm   | 21                                | 22<br>Community<br>Leaf Drop-Off<br>10am - 22nd/Yew                                  |   |
| 23  | 24<br>Swearing-In Ceremony - TBA<br>Newly-Elected Council Officials<br><br><b>CITY COUNCIL</b><br>7:00 PM - REGULAR MEETING<br>COMMUNITY AUDITORIUM                | 25<br>HLB 7:15pm  | 26<br>PSAC<br>MPAC 5pm   | 27<br>Sustainability Nov 20th   | 28                                | 29   |   |
| <i>Mayor Returns</i>  |  |   |  |   |                                   |  |   |
| 30  |  |   |  |   |                                   |  |   |
| December-14   |  |   |  |   |                                   |  |   |
| Sunday  | Monday   | Tuesday   | Wednesday  | Thursday  | Friday                            | Saturday   |   |
|   |  |   |  |   |                                   |  | 1 |
|   | 1<br>Planning Comm 7pm   | 2<br>CCI 5:30pm   | 3<br>Municipal Court<br>Rural Fire 7pm   | 4<br>EDC Noon   | 5<br>S&CC 1st Friday              | 6<br>Community<br>Leaf Drop-Off<br>10am - 22nd/Yew<br>Light Parade<br>5pm - Downtown |   |
| 7   | 8<br><b>CITY COUNCIL</b><br>7:00 PM - REGULAR MEETING<br>COMMUNITY AUDITORIUM  | 9<br>Red Cross Blood Drive<br>1pm - 6pm - Comm Aud<br><br>CCI 5:30pm                    | 10   | 11<br>PAC 5pm   | 12                                | 13   |   |
| 14  | 15<br>Chamber Luncheon - Noon<br>FGS&CC Bd Mtg 6:30pm<br>Planning Comm 7pm   | 16<br>Fernhill Wetlands 5pm   | 17<br>Municipal Court<br>P&R 7am<br>WEA Comm Noon<br>CFC 5:15pm<br>CWAC 5:30pm                         | 18<br>Sustainability 6pm<br><i>Kidd out - Dec 18-26</i>   | 19<br>Mayors' Luncheon            | 20<br>Community<br>Leaf Drop-Off<br>10am - 22nd/Yew                                  |   |
| 21  | 22<br><b>CITY COUNCIL</b><br>NO MEETING SCHEDULED  | 23<br>HLB 7:15pm  | 24<br>PSAC<br>MPAC 5pm   | 25<br>Sustainability Dec 18th   | 26                                | 27   |   |
|   |  |   |  |   | <i>Kidd returns</i>               |  |   |
| 28  | 29   | 30  | 31   |   |                                   |  |   |

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# FOREST GROVE CITY COUNCIL

## Monday, October 27, 2014

### Meeting Agenda

**5:30 PM – Work Session** (Law Enforcement Body Worn Cameras)  
**6:00 PM – Work Session** (Sustainability Strategic Plan)  
**7:00 PM – Regular Meeting**

**Community Auditorium**  
**1915 Main Street**  
**Forest Grove, OR 97116**

Forest Grove City Council Meetings are televised live by Tualatin Valley Community Television (TVCTV) Government Access Programming, Ch 30. To obtain the programming schedule, please contact TVCTV at 503.629.8534 or visit <http://www.tvctv.org/government-programming/government-meetings/forest-grove>.

PETER B. TRUAX, MAYOR

Thomas L. Johnston, Council President  
Richard G. Kidd III  
Victoria J. Lowe

Camille Miller  
Ronald C. Thompson  
Elena Uhing

All meetings of the City Council are open to the public and all persons are permitted to attend any meeting except as otherwise provided by ORS 192. The public may address the Council as follows:

→ **Public Hearings** – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign in for any Public Hearing prior to the meeting. The presiding officer will review the complete hearing instructions prior to testimony. The presiding officer will call the individual or group by the name given on the sign in form. When addressing the Council, please use the witness table (center front of the room). Each person should speak clearly into the microphone and must state his or her name and give an address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.

→ **Citizen Communications** – Anyone wishing to address the Council on an issue not on the agenda should sign in for Citizen Communications prior to the meeting. The presiding officer will call the individual or group by the name given on the sign in form. When addressing the Council, please use the witness table (center front of the room). Each person should speak clearly into the microphone and must state his or her name and give an address for the record. All testimony is electronically recorded. In the interest of time, Citizen Communications is limited to two minutes unless the presiding officer grants an extension.

The public may not address items on the agenda unless the item is a public hearing. Routinely, members of the public speak during Citizen Communications and Public Hearings. If you have questions about the agenda or have an issue that you would like to address to the Council, please contact the City Recorder at 503-992-3235.

City Council meetings are handicap accessible. Assistive Listening Devices (ALD) or qualified sign language interpreters are available for persons with impaired hearing or speech. For any special accommodations, please contact the City Recorder at 503-992-3235, at least 48 hours prior to the meeting.

J. F. Schutz, Police Chief  
Michael Sykes, City Manager

**5:30**

**WORK SESSION: LAW ENFORCEMENT BODY WORN CAMERAS**

The City Council will convene in the Community Auditorium – Conference Room to conduct the above work session(s). The public is invited to attend and observe the work session(s); however, no public comment will be taken. The Council will take no formal action during the work session(s).

Jon Holan, Community Development Director  
George Cress, Light and Power Director  
Rob Foster, Public Works Director  
Michael Sykes, City Manager

**6:00**

**WORK SESSION: SUSTAINABILITY ACTION PLAN**

The City Council will convene in the Community Auditorium to conduct the above work session(s). The public is invited to attend and observe the work session(s); however, no public comment will be taken. The Council will take no formal action during the work session(s).

**7:00**

1. **REGULAR MEETING:** Roll Call and Pledge of Allegiance
2. **CITIZEN COMMUNICATIONS:** Anyone wishing to speak to Council on an item not on the agenda may be heard at this time. *Please sign-in before the meeting on the Citizen Communications form posted in the foyer.* In the interest of time, please limit comments to two minutes. Thank you.
3. **CONSENT AGENDA:** See Page 4
4. **ADDITIONS/DELETIONS:**
5. **PRESENTATIONS:** None

Jon Holan, Community Development Director  
Michael Sykes, City Manager

**7:10**

6. **ORDER NO. 2014-05 REQUESTING CITY COUNCIL APPROVE SETTING A DE NOVO PUBLIC HEARING ON NOVEMBER 10, 2014, TO CONSIDER A REVISED APPLICATION FOR GALES CREEK TERRACE PLANNED DEVELOPMENT (FILE NO. PRD-14-00181). APPLICANT: GALES CREEK DEVELOPMENT, LLC (MORGAN WILL AND TRIPTI KENZER)**

Rich Mead, Building Official  
Jon Holan, Community Development Director  
Paul Downey, Administrative Services Director  
Michael Sykes, City Manager

**7:20**

7. **RESOLUTION NO. 2014-77 AUTHORIZING CITY MANAGER TO ENDORSE AN INTERGOVERNMENTAL PARTNERSHIP AGREEMENT BETWEEN THE CITY OF FOREST GROVE AND THE OREGON DEPARTMENT OF CONSUMER AND BUSINESS SERVICES, BUILDING CODES DIVISION, FOR ePERMIT SYSTEM AND SERVICES**

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- |  |      |   |
|--|------|---|
| George Cress, Light and Power<br>Director<br>Michael Sykes, City Manager                                       | 7:30 | 8. <u>RESOLUTION NO. 2014-78 AUTHORIZING CITY<br/>MANAGER TO ENDORSE THE NORTHWEST<br/>INTERGOVERNMENTAL ENERGY SUPPLY (NIES)<br/>JOINT RESOURCE PLANNING AND ACQUISITION<br/>AGREEMENT BETWEEN THE CITY OF FOREST<br/>GROVE AND NIES</u>   |
| Michael Kinkade, Fire Chief<br>Paul Downey, Administrative<br>Services Director<br>Michael Sykes, City Manager | 7:40 | 9. <u>RESOLUTION NO. 2014-79 AUTHORIZING THE<br/>EXPENDITURE OF HOMELAND SECURITY GRANT<br/>FUNDS FOR THE DEVELOPMENT OF CONTINUITY<br/>OF OPERATIONS PLANS AND INCREASING<br/>APPROPRIATIONS FOR THE GENERAL FUND FOR<br/>FISCAL YEAR 2014-15</u>  |
| Nick Kelsay, Project Engineer<br>Rob Foster, Public Works Director<br>Michael Sykes, City Manager              | 7:50 | 10. <u>RESOLUTION NO. 2014-80 AUTHORIZING THE<br/>MAYOR AND CITY MANAGER TO ENDORSE THE<br/>AMENDMENT TO THE LOCAL AGENCY AGREEMENT<br/>BETWEEN THE CITY OF FOREST GROVE AND THE<br/>OREGON DEPARTMENT OF TRANSPORTATION SAFE<br/>ROUTES TO SCHOOL PROGRAM GRANT FUNDING<br/>FOR HARVEY CLARKE ELEMENTARY (B STREET)<br/>SIDEWALK PROJECT, CONTRACT NO. 28167</u> |
| Michael Sykes, City Manager  | 8:00 | 11. <u>CITY MANAGER'S REPORT:</u>   |
|  | 8:15 | 12. <u>COUNCIL COMMUNICATIONS:</u>  |
|  | 8:30 | 13. <u>ADJOURNMENT:</u>   |

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3. **CONSENT AGENDA:** Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the Consent Agenda item(s).
- A. Approve City Council Work Session (Light and Power Rate Design and Cost of Services Study Preliminary Presentation) Meeting Minutes of October 13, 2014.
  - B. Approve City Council Executive Session (Real Property) Meeting Minutes of October 13, 2014.
  - C. Approve City Council Regular Meeting Minutes of October 13, 2014.
  - D. Accept Community Forestry Commission Meeting Minutes of June 18, 2014.
  - E. Accept Economic Development Commission Meeting Minutes of July 10 and September 11, 2014.
  - F. Accept Library Commission Meeting Minutes of September 9, 2014.
  - G. Accept Parks and Recreation Commission Meeting Minutes of September 17, 2014.
  - H. Accept Public Arts Commission Meeting Minutes of September 11, 2014.
  - I. Accept Resignation on Public Safety Advisory Commission (Laura Hale, At-Large, Term Expiring December 31, 2017).
  - J. Fire Chief's Report for September 22 – October 10, 2014.
  - K. Library Department Monthly Circulation Statistics Report for October 2014.
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## Memorandum

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**TO:** Mayor Truax and City Councilors

**FROM:** Chief J. F. Schutz  
Michael Sykes, City Manager

**DATE:** 10/27/2014

**SUBJECT:** Body Worn Camera's

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**BACKGROUND:** The purpose of the report/presentation is to provide some initial information in regards to the use of Body Worn Camera's (BWC's) by police personnel. Advancements in policing over the past 20 years have been supported substantially by technology. For example, Report Management Systems (RMS) have streamlined report taking, information retrieval, and crime mapping. Mobile Data Terminals (MDTs) have given officers the ability to access the National Crime Information Center, state, and local data from their vehicles. Officers in the field are capable of retrieving motor vehicle, license, and warrant information in a much shorter time period. Calls for service are dispatched more effectively through computer aided dispatch (CAD) systems. Automated Fingerprint Identification Systems (AFIS) can identify criminals within hours and minutes instead of weeks and months. The use of BWC's is certainly another technological advancement indicating the direction that law enforcement agencies across the country are choosing to go in order to protect the public and protect the officer.

The field deployment of body-worn camera systems (BWCs) by law enforcement practitioners (e.g., patrol, corrections, SWAT and other tactical responders) offers significant advantages in keeping officers safe, enabling situational awareness and providing evidence for trial. BWC's are not only a reactive tool that will expedite the internal investigative process and provide conclusive evidence of guilt or innocence, but they are also proactive in preventing misconducts by both the officer and the public. The old adage that "seeing is believing" is truer now than ever before given the ability to record law enforcement encounters. Cameras are everywhere; the proliferation of smart

phones, iPhones, mounts in stores, ATMs, and the many videos of law enforcement arrests and interactions with the public that are uploaded to You Tube on a daily basis underscore how important video evidence is to law enforcement. BWC's will also provide video evidence that many have referred to as the "silent witness" because it has the ability to present unbiased facts. It is by its nature extremely persuasive, vivid, and unforgettable.

**STAFF RECOMMENDATION:** This report/presentation is for informational purposes only. As the police department delves further into the possibility of Forest Grove officers wearing BWC's in the future, the information presented tonight will serve as a starting point to have a more in depth discussion if Council were to make that request.

# **Body Worn Cameras And Law Enforcement**



**FOREST GROVE POLICE DEPARTMENT**

**October 2014**



**BODY WORN CAMERA'S AND LAW ENFORCEMENT**

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## **BODY WORN CAMERA'S AND LAW ENFORCEMENT**

### **BODY WORN CAMERAS**

Technology is changing the role of law enforcement on a daily basis. The latest technology is having a profound impact on policies and procedures, on weapons systems, and even on how officers perform their daily duties. Yet, even with the latest technology available, the actions and tactics of law enforcement are constantly being criticized by the media and members of the public. Oftentimes juries return large verdicts against law enforcement agencies. However, a new law enforcement tool may actually reduce exposure to litigation and unwarranted citizens' complaints. A new paradigm for law enforcement should be one of accountability and transparency. One current way to assist law enforcement in being more accountable is by requiring officers to use a Body Worn Camera ("Body Cam" or "BWC"). The implementation of Body Cams is currently causing a worldwide debate across groups such as the Police Foundation, the International Association of Chiefs of Police, the Police Executive Research Forum and the American Civil Liberties Union.

This one aspect of law enforcement is poised to have huge ramifications for how law enforcement interacts with its citizenry. Both law enforcement and local communities stand to benefit from the deployment of BWCs. There is no doubt that policies dealing with BWCs will become living and breathing documents that will evolve as the boundaries of this new technology are pushed. News media are replete with stories, almost on a daily basis, regarding law enforcement agencies across the world that now require an officer to use a BWC. Once again, California leads the way in deploying this new technology to help combat crime and reduce the exposure to litigation.

The City of Rialto, located in the Inland Empire area of Southern California, was the first known police department to conduct a thorough study on the effects of using BWCs. The Rialto Study is cited across the world in arguments that support law enforcement adopting the new technology. The Los Angeles Police Department, the Los Angeles County Sheriff's Department, and the Minneapolis Police Department, as many agencies, announced that they too will begin to test the BWCs as part of patrol operations. The trend to deploy BWCs continues to move forward and raises valid questions regarding the use of such equipment. Primary issues include:

- Who and what should be recorded?
- When do officers hit "record"?
- When do officers hit "stop"?

## BODY WORN CAMERA'S AND LAW ENFORCEMENT

- Are there any exemptions to recording?
- How will video be stored?
- Who can access the video?
- When and how will videos be released to the public?
- What privacy issues are involved?

Law enforcement agencies around the world are now delving into using BWCs. The decision to implement the use of body cams is merely an extension of the use of dash-mounted video cameras and audio recorders, both of which have been in use for years. The use of BWCs will prove to be of great value to those agencies who deploy the new technology. However, the decision to deploy BWCs is not without controversy. In the expectation that many agencies will determine that the deployment of BWCs is the right thing to do, this article will review suggested policy language, citing to both a recent PERF Conference and a recently released ACLU study on the use of BWCs. In other words, if an officer is legally allowed to be where they are, there is no state law that prohibits the officer from recording their interaction(s). This is supported by case law that explains a person has no expectation of privacy when they are engaged in an interaction with police (i.e., no expectation of privacy in the back of a police car, in jail, etc.). See *People v. Lucero*, 190 Cal. App. 3d 1065 (1987) (use of a hidden recording device in police car does not violate the Sixth Amendment and a criminal suspect in a police car does not have the reasonable expectation of privacy that is required to invoke constitutional protection).

What if an officer is inside someone's home? The answer should be the same. If the officer lawfully enters a home because of a warrant, consent, or exigent circumstances, then persons inside the home have no expectation of privacy. Therefore, no state law or constitutional provision exists that prohibits audio recording. While there does not appear to be any case that specifically addresses Federal Constitutional privacy concerns with a camera worn by a police officer, the Ninth Circuit has held, "Video surveillance does not in itself violate a reasonable expectation of privacy. Videotaping of suspects in public places, such as banks, does not violate the Fourth Amendment; the police may record what they normally may view with the naked eye." *United States v. Taketa*, 923 F.2d 665 (9th Cir. 1991).

## BODY WORN CAMERA'S AND LAW ENFORCEMENT

### THE RIALTO STUDY

Although law enforcement has been recording citizens for years with audio recorders and dash-mounted video cameras, the use of Body Cams is relatively new to the profession. The first "true" study on the use of BWCs was conducted in Southern California by the City of Rialto Police Department. The study analyzed the use of Body Cams during the officers' shifts. Two study groups were created. The first group, named Experimental-Shifts, required each officer to wear a high definition Body Cam during his/her shift. The Body Camera recorded all of the officer's interactions with the public. The second group, named Control-Shifts, consisted of officers that were instructed not to use body cameras during their shifts. Integrity of assignment was measured by the number of footage-hours against the assigned shifts as well as dip-sampling dates of footage and ascertaining that officers wore cameras as assigned. Shifts were randomly allocated to treatment and control conditions, using the Cambridge Randomizer, on a weekly basis. As most law enforcement chief executives now know, the major findings of the Rialto Study are as follows:

- Use of BWCs reduced use-of-force incidents by 59 percent
- Use of BWCs reduced citizens' complaints by 87.5 percent

The Rialto Study states that one impetus to conduct this study was to save money on litigation costs and the expenses associated with incidents involving use-of-force and citizens' complaints. Both justified and frivolous complaints against the police cost a great deal of money in terms of both jury verdicts and out-of-court settlements. The City of Rialto recognized that investigating these incidents was also resource-intensive, not to mention the social and moral costs involved in such use-of-force incidents. Based upon the above statistics, the City believes it saved direct costs of 21 complaints (the difference between before and after the experiment), or about \$400,000. To put these figures in perspective, the total cost for Rialto Police Department to purchase the body cameras was a little over \$90,000. These direct costs included 70 complete video camera units and mounts (including spares), charging/ docking stations, the video management and data upload and tracking system, along with training for the trainers, technicians, and each officer. This suggests that the direct benefit to cost ratio is approximately \$4 saved for every \$1 spent on the cameras. Furthermore, if citizens' complaints are reliable proxies of use-of-force incidents, then a high number of complaints can also be a proxy of potential hazards to the already

## **BODY WORN CAMERA'S AND LAW ENFORCEMENT**

delicate relations between the police and the community served.

The Rialto Study makes sure to distinguish Closed Circuit Television (“CCTV”) from the use of BWCs, but the moral argument against CCTV is not in the same scope and magnitude when it comes to BWCs. CCTV surveillance captures the daily and routine behavior of citizens, whose consent is not obtained prior to the recording. This indeed can be a source of concern, even though the public safety benefits may overshadow the potential compromise of human rights. But police-public encounters are often involuntary, especially when considering that a substantial proportion of a police officer’s interactions are with suspects and/or offenders. By definition, a suspect’s rights are debilitated, insomuch as a suspect does not have the right not to be videotaped when under investigation in police stations. Likewise, victims and witnesses should expect that their conversations with police officers are official and recordable communications.

The Rialto Study recognized there are situations in which police interactions should not necessarily be videotaped (e.g. interactions with minors, sexually-based offenses, and informal conversations with officers). However, the Rialto Study recognized an overall benefit to recording police interactions with the public that justifies the perceived moral costs.

### **THE ACLU’S REPORT ON BODY WORN CAMERAS**

The American Civil Liberties Union released its white paper on the use of BWCs in October 2013. In the report entitled *Police Body-Mounted Cameras: With Right Policies in Place, a Win For All*, the ACLU takes the position that while it does not like the increased use of video cameras to keep tabs on citizens, it does recognize that such video cameras can result in the reduction of use-of-force incidents. Therefore, the cameras will assist in holding law enforcement more accountable to the community.

The ACLU and law enforcement both recognize that the use of BWCs have both positive and negative aspects. Therefore, the proper policies and training on the use of BWCs will have to be an important component in the deployment of the new technology. As stated by the ACLU, “the challenge of on-officer cameras is the tension between their potential to invade privacy and their strong benefit in promoting police accountability. Overall, we think they can be

## BODY WORN CAMERA'S AND LAW ENFORCEMENT

a win-win—but only if they are deployed within a framework of strong policies to ensure they protect the public without becoming yet another system for routine surveillance of they can be a win-win—but only if they are deployed within a framework of strong policies to ensure they protect the public without becoming yet another system for routine surveillance of the public, and maintain public confidence in the integrity of those privacy protections. Without such a framework, their accountability benefits would not exceed their privacy risks."

The ACLU lists several concerns over the use of BWCs including the Control of Recording. The ACLU is troubled by the ability of officers to determine what they record. "Policies and technology must be designed to ensure that police cannot edit on the fly (i.e., choose which encounters to record with limitless discretion). If police are free to turn the cameras on and off as they please, the cameras' role in providing a check and balance against police power will shrink and they will no longer become a net benefit." The ACLU opines that officers should have the videos recording continuously for the duration of an officer's shift. Such a policy, in their opinion, would ensure that an officer would not avoid recording an event that could be troubling for an officer. Requiring an officer to keep the video on for the duration of the shift, however, is not practicable. The officers also have privacy issues, such as using the restroom facilities, being able to talk in their patrol car with their partner about station issues and their personal lives. There obviously has to be a balance struck.

The most obvious benefit from wearing BWCs is that law enforcement will be seen as being more transparent and holding itself out as more accountable. The use of BWCs will also assist in exonerating officers who are targets of citizens' complaints and, hopefully, will reduce the number of lawsuits against a department. In any litigation involving law enforcement action, whether civil or criminal, a big legal hurdle is overcoming the "he said, she said" dilemma. In civil rights cases involving claims of excessive use of force, this factual dispute will preclude the court from granting summary judgment in favor of the officer. The court must find that there is no dispute as to material facts before granting summary judgment. If there is a video recording of the event, the video speaks for itself as to what really happened. If the police officer and department have a complete video that shows the circumstances leading up to the use of force and captures the entire incident, oftentimes there will

## **BODY WORN CAMERA'S AND LAW ENFORCEMENT**

be no dispute as to material facts and the court is able to grant summary judgment, often saving significant time and expense for the law enforcement agency and officer, as well as avoiding the risk of a large award for damages.

The use of BWCs will assist law enforcement managers with identifying and correcting systemic problems or individual officer issues. Supervisors, who view the videos as part of their duties, will be able to use the videos as a teaching tool to train officers on proper strategies and techniques. Many agencies are touting the use of BWCs for making them more efficient in crime solving. The video will be able to capture valuable evidence for investigations and trials. The video footage will also provide more accurate documentation of scenes, interviews, and encounters between police and citizens.

While there are certainly benefits to be achieved from the use of BWCs, there are issues that need to be addressed by a department before deploying its officers equipped with such cameras. For example, a department has to ensure that its officers "buy in" to the program, which means discussions must be held with the police union before BWCs are instituted. Otherwise, needless litigation and a "Big Brother" mentality will become issues. The challenge will be to avoid the appearance of routinely second guessing actions of personnel, or "head-hunting" of particular officers by supervisors/management. The video itself will not tell the "whole story" of what took place, just a snippet of what occurred. There must still be an investigation as to what the officer believed and what other facts surround an incident. Wholesale reliance on a video will not do justice to anyone without a full investigation.

### **THE ACLU & PRIVACY RIGHTS**

The ACLU is particularly concerned over privacy rights. They fear that the use of body cameras may result in instances of entirely innocent behavior (on the part of both officers and the public) being recorded, with significant privacy implications. In particular, the most troubling aspect of recording will occur when camera-equipped officers are inside people's homes, whenever police enter — including in instances of consensual entry (e.g., responding to a burglary call, voluntarily participating in an investigation) and such things as domestic violence calls. Civil rights groups are concerned that videos

## BODY WORN CAMERA'S AND LAW ENFORCEMENT

from BWCs, like videos from currently used dash-mounted cameras, may be publicly released for no important public reason, and instead serve only to embarrass individuals. Obviously, the public has seen recent examples of this, including DUI stops of celebrities and ordinary individuals whose troubled and/or intoxicated behavior have been widely circulated and now immortalized online. Civil rights groups believe the potential for embarrassing and titillating releases of video is significantly increased by the use of BWCs. Department Body Worn Camera policies, therefore, become vital to ensure that any deployment of the cameras be accompanied by strong privacy policies so that the benefits of the technology are not outweighed by any invasions of privacy.

### LEGAL CONSIDERATIONS WHEN EVALUATING ON-OFFICER VIDEO SYSTEMS

**Ease of Operation and Training:** One of the criteria under the Federal Rules for a video to be admitted as evidence is that the operator was competent to operate the recording device. Both ease of use of the recording system with safeguards, as well as good officer training in the operation of the camera are critical to meet this criterion. For example, the recorder should have a very simple, easy to use on/off switch that can be easily operated by dexterity alone without looking, with private audio signals to confirm when it is turned off and on, as well as safeguards to prevent accidentally turning it on or off. Video transfer from the recorder to a secure evidence database should be very simple and automatic with no room for error. Law enforcement policy must be sure to evaluate the manufacturer's training program to ensure operator training to a competency level.

**Quality and Reliability:** Another requirement for admissibility under the Federal Rules is that the recording device be capable of recording the activity. To satisfy this requirement, the video recording system must have professional-grade quality, ruggedness, and reliability to work the first time, every time—and with extended battery life. In addition, the camera should have low-light capability to mirror the human eye. Many consumer grade cameras do not meet this standard. Also pre-buffering is an important feature where the camera continuously records and holds the most recent 30 seconds of video when the camera is off. With this feature, the initial activity that causes the officer to turn on the camera is

## BODY WORN CAMERA'S AND LAW ENFORCEMENT

likely to be captured automatically, thereby increasing the capability of recording the entire activity.

**Security, Anti-Tampering, and Audit Trail:** The Federal Rules also require that the recording be authentic and correct and that no changes, additions, or deletions were made to the recording for it to be admitted as evidence. To meet this requirement, the whole camera system, including the camera, the transfer of video from the camera to storage, and data storage system must be secure and tamper proof. The best systems are those with no human access to camera memory where the original video cannot be modified, only viewed. Also important are anti-deletion safeguards and permissions for viewing and copying. The worst systems are those that use an accessible SD card, which allows the security risks of either losing the SD card or tampering with the original video on the SD card. Best practices also require a time and date stamp, watermarks and hashing to ensure integrity, and safeguards to ensure that the camera cannot record over or delete video files. Another important security consideration is requiring permissions for viewing and copying a video file.

**Chain of Custody:** Because video tampering is possible, it is important to establish chain of custody or other evidence establishing that the content of the video has not been altered from the original recording. The Federal Rules require proof that the recording was preserved in the manner shown to the court. This is best accomplished with an audit trail record and chain-of-custody report that lists all persons who had access and viewed or copied the video, the time and date of each event, and what action was performed. Software systems that preserve the original video file unaltered and track the audit trail and chain of evidence automatically with report writing capability are usually more accurate than an officer trying to keep manual track of removable SD cards and personal computer video files, documenting all people who had access to the video, and what action was taken.

**Officers' Perspectives:** In *Graham v. Connor*, the U.S. Supreme Court ruled that all excessive force claims against law enforcement are properly analyzed under the Fourth Amendment's "objective reasonableness" standard. It held that the "reasonableness" of a particular use of force must be judged

## BODY WORN CAMERA'S AND LAW ENFORCEMENT

from the perspective of a reasonable officer on the scene. Therefore, any camera system that best records the incident from the perspective of the officer at the scene would be best qualified to meet this evidentiary standard.

### CAMERA TYPES

There are generally four types of video camera systems currently being used by law enforcement:

- **In-Car Camera.** This type of camera records the perspective of the officer while in the car looking forward within the fixed field of view of the camera. It has been estimated that 90 percent of the officer's interaction takes place outside the field of view of the in-car camera.
- **Camera Mounted on Conducted Energy Weapon (CEW).** This camera records the perspective of the officer when he is looking in the direction of where the CEW is aimed and the safety is turned to power on.
- **Body-Mounted Camera.** This camera is usually mounted on the officer's uniform facing forward and has a fixed field of view pointing in front of the officer, but does not see what the officer sees since the field of view is quite a bit lower than eye level, which results in obscured views when a firearm or CEW is raised to firing position or when driving a car where the steering wheel and hands on the steering obscure the view or when the officer turns his or her head.
- **Head-Mounted Camera.** Since the camera is mounted on the officer's head at eye level facing forward on a head band or a pair of glasses, it best records what the officer sees and is the best evidence of the officer's perspective.

There is no doubt the current trend in law enforcement is to deploy BWCs to help combat crime, to reduce citizens' complaints and to reduce use of force situations. The policies that will determine the use of the BWCs have to be tailored to meet the needs of a particular locale. While the cameras are necessary for the patrol setting, care must be taken in determining if BWC's are appropriate for all law enforcement functions.

## BODY WORN CAMERA'S AND LAW ENFORCEMENT

Based on evidence collected in the Rialto Study, the findings suggest that BWCs significantly reduce the prevalence of use-of-force by the police as well as citizens' complaints against the police. The use of the cameras has demonstrated the impact on the behavior of officers and citizens alike through the experience of being observed. This results in socially-desirable outcomes, most notably, the reduction in the use-of-force by police officers in police-public encounters. These reasons alone should compel the deployment of BWCs.

### Conclusion

Technology is certainly impacting law enforcement in ways never thought possible just a few years ago. The use of BWCs is an opportunity to move forward with technology, with a reasonable expectation that law enforcement will actually benefit from the use of BWCs. The major impediment to implementing BWCs is the issue of privacy. However, with proper training and the proper policies in place, this issue is not insurmountable. Law enforcement has successfully implemented the use of audio recordings and dash-mounted video systems for the past several years. The use of BWCs, therefore, should not be difficult to implement. In the long run, the use of BWCs will prove to be a valuable tool for both law enforcement and the local community. However, it is just one tool among many and should not be thought to be the ultimate factor in judging the actions of officers. BWCs only provide one view of an incident. An officer will still have to explain his/her actions and then a determination must be made whether the ultimate decision made was reasonable under all of the circumstances presented to the officer.

The future is here, and police chiefs need to equip their police officers with the tools required to protect themselves, the public, and their departments. Police officer videos are the answer to combating negative public perceptions created by partial cellphone videos often showing only an officer's use of force, and, more importantly, they help courts have the evidence needed to overcome the "he said/she said" situations resulting from a police officer's need to use force to effectuate an arrest or to protect themselves or others. It is imperative that law enforcement takes proactive steps to guide policy development, standards, legal processes, and best practices in a manner that will foresee and overcome

## **BODY WORN CAMERA'S AND LAW ENFORCEMENT**

the anticipated challenges facing police officers. Therefore, common sense and best practices demand that, if at all possible, all departments should equip their officers with body-worn video cameras. To do less is no longer acceptable.

## BODY WORN CAMERA'S AND LAW ENFORCEMENT

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## MEMORANDUM

**To:** City Council  
**From:** Nyssa Rivera, Hatfield Fellow  
Jon Holan, Community Development Director  
Michael Sykes, City Manager  
**Date:** 10/27/2014  
**Re:** Sustainability Action Plan Work Session

---

**Request:** The City Council will be considering the adoption of the Sustainability Action Plan at its November 10<sup>th</sup> meeting. The purpose of this work session is to familiarize the Council with the proposed plan and its approach.

**Background:** In October of 2013 the City Council accepted the Sustainability Action Plan (Plan) proposed by the Ad Hoc Sustainability Committee. It was not formally adopted because City staff did not have sufficient time to review the Plan. Subsequently, the Plan was updated and reformatted by the Sustainability Commission and properly vetted by the Department Heads.

**Discussion:**

Before reviewing the topical areas, staff would like to touch on two different matters. First item is a discussion of City staffing needs the Sustainability Plan will require. The second item is an explanation of the white paper approach being proposed.

**Staff Time**

It will require a considerable amount of staff time needed to implement the plan. The City does not have a full-time employee dedicated to working on and implementing sustainability initiatives. Currently, three department heads are staff liaisons to the Commission. However, these liaisons do not have the time to pursue the sustainability initiatives created by the plan. The Council must decide how it wishes to address sustainability initiatives in the future and evaluate the possibility of hiring a full time staff member.

The majority of cities that have adopted a Sustainability Action Plan or who chose to pursue sustainable initiatives have at least one staff member who acts as either a project/sustainability/environmental coordinator for the community. Below is a list of cities in Oregon that have at least one employee that is designated to work on sustainability, environmental, and/or conservation efforts:

- City of Ashland
- City of Beaverton
- City of Corvallis
- City of Eugene
- City of Gresham
- City of Hillsboro
- City of Lake Oswego
- City of McMinnville
- City of Milwaukie
- City of Newberg
- City of Portland
- City of Tigard
- City of Wilsonville

#### White Papers

Before presenting the topical areas, the following is an explanation of the white paper concept proposed for most of the topical areas. It was found in updating some of the topical areas, that there was an incomplete assessment regarding the current organizations involved in the Plan. The purpose of the white papers is to ensure that any policies or actions implemented will be fully vetted and impacts, including costs, be understood by the Council and the City. The white papers will provide the necessary information to determine baselines, metrics, implementation methods, stakeholders, and priority of each possible action. The metrics will act as a performance measurement tool and is a critical component of the white papers. Identifying the metrics of each possible action will determine the effectiveness of the Plan in achieving each topical area's vision.

Currently, the majority of the possible actions are missing information within the stakeholder and priority column. The Commission will fill in these columns once the white papers are completed. To fully analyze the Plan and have all of its possible actions adopted without the white papers would take another 6 to 8 months. By adopting the Plan in its current form, with the understanding that the white papers will determine costs and policy implications, will allow the Commission to commence on

initiatives that have little to no internal costs to the City. After the completion of the white papers the Commission will then present individual initiatives to the Council for their formal adoption.

### Overview of Topical Areas

Originally the Plan had six topical areas; however, after further review the Commission believes that the inclusion of an Education topical area is a necessary addition to the meet the needs of the community. The seven topical areas are as follows:

- Materials Management
- Social Equity
- Food
- Conservation and Green Buildings
- Natural Resources
- Transportation
- Education

Each one of the topical areas has a vision, an initial action, target areas, and possible actions. It is important to note that six of the seven topical areas will require a white paper to analyze costs, policy implications, and possible implementation methods of the proposed actions. The only topical area that will not require a white paper will be the Conservation and Green Buildings Action Plan. The Conservation and Green Buildings Action Plan was reviewed and modified after review by the City's Light & Power Department. The majority of the initiatives for this topical area are already occurring, in the process of being implemented, or are being further examined by the City's Light & Power Department.

### Topical Areas Description

#### ***Materials Management***

The vision for the Materials Management topical area states that, "Forest Grove will be a city that focuses on the recapture, reduction, and elimination of its material stream to enable a high quality of life for all residents." This topical area is focused on waste management in regards to recycling, waste reduction, composting, organic food waste, and the disposal of pharmaceuticals.

Some of the Plan highlights include:

- The development of programs to educate and promote recycling and waste reduction
- Educate residents about how to safely dispose of pharmaceuticals
- Provide educational materials on composting and vermiculture to citizens of Forest Grove

### ***Social Equity***

The vision statement for the Social Equity topical area states that, “Forest Grove welcomes and supports equitable and sustainable opportunities for all community members by providing the means for human needs to be met.” The Social Equity topical area addresses issues concerning social services, underserved populations, and supporting small businesses.

Highlights of the Plan include:

- Support equitable access to opportunities, civic engagement, and the distribution of resources
- Increase sustainability of local businesses and support small business development

### ***Food***

The vision of Food topical area intends to make Forest Grove, “[A] thriving food community in which all residents have the opportunity to grow, prepare and consume nutritious local food in order to support the health of the land and its people.” This is a unique characteristic to the Plan since the majority of sustainability action plans do not contain a food component.

Highlights of the Plan include:

- Develop partnership systems to sustainably feed all Forest Grove area people experiencing hunger
- Develop school gardens and nutrition education programs at every Forest Grove public school
- Develop year-round farmers market in the Forest Grove area

### ***Energy Conservation and Green Buildings***

The vision of this plan is to make, “Forest Grove a leader in the support of green building practices and the promotion of energy and natural resources conservation.” This is the only action plan that will not require a white paper analysis of the entire plan; however, some of the possible actions will require further review and analysis before they can be implemented. The initial action for the Energy Conservation and Green Buildings is to continue to support and implement the City’s ongoing efforts in regards to environmental conservation and green buildings initiatives.

Plan highlights include:

- Implement and maintain an ongoing education campaign on the individual economic benefits of energy conservation and reduced resource consumption
- Retrofit older, single and multifamily housing stock with energy conservation measures
- Reduce greenhouse gas production in the community

### ***Natural Resources***

The vision for the Natural Resources topical area states that, “The residents of Forest Grove demonstrate good stewardship of our natural resources by preserving the health of our watershed, forest, air, and greenspace for future generations.”

Plan highlights include:

- Continue to support the restoration of natural areas such as Fern Hill Wetlands
- Increase the amount of tree canopy while planting species adapted to this area

### ***Transportation***

The vision for the Transportation topical area is to ensure that, “Forest Grove has a safe, affordable, reliable, sustainable, and connected transportation system that is energy efficient while supporting all transportation modes.” This topical area aims to accomplish this by focusing on alternative means of transportation and the use of mass transit.

Plan highlights include:

- Make mass transportation more accessible to a larger portion of the community
- Increase the safety of bicycling in Forest Grove

### ***Education***

The Commission has not formally adopted the Education topical area, but has accepted it. Formal adoption will occur at the October 23<sup>rd</sup> Commission meeting. During the work session staff will inform the Council of any updates or actions taken regarding the Education topical area. Currently the vision for this topical area states that, “Forest Grove will be a city that fosters sustainable practices for all generation by supporting projects and education in our schools; encourage sustainable practices from an early age by offering resources toward practical and affordable actions.” The Commission would present this topical area to the School District as a suggested way to proceed with sustainability efforts if they so choose.

Plan highlights include:

- Work with Forest Grove school district and waste haulers to improve recycling at schools
- Request for students to demonstrate projects to the Commission (e.g., solar ovens) and during other public events

## Possible Actions

Many of the possible actions recommended in the Plan will require further analysis and Council approval before the City can implement them; however, there are a number of actions that the Commission can pursue upon adoption of the Plan. These actions do not involve the City, are educational in nature or will require minimal resources from the City. Below is a condensed list of the actions that the Commission can pursue once the Plan is adopted.

- Contact the Washington County Recycle at Work Specialist on Multi-Family Units for educational materials (Materials Management)
- Develop a public information and community-based social marketing campaign to cut household waste with a “One-Bag-a-Week” challenge (Materials Management)
- How-to workshops such as composting and vermiculture by Washington County’s OSU extension services which offer free workshops for communities (Materials Management)
- Manage a booth at the Farmer’s Market that encourages residents to reduce the amount of materials entering the waste stream through precycling and upcycling; Work with the Chamber to encourage businesses to do the same (Materials Management)
- Advertise composting and vermiculture equipment offered by Metro and Washington County (Materials Management)
- Develop information on the availability of pharmaceutical drop off sites and make the information available to the public (Materials Management)
- All possible actions in the Energy Conservation and Green Buildings topical area
- Report out the results of the community food assessment completed by the Oregon Food Bank (Food)
- Host a screening of the movie *A Place at the Table* which addresses ongoing hunger issues (Food)
- Identify strategies to promote locally grown food from individual properties (Food)
- The marketing of local health care services such as Virginia Garcia Memorial Health Clinic (Social Equity)
- Increase representation from the Latino community and other underserved populations on all City boards and commissions (Social Equity)
- Supporting the efforts of Clean Water Services, the Friends of Fernhill Wetlands, the Forestry Commission and Parks and Recreation (Natural Resources)
- Support and identify activities related to restoration efforts in Forest Grove (Natural Resources)
- Promote existing educational organizations such as Natural Resources Conservation Service and Master Gardeners (Natural Resources)
- Develop an education program for the proper care of trees (Natural Resources)
- Encourage the use of mass transit, pedestrian and cycling options within the city (Natural Resources)

- Promote and educate the Forest Grove community about the use of biofuel and ethanol in fuel (Natural Resources)
- Publicize bike trails and covered bike racks online (Transportation)
- Promote National Bike Month (Transportation)
- All Parks and Rec. Master Plan update recommendations (Food and Transportation)

The City is currently examining the possibility of starting a City blog, as part of the City website, in which the majority of the proposed marketing and educational actions can be achieved through this blog. The purpose of the City blog is to act as an educational tool for the citizens to enhance their knowledge on sustainability, conservation, and other city related issues. Additionally, the City webpage and its multiple social media accounts can act as a cost effective marketing tool for the City.

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# SUSTAINABILITY ACTION PLAN

10/27/2014

# Plan Revisions

- ❑ New Topical Area
- ❑ Aesthetic Changes
- ❑ White Papers
- ❑ Staff Evaluation
- ❑ Deletion and Addition of New Columns

# Staff Time

- ❑ Considerable Amount of Staff Time
- ❑ Three Department Heads
- ❑ Cities with Project/Sustainability/Environmental Coordinator Positions
- ❑ Moving Forward

# Layout

- Vision
- Initial Action
- Target Areas
- Possible Actions
- Priority
- Measures
- Stakeholders
- Funding Source

## Appendices

### I. Materials Management Plan

#### Vision

Forest Grove will be a city that focuses on the recapture, reduction, and elimination of its discarded material stream to enable a high quality of life for all residents.

#### Initial Action

**Create a white paper that will evaluate waste management programs within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the three target areas and possible related actions that are listed below.**

| Target Areas  | Possible Action  | Priority <sup>2</sup> | Measures  | Stakeholders | Funding Source |
|---|--|-----------------------|---|--------------|----------------|
| 1. Develop programs to educate and promote waste reduction including recycling, reuse and waste prevention. | 1a. Encourage multifamily community property managers to contact Heather Robinson, the Washington County Recycle at Work Specialist. She can provide technical assistance, outreach and education. |                       | Distribute bilingual materials to multi-family apartments |              |                |
|   | 1b. Develop a public information and community-based social  |                       | Number of participant stories                             |              |                |

<sup>2</sup> **High Priority**- Initiate and/or complete in 2015/2016; **Medium Priority**- Main projects to focus on in the next five years. Further define project parameters in 2015/2016 and present to decision makers, where applicable, with detailed work plan for implementation 2016 to 2020. Or implements as an ongoing project or program on an already defined schedule; **Low Priority**- Do projects as able resources allow; e.g. staff time, funds, etc.

# White Papers

- ❑ Incomplete Assessment
- ❑ Purpose
- ❑ Determine Baselines, Metrics, Implementation, Stakeholders, Priority, and Funding Source
- ❑ Without the White Papers Another 6 to 8 Months
- ❑ Individual Initiatives

# Topical Areas

- ❑ Materials Management
- ❑ Social Equity
- ❑ Food
- ❑ Conservation and Green Buildings
- ❑ Natural Resources
- ❑ Transportation
- ❑ Education



# Materials Management

- Vision: “Forest Grove will be a city that focuses on the recapture, reduction, and elimination of its material stream to enable a high quality of life for all residents.”
- Initial Action: White Paper
- The target areas of this topic deals with waste management in regards to recycling, waste reduction, composting, organic food waste, and the disposal of pharmaceuticals.

# Food

- Vision: “Forest Grove will be a thriving food community in which all residents have the opportunity to grow, prepare and consume nutritious local food in order to support the health of the land and its people.”
- Initial Action: White Paper
- Six target areas ranging from school gardens to a year-round farmers market.

# Social Equity

- Vision: “Forest Grove welcomes and supports equitable and sustainable opportunities for all community members by providing the means for human needs to be met.”
- Initial Action: White Paper
- Three target areas that look to encourage civic engagement and improve quality of life

# Green Buildings and Energy Conservation

- Vision: “Forest Grove a leader in the support of green building practices and the promotion of energy and natural resources conservation.”
- Initial Action: Continue to support and implement the City’s ongoing efforts in regards to environmental conservation and green buildings initiatives.

# Transportation

- Vision: “Forest grove has a safe, affordable, reliable, sustainable, and connected transportation system that is energy efficient while supporting all transportation modes.”
- Initial Action: White Paper
- Six target areas that focus on alternative means of transportation and the use of mass transit.

# Natural Resources

- Vision: “The residents of Forest Grove demonstrate good stewardship of our natural resources by preserving the health of our watershed, forest, air, and green space for future generations.”
- Initial Action: White Paper
- Seven target areas that focus on the preservation of the city’s natural areas.

# Education\*

- Vision: “Forest Grove will be a city that fosters sustainable practices for all generation by supporting projects and education in our schools; encourage sustainable practices from an early age by offering resources toward practical and affordable actions.”
- Initial Action: White Paper
- The Commission would present this topical area to the School District.

\* Subject to change - as of October 20<sup>th</sup> with further Commission review at their next meeting

# Possible Actions

There are several possible actions that can take place immediately:

- ❑ Contact the Washington County Recycle at Work Specialist on Multi-Family Units for educational materials (Materials Management)
- ❑ Develop a public information and community-based social marketing campaign to cut household waste with a “One-Bag-a-Week” challenge (Materials Management)
- ❑ How-to workshops such as composting and vermiculture by Washington County’s OSU extension services which offer free workshops for communities (Materials Management)
- ❑ Manage a booth at the Farmer’s Market that encourages residents to reduce the amount of materials entering the waste stream through precycling and upcycling; Work with the Chamber to encourage businesses to do the same (Materials Management)

# Possible Actions (Con't)

- ❑ Advertise composting and vermiculture equipment offered by Metro and Washington County (Materials Management)
- ❑ Develop information on the availability of pharmaceutical drop off sites and make the information available to the public (Materials Management)
- ❑ All possible actions in the Energy Conservation and Green Buildings topical area
- ❑ Report out the results of the community food assessment completed by the Oregon Food Bank (Food)
- ❑ Host a screening of the movie *A Place at the Table* which addresses ongoing hunger issues (Food)
- ❑ Identify strategies to promote locally grown food from individual properties (Food)

# Possible Actions (Con't)

- ❑ The marketing of local health care services such as Virginia Garcia Memorial Health Clinic (Social Equity)
- ❑ Increase representation from the Latino community and other underserved populations on all City boards and commissions (Social Equity)
- ❑ Supporting the efforts of Clean Water Services, the Friends of Fernhill Wetlands, the Forestry Commission and Parks and Recreation (Natural Resources)
- ❑ Support and identify activities related to restoration efforts in Forest Grove (Natural Resources)
- ❑ Promote existing educational organizations such as Natural Resources Conservation Service and Master Gardeners (Natural Resources)
- ❑ Develop an education program for the proper care of trees (Natural Resources)

# Possible Actions (Con't)

- ❑ Encourage the use of mass transit, pedestrian and cycling options within the city (Natural Resources)
- ❑ Promote and educate the Forest Grove community about the use of biofuel and ethanol in fuel (Natural Resources)
- ❑ Publicize bike trails and covered bike racks online (Transportation)
- ❑ Promote National Bike Month (Transportation)
- ❑ All Parks and Rec. Master Plan update recommendations (Food and Transportation)

# Questions?



# Sustainability Action Plan



2014

City of Forest Grove

## Sustainability Commission Members

|  |                                     |
|--|-------------------------------------|
| Chair                                  | Elaine Cole                         |
| Vice Chair                             | Brian Schimmel                      |
| City of Forest Grove Liaison           | Jon Holan, George Cress, Rob Foster |
| Action Team Leaders:                   |                                     |
| Transportation/Planning                | Elaine Cole                         |
| Social Equity                          | Karin Pfeiffer-Hoyt, Brian Schimmel |
| Food                                   | Robin Lindsley                      |
| Energy Conservation and Green Building | John Hayes                          |
| Materials Management                   | Elaine Cole                         |
| Natural Resources                      | Mitch Taylor                        |
| Members-at-Large or Participants:      | Edgar Fausto                        |
|  | Dale Feik                           |
|  | Deke Gundersen                      |
|  | Hailey Jongeward                    |
|  | Hope Kramer                         |
|  | Leslie Applegate Lanzar             |
|  | Mark Poling                         |
|  | Diane Taniguchi-Denis               |
|  | Michael Sykes, City Manager         |
|  | Pete Truax, Mayor                   |
|  | Victoria Lowe, City Councilor       |
|  | Kathryn Harrington, Metro Councilor |

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# Mayor's Message

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## How are the Children?

The Masai are well known for their greeting: "How are the children?" That is how these people, famous for being warriors, view the importance of their offspring.

Like the Masai, we should also ask the same question and answer with: "The children are well." For if we answer with truthfulness and, indeed, want the children and our children's children to be well, then we must recognize that it is in us and on us to provide a world in which the children can do well. That is the overarching goal of the sustainability plan for Forest Grove.

Environmentally, we want a world that supports and nurtures life. Economically, we want that life to be robust and productive. Socially, we want that life to provide for the future, that the world is left in better shape than when we found it, through research, through education, and through human understanding.

This report by the Forest Grove Sustainability Commission is not the final step. Rather, it could be an instruction manual on preservation. It could be an operator's guide for mother earth and give us tips and pointers on how to reverse some destructive practices. We have long since passed the point of arguing whether we have to deal with global warming, with water conservation, and with air quality. Those trains have left the station. It is not a matter for debate; it is settled science.

There is time, and we must use it wisely, for ourselves and for our children. For if we don't, we may not have a good answer for the question: "And how are the children?" And conversely, if we do, we and those who follow us will be able to say: "The children are well, thanks to those who came before and did the right thing."

Pete Truax, Mayor, City of Forest Grove  
August 22, 2013

# Community Development Director's Message

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## The Time Is Now

Sustainability is becoming an increasingly important concept throughout the world. Signs of climate changes are being experienced in various parts of the globe, and just one example of this is the ability to sustain agricultural productivity to feed an expanding population. The prime source for climate change, the emissions of hydrocarbons, is on the increase at alarming rates. The cause of these emissions rests with the products we make and ship, energy production and use, transportation, and the way we live. Adding to that, the loss of natural systems and increasing pollution into our air and water threatens our ability to continue life. In short, continuing our lifestyle is making life on earth unsustainable.

While this is a global condition, an important part of the solution is to begin changing how we do things locally. We find this occurring in many communities throughout the world in general and the United States, in particular. For example, Oregon is one of many states taking on the challenge of reducing our carbon footprint.

Supporting these actions and to begin addressing the issue, a group of concerned residents in Forest Grove believed that action must be taken in our community. Formed in October, 2013, the Sustainability Commission focused on developing a strategy to reduce carbon emissions and wastes locally and promote a healthy and sustainable lifestyle. The Plan focuses on seven topical areas that emerged through community discussions:

- **Energy Conservation and Green Building**
- **Food**
- **Materials Management**
- **Natural Resources**
- **Social Equity**
- **Transportation and Planning**
- **Education**

The following tables express the vision, goals, strategies, measures or actions and a proposed timeframe to implement these efforts in each topical area. The plan can then serve a way to monitor community efforts in the future. Successes and further efforts can be identified to move Forest Grove towards a more sustainable community.

Jon Holan, Community Development Director, City of Forest Grove  
July 3, 2013

# Executive Summary

The City of Forest Grove established the Sustainability Commission (Commission) in October of 2013. Initially, the Commission was an Ad Hoc Committee established in October of 2011 as a result of the City’s Sustainability Institute. One of the main purposes of this Commission is to reassess the Sustainability Action Plan that was accepted in 2013 and assist in implementing the strategies outlined in this current Action Plan. This Sustainability Action Plan is the result of the efforts of the Committee, and Commission, all of the public and private partners, and the concerned residents who gave their time, knowledge, and energy to help Forest Grove become a sustainable community.

## Definition of Sustainability

The Commission uses the following definition of sustainability:

Using all resources (societal, economic and natural) in an efficient and equitable manner. Sustainability in Forest Grove means considering long-term environmental, economic and social impacts of our actions. Sustainability prioritizes long-term needs over short-term gains to ensure that resources necessary to sustain life are available now and in the future.

## Topic Areas

Originally the Plan had six topical areas; however, after further review the Commission felt that the inclusion of an Education topical area was a necessary addition to the meet the needs of the community. There were six topic areas that emerged from a series of public meetings; they are the focus of the sustainability efforts in this action plan. The topic areas and associated vision statements are:

- **Materials Management-** Forest Grove will be a city that focuses on the recapture, reduction, and elimination of its material stream to enable a high quality of life for all residents.
- **Energy Conservation & Green Building-** Forest Grove will become a leader in the support of green building practices and the promotion of energy and natural resource conservation.
- **Food-** Forest Grove will be a thriving food community in which all residents have the opportunity to grow, prepare and consume nutritious local food in order to support the health of the land and its people.
- **Social Equity-** Forest Grove is a place that welcomes and supports equitable and sustainable opportunity for all community members by providing the means for human needs to be met.



- **Natural Resources-** The residents of Forest Grove demonstrate good stewardship of our natural resources by preserving the health of our watershed, forest, air, and greenspace for future generations.
- **Transportation-** To develop a safe, affordable, reliable, sustainable, and connected transportation system that is energy efficient while supporting alternative transportation modes.
- **Education-** Forest Grove will be a city that fosters sustainable practices for all generations by supporting projects and education in our schools; encourage sustainable practices from an early age by offering resources toward practical and affordable actions.

The Action Plan sets goals, associated strategies, measures and timeframes for each of the seven topic areas, which, when implemented, are intended to move towards achievement of each vision.

The Sustainability Commission intends to further evaluate the costs, impacts, and possible methods for implementing sustainable practices within the community. In order to accomplish this level of evaluation, the Commission will develop a series of white papers regarding six of the seven topic areas. The Energy Conservation and Green Buildings topic area will not require a white paper since these actions are either already in place or will be achieved through various initiatives undertaken through Light & Power.

Within the Action Plan there is some overlap between the individual plans and their target areas. This occurs because of the wide breadth of issues that sustainability as a whole covers. Additionally, the City will conduct an evaluation on the need for a sustainability coordinator who can provide assistance in developing/implementing these actions and policies.

## Recommendations

It is the hope of this Commission that the City of Forest Grove City Council adopts this Action Plan for implementation and further evaluation regarding the ongoing sustainability needs within the community. The Commission recommends that Council reviews this plan and progress on the action plans be updated every 3 years.

# Context

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## What is Sustainability?

Many people think of sustainability as involving environmental efforts to improve the long-term health of the earth. That is only part of the story. Sustainability involves the physical, economic, social and governmental aspects of the community that promote long-term community health. Besides environmental considerations, equity, participation and economic considerations are hallmarks of sustainability.

The key concept to sustainability is to understand the holistic cycle between action (i.e., doing something) and capacity (i.e., the ability to do something). In considering this cycle, we must be mindful of human, financial and resource regeneration rates (i.e., the ability to replenish resources being used to perform an action).

## Definitions

Many definitions of sustainability have been developed over the years. The most commonly recognized definition is “Meeting the needs of the present without compromising the ability of future generations to meet their own needs (UN Brundtland Commission).” The definition of sustainability used in this action plan is:

- Using all resources (societal, economic and natural) in an efficient and equitable manner. Sustainability in Forest Grove means considering long-term environmental, economic and social impacts of our actions. Sustainability prioritizes long-term needs over short-term gains to ensure that resources necessary to sustain life are available now and in the future.
- The term *efficient* means using resources in a cost-effective way taking into account life-cycle and replacement cost. Efficient use of resources means using natural resources no faster than they can be replenished through natural systems.
- The term *equity* means the benefits and costs associated with society are distributed proportionately within the community.

# Sustainability in Forest Grove

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The Ad Hoc Sustainability Committee created a Sustainability Mission Statement in November 2011. The Mission Statement identified the City of Forest Grove's role in sustainability as follows:

The people of Forest Grove are committed to improving the quality of life in our community by providing stewardship of our economic, social, environmental and cultural resources in a manner that is equitable for all present and future generations.

The City of Forest Grove Recognizes its responsibility to:

- Utilize resources cost-effectively while ensuring they are used no faster than they can be replenished through natural systems
- Assure that the benefits and costs of society are equitably distributed throughout the community
- Consider the long-term environmental, economic and social impacts of our actions
- Promote education and awareness of the benefits of sustainable practices to enhance the community
- Support residents, organizations, businesses and neighborhoods both within and outside the community to invest in sustainability and continually improve their practices and environments
- Prioritize long-term needs over short-term gains to ensure that the resources necessary to sustain life are available now and in the future

Additionally, the City of Forest Grove includes sustainability in its Vision Statement (2007):

A community recognized for its commitment to conserve, preserve, protect and restore our natural assets.

- **Objective 1:** Maintain and improve the quality of air, water, soil, etc. to ensure livability by using leading technology and land use methods.
- **Objective 2:** Promote Forest Grove as "The Greenest City in Oregon" through landscaping and ecologically-sound industry, businesses, utilities, transportation and development.
- **Objective 3:** To be recognized by an organization such as the Green Guide as a "Green City".

Other local sustainability efforts drawn from include Pacific University, United Church of Christ's sustainability statement, City of Forest Grove's ongoing efforts, City of Portland, State and Metro efforts involving Greenhouse Gas reduction and the Corvallis Sustainability Coalition.

One of the main purposes of the Sustainability Commission was to develop a Sustainability Action Plan so that the community and the City of Forest Grove can utilize this document as a blueprint to implement sustainable practices.

## Process & Public Input

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As a way to initiate a community-based sustainability effort, the City of Forest Grove convened a Sustainability Institute October 8, 2011, and 16 interested residents attended. This was an initial information session to discuss what sustainability is and why it is important to the residents of Forest Grove. Various sustainability efforts ongoing locally and regionally were reviewed. The formation of the Forest Grove Ad Hoc Sustainability Committee was the result of that meeting. The Committee's focus evolved over time and resulted in a mission statement, and hiring a Pacific University sustainability intern who created the following reports:

1. Inventory of sustainability-related organizations in the Forest Grove community
2. Water Consumption Assessment Report with recommendations
3. Energy Assessment Report with recommendations
4. Socio-Economic Assessment Report
5. Municipal Greenhouse Gas Emissions Inventory

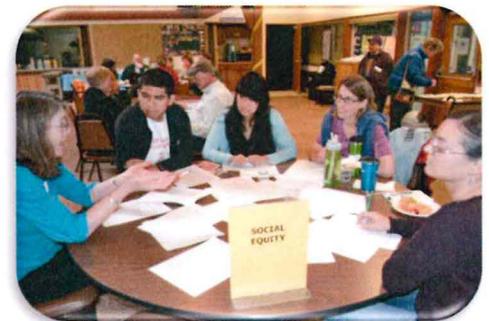
A series of three Sustainability Summits were held with the intent to engage community members in creating a sustainability action plan for Forest Grove. These facilitated sessions built off the Committee's efforts and gathered participants' ideas about critical sustainability issues and long-range goals. The emphasis was on stewardship of our economic, social, environmental and cultural resources in a manner that is equitable for present and for future generations.

The first Summit was held October 12, 2011, and resulted in productive and engaging work sessions. At the end of the first Summit, six different focus areas emerged from the discussion including green building, transportation, locally sourced food, social equity, recycling and solid waste, and solar and renewable energy.

In the fall of 2012 the Committee was also invited to plan and facilitate the City of Forest Grove Annual Town Meeting with a focus on sustainability. It was held January 26, 2013, with over 100 people in attendance.

Roundtable discussions were held on the following topics relating to sustainability:

- What are we doing well?
- What do we need to improve?
- What are the barriers to get there?
- How do we go forward to create a safe, equitable, sustainable, and healthy city?



The second Summit was held Saturday, February 9, 2013, on the Pacific University campus, and 40 residents gathered to further refine their visions and goals for the six topic areas. As a result, vision statements, goals and strategies were discussed. The six topic areas were revised to combine solar and renewable energy with green building and add natural resources. The third Summit was held Saturday, April 20, 2013, in honor of Earth Day, at the Forest Grove Senior & Community Center. The meeting focused on refining the actions and strategies in the six topic areas.

Following the three Sustainability Summits, the Committee met several times to refine each topic area and ensure that it had a vision, goal, strategies and timeline that supported the goal. During the period of May through September 2013, the Committee solicited input from community organizations and residents for further feedback and input on the draft Plan. In October the Committee presented the Plan to the City Council where it was accepted and established a formal City Sustainability Commission.

## Sustainability Topic Areas

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There are seven different topic areas that the Sustainability Action Plan looks to address. The following are the seven different topic areas:

- Materials Management
- Energy Conservation
- Food
- Social Equity
- Natural Resources
- Transportation and Planning
- Education

As mentioned before, there is some repetition in the action plans and target areas since many of the concepts overlap. The majority of the target areas identify measures for evaluation and are prioritized by importance. A monitoring plan should be developed that would indicate how well the strategies are being met in the timeframes given and whether or not a revision of the overall Sustainable Action Plan is needed.

### Topic Area Subcommittees

In order to identify topical areas, targets, projects, actions and performance measures of each topic area subcommittees were established. These committees developed the goals and strategies needed in order to make the vision statements a reality. These goals and strategies are not meant to be exclusive; they complement other actions already being taken by individuals, organizations, and governments. The topic areas are meant to be integrated, and contribute to the ultimate vision of Forest Grove as a sustainable city.

## White Papers

The majority of the topic areas will require further evaluation so that costs, potential impacts, and implementation methods are fully understood. The Sustainability Action Plan in its current form does not take all of these factors into account. The City will develop a series of white papers to examine possible policy implications. After the completion of these white papers, the Commission can then present their findings and recommendations to the Council for adoption of policies or programs that the Commission wishes to pursue. Furthermore, the white papers will also evaluate the need for a sustainability coordinator. The City does not presently have a sustainability coordinator to oversee potential sustainability initiatives that the City is interested in pursuing.

# Materials Management

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## Vision

Forest Grove will be a city that focuses on the recapture, reduction, and elimination of its material stream to enable a high quality of life for all residents.

## Initial Action

Create a white paper that will evaluate waste management programs within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the three target areas and possible related actions.

## Highlights

Plan highlights include:

- The development of programs to educate and promote recycling and waste reduction
- Educate residents about how to safely dispose of pharmaceuticals
- Provide educational materials on composting and vermiculture to citizens of Forest Grove

# Energy Conservation

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## Vision

Forest Grove will become a leader in the support of green building practices and the promotion of energy and natural resource conservation.

## Initial Action

Continue to support and implement the City's ongoing efforts in regards to environmental conservation and green buildings initiatives.

## Highlights

Plan highlights include:

- Implement and maintain an ongoing education campaign on the individual economic benefits of energy conservation and reduced resource consumption
- Retrofit older, single and multifamily housing stock with energy conservation measures
- Reduce greenhouse gas production in the community

## Food

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### Vision

Forest Grove will be a thriving food community in which all residents have the opportunity to grow, prepare and consume nutritious local food in order to support the health of the land and its people.

### Initial Action

Create a white paper that will evaluate food related sustainability programs within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the six target areas and possible related actions.

### Highlights

Plan highlights include:

- Develop partnership systems to sustainably feed all Forest Grove area people experiencing hunger
- Develop school gardens and nutrition education programs at every Forest Grove public school
- Develop year-round farmers market in the Forest Grove area

## Social Equity

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### Vision

Forest Grove welcomes and supports equitable and sustainable opportunities for all community members by providing the means for human needs to be met.

### Initial Action

Create a white paper that will evaluate existing and potential equitable policies within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the three target areas and

possible related actions.

## Highlights

Plan highlights include:

- Support equitable access to opportunities, civic engagement, and the distribution of resources
- Increase sustainability of local businesses and support small business development

# Natural Resources

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## Vision

The residents of Forest Grove demonstrate good stewardship of our natural resources by preserving the health of our watershed, forest, air, and greenspace for future generations.

## Initial Action

Create a white paper that will evaluate existing and potential natural resource preservation policies within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the seven target areas and possible related actions.

## Highlights

Plan highlights include:

- Continue to support the restoration of natural areas such as Fern Hill Wetlands
- Increase the amount of tree canopy while planting species adapted to this area

# Transportation and Planning

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## Vision

Forest Grove has a safe, affordable, reliable, sustainable, and connected transportation system that is energy efficient while supporting all transportation modes.

## Initial Action

Create a white paper that will evaluate existing and potential transportation policies within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the seven target areas and possible related actions.

## Highlights

Plan highlights include:

- Make mass transportation more accessible to a larger portion of the community

- Increase the safety of bicycling in Forest Grove

## Education (Tentative Subject to Commission Review)

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### Vision

Forest Grove will be a city that fosters sustainable practices for all generations by supporting projects and education in our schools; encourage sustainable practices from an early age by offering resources toward practical and affordable actions.

### Initial Action

Consult with the Forest Grove School District to create a white paper that will evaluate current sustainability programs within the District. As part of this effort, a comparison of models used by other schools shall be evaluated. The intent of the white paper is to explore the target areas and possible related actions.

### Highlights

Plan highlights include:

- Outline goals and objectives for fostering sustainability practices in the Forest Grove School District schools
- Collaborate with schools on sustainability projects that can be done at low or no cost within confines of the school curriculum

# Appendices

## I. Materials Management Plan

### Vision

Forest Grove will be a city that focuses on the recapture, reduction, and elimination of its discarded material stream to enable a high quality of life for all residents.

### Initial Action

Create a white paper that will evaluate waste management programs within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the three target areas and possible related actions that are listed below.

| Target Areas  | Possible Action  | Priority <sup>1</sup> | Measures  | Stakeholders | Funding Source |
|---|--|-----------------------|---|--------------|----------------|
| 1. Develop programs to educate and promote waste reduction including recycling, reuse and waste prevention. | 1a. Encourage multifamily community property managers to contact Heather Robinson, the Washington County Recycle at Work Specialist. She can provide technical assistance, outreach and education. |                       | Distribute bilingual materials to multi-family apartments |              |                |
|   | 1b. Develop a public information and community-based social  |                       | Number of participant stories                             |              |                |

<sup>1</sup> **High Priority**- Initiate and/or complete in 2015/2016; **Medium Priority**- Main projects to focus on in the next five years. Further define project parameters in 2015/2016 and present to decision makers, where applicable, with detailed work plan for implementation 2016 to 2020. Or implements as an ongoing project or program on an already defined schedule; **Low Priority**- Do projects as able resources allow, e.g. staff time, funds, etc.

| Target Areas | Possible Action   | Priority <sup>1</sup> | Measures   | Stakeholders | Funding Source |
|--------------|---|-----------------------|--|--------------|----------------|
|              | marketing campaign to cut household waste with a “One-Bag-a-Week” challenge. Ensure that there are collection service options that provide a financial benefit to households that generate less waste.                                      |                       | received   |              |                |
|              | 1c. In the Forest Grove utility bill, include web site information and phone numbers for organizations that support materials management such as Washington County’s business and multifamily waste reduction technical assistance programs |                       | Once a year brochure to all Forest Grove Light and Power users             |              |                |
|              | 1d. Offer information on how-to workshops and educational materials on traditional composting, Bokashi, and vermiculture for residents  |                       | Work with appropriate organizations to hold workshops within the community |              |                |

| Target Areas | Possible Action   | Priority <sup>1</sup> | Measures   | Stakeholders | Funding Source |
|--------------|---|-----------------------|--|--------------|----------------|
|              | 1e. Manage a booth at the Farmer’s Market that encourages residents to reduce the amount of materials entering the waste stream through precycling and upcycling. Work with the Chamber to encourage businesses to do the same. |                       |  |              |                |
|              | 1f. Identify top areas for the City of Forest Grove and community to reduce waste. Apply for the city to earn Recycle at Work award status.   |                       | Work with departments to develop a list of waste reduction strategies. Put as a list on webpage. |              |                |
|              | 1g. Assist in the establishment of a procurement policy to ensure recycling organic waste or matter for contracted waste disposal services.   |                       |  |              |                |
|              | 1h. Label trash containers with the word “Landfill” to increase awareness   |                       |  |              |                |

| Target Areas  | Possible Action  | Priority <sup>1</sup> | Measures  | Stakeholders | Funding Source |
|---|--|-----------------------|---|--------------|----------------|
|   | 1i. Encourage tandem placement of recycling receptacles near every trash container in public areas.  |                       |   |              |                |
| 2. Encourage citizens to compost food and organic waste | 2a. Advertise composting and vermiculture equipment offered by Metro. Provide educational materials on composting and vermiculture to citizens of Forest Grove.                          |                       | Take orders for composting units at the Farmer's Market.  |              |                |
|   | 2b. Support FG Farmer's Market and Master Recycler's effort to sell reusable to go boxes at the Forest Grove Farmer's Market and to local businesses to reduce packaging and food waste. |                       | Number of restaurants that accept reusable to go boxes and the number sold at the Farmer's Market |              |                |

| Target Areas  | Possible Action   | Priority <sup>1</sup> | Measures   | Stakeholders | Funding Source |
|---|---|-----------------------|--|--------------|----------------|
|   | 2c. Evaluate opportunities regarding recycling and food waste such as the expansion of current recycling options, a pilot composting program, and identifying companies that commercially process food waste for energy and revenue |                       | Contact company personnel to find out feasibility of this strategy and work with Waste Management to establish drop offs for any new items |              |                |
| 3. Educate residents about how to safely dispose of pharmaceuticals | 3. Develop information on the availability of pharmaceutical drop off sites. Make information available to community. (ie, FG utility bill, local newspaper)  |                       | Contact Forest Grove Police Department and Metro.  |              |                |

**Possible Partners:** Waste Management Forest Grove Transfer Station, Metro Master Recyclers Program, Forest Grove Police and Fire Departments, Forest Grove Farmers Market, Pacific University, Far West Fibers, New Earth Farms, B-Street Farm, Center for a Sustainable Society, Forest Grove School District, Forest Grove Chamber of Commerce, local churches and service organizations, Habitat for Humanity ReStore, Metro Regional Illegal Dumping patrol, SOLVE, Tualatin Riverkeepers, Poison Hot Line, Backyard Burning Schedule, Animal Control, SWATCO, Washington County Recycle at Work, etc.

## II. Energy Conservation and Green Buildings Action Plan

### Vision

Forest Grove is a leader in the support of green building practices and the promotion of energy and natural resource conservation

### Initial Action

**Continue to support and implement the City's ongoing efforts in regards to environmental conservation and green buildings initiatives.**

| Target Areas  | Possible Action  | Priority | Measures  | Stakeholders | Funding Source |
|---|--|----------|---|--------------|----------------|
| 1. Implement and maintain an ongoing education campaign on the individual economic benefits of energy conservation and reduced resource consumption | 1a. As a demonstration, conduct an energy audit and then retrofit an older home for energy conservation, choosing a suite of strategies that, in aggregate, return 20% annually of the initial capital cost (\$1,000 investment saves \$200 in utility bills annually) |          | Publish the results of the demonstration project, reaching 100% of all homes        |              |                |
|   | 1b. Educate the community about the availability of Oregon lifetime \$1,500 tax credits for energy conservation measures   |          | Publish information in utility bill insert, local newspapers, talks to local groups |              |                |

| Target Areas | Possible Action   | Priority | Measures  | Stakeholders | Funding Source |
|--------------|---|----------|---|--------------|----------------|
|              | 1c. Educate the community about federal tax credits for residential wind turbines, solar hot water and electric systems   |          | Publish information in utility bill insert, local newspapers, talks to local groups |              |                |
|              | 1d. Foreground energy conservation on the city website; advertise availability of free energy audits for homes with electric heat and of incentive grants to pay for conservation retrofits |          | Revise city website   |              |                |
|              | 1e. Provide energy conservation tips in utility bill inserts  |          | Utility bill insert contains energy conservation tips                               |              |                |
|              | 1f. Encourage local newspapers to have a sustainability column written by a Commission member or Pacific University student   |          |   |              |                |

| Target Areas  | Possible Action   | Priority | Measures   | Stakeholders | Funding Source |
|---|---|----------|--|--------------|----------------|
| 2. Retrofit older, single and multifamily housing stock with energy conservation measures | 2a. Work with local banks on financing projects for homeowners and apartment owners; develop database, using City L&P records, on homes that have received incentive grants for energy conservation and renewable energy installations; include in database homes that have implemented measures without local incentives |          | Have City L&P do a survey of households to find out the percentage that have implemented conservation strategies |              |                |
|   | 2b. Work with Energy Trust on homes that use Northwest Natural gas for heating; advertise availability of energy audits and incentive grants; develop database of retrofit homes  |          |  |              |                |

| Target Areas   | Possible Action  | Priority | Measures  | Stakeholders | Funding Source |
|--|--|----------|---|--------------|----------------|
|  | 2c. Have City L&P implement a program to replace residential and commercial mercury thermostats and other non-programmable thermostats with programmable thermostats. Perhaps do this in cooperation with BPA and Metro, with the city or contractors installing the thermostats |          | Report the numbers of changed out thermostats. Include a question about programmable thermostats in the survey for Goal 2 |              |                |
|  | 2d. Require return of old thermostats and installation of programmable thermostats as a condition of home sales; if requiring thermostat changes is not possible, set up widely publicized volunteer thermostat replacement program  |          | Report the number of returned thermostats   |              |                |
| 3. Reduce energy used by buildings in both new and retrofit construction | 3a. Rigidly enforce the statewide energy building code for new and retrofit construction   |          |   |              |                |

| Target Areas                       | Possible Action   | Priority | Measures  | Stakeholders | Funding Source |
|------------------------------------|---|----------|---|--------------|----------------|
|                                    | 3b. Develop a point system and a sliding reduced-fee schedule for energy performance beyond minimum code requirements |          | Point system and sliding reduced-fee schedule developed |              |                |
|                                    | 3c. Publicize construction companies that build beyond minimum code requirements                                      |          | List of companies published                             |              |                |
|                                    | 3d. Educate consumers and builders about the individual economic value of investments in energy conservation          |          |   |              |                |
|                                    | 3e. Work with regional home appraisers to include insulation and other energy conservation measures in their analyses |          |   |              |                |
| 4. Reduce energy used for lighting | 4a. Continue replacing lighting with fluorescents and LEDs in city-owned buildings and outdoor lighting               |          | 100% of city lighting is fluorescents or LEDs           |              |                |

| Target Areas  | Possible Action  | Priority | Measures  | Stakeholders | Funding Source |
|---|--|----------|---|--------------|----------------|
|   | 4b. Replace incandescent bulbs in single and multifamily homes; periodically implement reduced cost or free bulb replacement programs  |          | Replace in 80% of single and multifamily homes                                      |              |                |
|   | 4c. Educate the community about the importance of safe disposal of fluorescent bulbs; develop a safe disposal program within the city  |          | Publish information in utility bill insert, local newspapers, talks to local groups |              |                |
|   | 4d. Educate the community about LEDs as an economic and more environmentally sound alternative to CFLs                                 |          | Info in utility bill inserts  |              |                |
|   | 4e. Use information from the International Dark-Sky Association and similar organizations to decrease city's use of nighttime lighting |          | Have City P&L conduct a report of energy for street lighting                        |              |                |
| 5. Increase awareness of the environmental benefits and use of solar domestic hot water and photovoltaics in residences | 5a. City publicizes environmental value of using solar hot water and solar photovoltaic energy   |          | City L&P reports number of solar hot water and photovoltaic                         |              |                |

| Target Areas   | Possible Action  | Priority | Measures  | Stakeholders | Funding Source |
|--|--|----------|---|--------------|----------------|
|  | 5b. City publicizes lists of companies that install solar systems  |          | installations and the percent of total housing stock using solar energy for hot water and electricity |              |                |
|  | 5c. City publicizes any available incentives and tax credits available for solar system installations                              |          |   |              |                |
|  | 5d. Have City staff examine the feasibility of the use of solar powered water heaters, street lights, and signs for City buildings |          |   |              |                |
| 6. Reduce greenhouse gas production in the community | 6a. Update the greenhouse gas inventory  |          | Conduct greenhouse gas inventory  |              |                |
|  | 6b. Obtain a more precise eGrid emissions factor for electricity consumption within the city, working with EPA and other analysts  |          |   |              |                |
|  | 6c. Calculate the amount of carbon sequestration in the 4,700-acre municipal forest  |          |   |              |                |

| Target Areas                                      | Possible Action   | Priority | Measures | Stakeholders | Funding Source |
|---|---|----------|----------|--------------|----------------|
| 7. Investigate other sources of energy production | 7a. Investigate the feasibility of power generation by the city                   |          |          |              |                |
|   | 7b. Investigate the feasibility of power generation by individuals and businesses |          |          |              |                |

**Possible Partners:** City of Forest Grove, Pacific University, Centro Cultural, Adelante Mujeres, Forest Grove School District, Energy Trust of Oregon, Metro, Bonneville Power Administration, Northwest Natural

### III. Food Action Plan

#### Vision

Forest Grove will be a thriving food community in which all residents have the opportunity to grow, prepare and consume nutritious local food in order to support the health of the land and its people.

#### Objective

**Create a white paper that will evaluate food related sustainability programs within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the six target areas and possible related actions that are listed below.**

| Target Areas  | Possible Action  | Priority | Measures   | Stakeholders | Funding Source |
|---|--|----------|--|--------------|----------------|
| 1. Develop partnership systems to sustainably feed all Forest Grove area people experiencing hunger | 1a. Report out the results of the community food assessment completed by the Oregon Food Bank and work with local organizations to form a resource network                                   |          | Base assessment completed and distributed                              |              |                |
|   | 1b. Work with state and regional food programs, agencies and anti-hunger organizations to increase access to nutritious, safe and adequate food by all residents experiencing ongoing hunger |          | Connect local food agencies/ religious organizations/ community groups |              |                |

| Target Areas | Possible Action   | Priority | Measures   | Stakeholders | Funding Source |
|--------------|---|----------|--|--------------|----------------|
|              | 1c. Work to eradicate issues of continuing hunger by implementing proposed methods as outlined in "A Place At the Table" documents ( <i>A Place At the Table</i> , Peter Pringle, Editor. NY: public Affairs Books, copyright 2013) |          | Report progress to public via local and regional media |              |                |
|              | 1d. Establish a community food drive week and encourage businesses to provide a percentage of sales to the food bank  |          |  |              |                |
|              | 1e. Inventory food donation in the Forest Grove area such as grocery stores, restaurants, and Forest Grove food producers   |          |  |              |                |
|              | 1f. Develop a network for food donations and educate businesses on where and how they can donate  |          |  |              |                |

| Target Areas   | Possible Action   | Priority | Measures   | Stakeholders                            | Funding Source |
|--|---|----------|--|---|----------------|
| 2. Develop school gardens and nutrition education programs at every Forest Grove public school | 2a. Develop curricula to be used by appropriate grades; See Healthy Kids Curriculum from OSU Extension Service                            |          | Curricula developed and in place at a minimum of 5 local schools   | School District, Children, and Families |                |
|  | 2b. Determine funding and funding sources needed to establish and maintain gardens  |          | Compile a list of grants and funding sources                       | School District, Children, and Families |                |
|  | 2c. Determine needed personnel  |          | Personnel chosen   | School District, Children, and Families |                |
|  | 2d. Develop workable timelines and contracts with local farmers and gardeners to provide year-round food directly to local schools        |          | Contracts signed with Oregon Farm to School Program                | School District, Children, and Families |                |
| 3. Increase the use of sustainably grown, local food   | 3a. Identify strategies to promote locally grown food from individual properties; Evaluate established models for sustainable agriculture |          | A draft of the white paper which would include recommended changes |   |                |

| Target Areas  | Possible Action  | Priority | Measures   | Stakeholders | Funding Source |
|---|--|----------|--|--------------|----------------|
|   | 3b. Establish a Community Gleaning Project, whereby citizens participate as producers and consumers based on the Portland Fruit Tree Project and Leda Glastonbury's PU Senior Capstone Project |          | Organization formation   |              |                |
|   | 3c. Establish community gardens through the Parks and Rec. Master Plan program   |          | Number of new gardens  |              |                |
|   | 3d. Investigate the ability to lease public lands, vacant lots, and/or rail right of ways for food garden possibilities  |          |  |              |                |
| 4. Develop year-round farmers market in the Forest Grove area | 4a. Bring together parties from interested food producers and related organizations and agencies to build agreements and contracts to open year-round famers market in the Forest Grove area   |          | Visit other year-round farmers markets; Open a local year-round farmers market |              |                |

| Target Areas   | Possible Action   | Priority | Measures  | Stakeholders | Funding Source |
|--|---|----------|---|--------------|----------------|
| 5. Develop and implement adequate local community kitchens for increasing micro-enterprise development and teaching/learning food preparation and processing | 5a. Promote new area community kitchens available for continuing use as teaching sites and small business development resources |          | Determine existing kitchens available for this program                      |              |                |
| 6. Support new farmers   | 6a. In the existing video promoting Forest Grove, include farming, agriculture, farm bed and breakfasts, and agritourism        |          | Update the City of Forest Grove website and promotional materials           |              |                |
|  | 6b. Have interest groups provide farmer mixers to develop locally designed new farmer opportunities                             |          | Four mixers during each of the next 3 years at community auditorium, Forest |              |                |

| Target Areas | Possible Action  | Priority | Measures  | Stakeholders | Funding Source |
|--------------|--|----------|---|--------------|----------------|
|              | 6c. Support Friends of Family Farmers' iFarm programs and other related organizations; This will strengthen opportunities for new farmers to access farmland, tools, equipment, adequate funding and critical, continuing mentoring ( <a href="http://www.friendsoffamilyfarmers.org/iFarm">www.friendsoffamilyfarmers.org/iFarm</a> ) |          | Grove Senior & Community Center, Forest Grove Grange #282, and North Plains Jesse Mays Community Center |              |                |

**Possible partners:** Dairy Creek Community Food Web, Adelante Mujeres, City of Forest Grove, Forest Grove School District, Forest Grove Senior and Community Center, North Plains Community Center, The News-Times and the Forest Grove Leader, Pacific University, local churches, Community Matters, Forest Grove Grange #282, The Oregon Food Bank, Committee for Citizen Involvement, The Portland Fruit Tree Project, Kitchen Commons (Portland community kitchens), local service groups such as Elks, Lions, Masons, Odd Fellows; Oregon State University - Extension Service: Master Gardeners/Master Food Preservers, Forest Grove Community Gardens, local and regional health organizations such as Tuality Healthcare, Kaiser Permanente, and Providence Healthcare; Friends of Family Farmers, North Plains Farmers Market, Cornelius Farmers Market, City of North Plains, Forest Grove/Cornelius Chamber of Commerce, North Plains Chamber of Commerce, Columbia Grange, area farmers.

## IV. Social Equity Plan

### Vision

Forest Grove welcomes and supports equitable and sustainable opportunities for all community members by providing the means for human needs to be met.

### Initial Action

**Create a white paper that will evaluate existing and potential equitable polices within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the three target areas and possible related actions that are listed below.**

| Target Areas  | Possible Action  | Priority | Measures                                    | Stakeholders   | Funding Source |
|---|--|----------|---|--|----------------|
| 1. Support equitable access to opportunities, civic engagement, and the distribution of resources | 1a. City staff or a Pacific University student will draft a white paper to evaluate current needs and budget ramifications of implementing bilingual services. |          | The number of bilingual services provided   | Pacific University faculty Jessica Ritter, Don Schweitzer (Dept. Social Work), and Melissa Viera (work study office) |                |
|   | 1b. Improve access to social services for all Forest Grove community members.  |          | Collect baseline data from existing sources | Food Bank report / Jessica   |                |

| Target Areas | Possible Action   | Priority | Measures  | Stakeholders  | Funding Source |
|--------------|---|----------|---|---|----------------|
|              | 1c. Create additional opportunities for civic engagement in the arts and in recreation. Promote more involvement of low-income, minorities, youth, seniors, and other underserved populations |          | regarding: city livability, opportunities and resources                     | Pacific Univ. (above)   |                |
|              | 1d. Improve access to affordable health care by supporting the marketing of local health care services such as the Virginia Garcia Memorial Health Clinic                                     |          | Survey the community to indicate increased access to affordable health care | Ivy Wagner (coord.)<br><a href="mailto:iwagner@vgmhc.org">iwagner@vgmhc.org</a><br>Ignolia Duyck (fair)<br><a href="mailto:iduyck@vgmhc.org">iduyck@vgmhc.org</a> |                |
|              | 1e. Identify and address barriers to civic engagement among underserved populations in Forest Grove with the assistance of community groups and organizations                                 |          | Primary barriers identified, plan in place for addressing barriers          | FGSCC, Adelante Mujeres, FGSD Homeless Liaison (Dave Pero), Emily Berndt (211info), Leticia Vitela (CAO)  |                |

| Target Areas  | Possible Action   | Priority | Measures  | Stakeholders  | Funding Source |
|---|---|----------|---|---|----------------|
|   | 1f. Increase representation from the Latino community and other underserved populations on all City boards and commissions    |          | Demographics of FG City Boards and Commissions more closely reflect city-wide demographics                              | FGSCC, Adelante sources                                   |                |
|   | 1g. Evaluate the feasibility of establishing a Social Equity Committee that would examine barriers to service within the city |          |   |   |                |
| 2. Increase sustainability of local businesses and support small business development | 2a. Support education and incentives for local businesses regarding sustainable practices                                     |          | Sustainable practices of local businesses increase per yearly surveys; Recognition program of businesses is established | Consult CoC, Economic Dev. Comm., Hope Kramer             |                |
|   | 2b. Examine current city policies that affect small businesses  |          | Collect baseline data from existing sources   | Consult Econ. Dev. Comm. (EDC), Chamber of Commerce (CoC) |                |

| Target Areas  | Possible Action  | Priority | Measures  | Stakeholders                                  | Funding Source |
|---|--|----------|---|---|----------------|
|   | 2c. Address obstacles that exist for small businesses to start and expand  |          | Increase small local businesses by 20%, from 2013 baseline data   | Consult CoC, EDC                              |                |
|   | 2d. City of Forest Grove incorporates a marketing strategy for small sustainable businesses and tourism                  |          | Sustainability is incorporated into the city's marketing strategy | Consult CoC, EDC                              |                |
| 3. Increase the sustainable living wage of Forest Grove residents | 3a. Support local workforce training efforts to serve individuals who are seeking employment and/or increased job skills |          | Increase living wage jobs from the baseline of 2013 data          | Consult Pacific Univ. & Wash. County agencies |                |

**Possible Partners:** Forest Grove Economic Development Director, Forest Grove Chamber of Commerce, City of Forest Grove departments, Committee for Citizen Involvement, Washington County Cooperative Library System, Washington County Commission on Children and Families, Community Action, FG Senior and Community Center, FG School District, FG Family Resource Center, FG Community School, Oregon Child Development Coalition (OCDC), Pacific University (Residence Life, Centers for Civic Engagement, Gender Equity, and Diversity), Small Business Administration, Local businesses, Adelante Mujeres, Centro Cultural, Washington County Housing Authority, Bienestar and other affordable housing agencies, Service clubs, Coalition for a Livable Future

**Grants and ideas for funding:** Community Development foundations, Small Business Administration, Foundations that support social sustainability efforts, Affordable housing agencies, Coalition for a Livable Future, FG Public Arts Commission

## V. Natural Resources Action Plan

### Vision

The residents of Forest Grove demonstrate good stewardship of our natural resources by preserving the health of our watershed, forest, air, and greenspace for future generations.

### Initial Action

**Create a white paper that will evaluate existing and potential natural resource preservation policies within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the seven target areas and possible related actions that are listed below.**

| Target Areas  | Possible Action   | Priority | Measures   | Stakeholders                                     | Funding Source |
|---|---|----------|--|--|----------------|
| 1. Increase the amount of tree canopy while planting species adapted to this area | 1a. Develop a master plan identifying current conditions of the City's tree canopy, areas for additional tree planting, and long-term needs for conversion to more appropriate species or mix of ages |          | Inventory and increase the current tree canopy and complete a master urban forest plan | Forestry, Parks and Rec, and Planning Commission |                |
| 2. Reduce average per capita water consumption                                    | 2a. Encourage the use of low flow shower heads and toilets  |          | A reduction in per capita water consumption  |  |                |
|   | 2b. Develop a Water Conservation Program Plans and encourage the planting of native plant species that require less water   |          |  |  |                |

|  |   |  |  |  |  |
|--|---|--|--|--|--|
|  | 2c. Support the efforts of Clean Water Services and the Friends of Fernhill Wetlands in their water conservation efforts    |  |  |  |  |
|  | 2d. Encourage the use of drip irrigation systems or other means to reduce household outdoor water use                       |  |  |  |  |
|  | 2e. Encourage the use of rain sensors with outdoor sprinkler systems  |  |  |  |  |
| 3. Increase the amount of park/natural areas in the Parks and Rec Master Plan update | 3a. Identify additional sites for natural area restoration (such as adding to the Forest Grove City Watershed)              |  | An increase in greenspace or parks, increase number of partnerships developed or renewed |  |  |
|  | 3b. Develop partnerships for funding acquisitions for new, or enhancement of existing park/natural areas.                   |  |  |  |  |
|  | 3c. Support the efforts of Clean Water Services and the City of Forest Grove's Forestry Commission and Parks and Recreation |  |  |  |  |

|  |   |  |  |  |  |
|--|---|--|--|--|--|
| 4. Continue to support the restoration of natural areas such as Fern Hill Wetlands   | 4a. Support and identify additional activities related to restoration efforts in Forest Grove   |  | Increase participation in events initiated by Friends of Fernhill Wetlands and other conservation nonprofits |  |  |
| 5. Reduce the use of pesticides and herbicides   | 5a. Support the efforts of Clean Water Services and the City of Forest Grove to reduce environmental toxins                                       |  | A reduction in use of pesticides and herbicides. Advertise and support Household Hazardous Waste events      |  |  |
|  | 5b. Promote existing educational organizations such as Natural Resources Conservation Service and Master Gardeners                                |  |  |  |  |
| 6. Inform and educate the residents of Forest Grove on the benefits, care, and maintenance of trees for aesthetics, shade, and carbon storage. | 6a. Develop (or use existing programs such as Tree School) an education program about the benefits of city trees (carbon, shade, aesthetics etc.) |  | Development and implementation of educational outreach materials and programs                                |  |  |
|  | 6b. Develop an education program for the proper care of trees (pruning, planting, maintenance)  |  |  |  |  |

|                        |  |  |   |  |  |
|------------------------|--|--|---|--|--|
| 7. Improve air quality | 7a. Reduce the amount of backyard burning  |  |   |  |  |
|                        | 7b. Encourage the use of mass transit, pedestrian and cycling options within the City  |  | Support the marketing of GroveLink and TriMet |  |  |
|                        | 7c. Work with lenders in Forest Grove to promote special auto loan rates for those purchasing vehicles with lower emissions    |  |   |  |  |
|                        | 7d. Promote and educate the Forest Grove community about the use of biofuel and ethanol in fuel                                |  |   |  |  |
|                        | 7e. Collaborate with large shippers in the Forest Grove area to develop a plan to utilize equipment that uses alternative fuel |  |   |  |  |
|                        | 7f. Promote the use of a rail system by businesses in Forest Grove to reduce trucking emissions                                |  |   |  |  |

**Possible Partners:** Metro, Friends of Fernhill Wetlands, Pacific University, Forest Grove Forestry Commission, Forest Grove Parks and

Recreation Commission, City of Forest Grove, Tualatin Valley Watershed Council, Tualatin Riverkeepers, Oregon Environmental Center, Water Master, Soil and Water Conservation District

## VI. Transportation Action Plan

### Vision

Forest Grove has a safe, affordable, reliable, sustainable, and connected transportation system that is energy efficient while supporting all transportation modes.

### Initial Action

Create a white paper that will evaluate existing and potential transportation policies within the Forest Grove area. As part of this effort, a comparison of models used by other organizations shall be evaluated. The intent of the white paper is to explore the six target areas and possible related actions that are listed below.

| Target Areas   | Possible Action  | Priority | Measures  | Stakeholders | Funding Source |
|--|--|----------|---|--------------|----------------|
| 1. Make mass transportation more accessible to a larger portion of the community | 1a. Work with Ride Connection on providing expanded service and long term operation funding  |          | Increase ridership of TriMet and Ride Connection buses  |              |                |
| 2. Increase the use of bicycle transportation                                    | 2a. Partner with other agencies to further explore plans for several new bike trails like the Council Creek Trail  |          | Increase miles of trails for bicyclists and pedestrians |              |                |
|  | 2b. Promote the use of the new covered bike racks in Forest Grove by providing brochures at the Wednesday Market, in the utility bill, at First Friday, and other community gatherings |          | Increased use of the racks by residents                 |              |                |

|  |   |  |  |  |  |
|--|---|--|--|--|--|
|  | 2c. Publicize bike trails and covered bike racks online   |  | Increase use of bicycle transportation   |  |  |
|  | 2d. As part of the Parks and Rec Master Plan create a spreadsheet or listing of all currently planned or funded bike/pedestrian enhancement projects with contact information, trail name, map, completion date               |  | Aids in tracking all of the entities promoting expansion of bike trails in the area. Increases communication with these groups |  |  |
|  | 2e. Increase the safety of bicycling in Forest Grove by increasing the number of bike paths, bike lanes on existing roads, and working with Public Works to create a safe bike/pedestrian crossing at Hwy 47 (near Maple St.) |  | A decrease in cycling related accidents  |  |  |
|  | 2f. Evaluate current bike paths and identify possible improvements to enhance bike connections to local transit locations   |  |  |  |  |

|  |   |  |  |                 |  |
|--|---|--|--|-----------------|--|
|  | 2g. Promote national bike month (May) and the Bike Commute Challenge (September) throughout the City  |  |  |                 |  |
|  | 2h. Examine the feasibility of becoming a member of the Westside Transportation Alliance to assist in transportation issues facing the City |  |  |                 |  |
|  | 2i. Explore practices implemented by other organizations and feasibility of promoting Oregon's Safe Routes to School Program                |  |  | School District |  |
|  | 2j. Develop a bicycle rental or bike-share program in Forest Grove  |  |  |                 |  |
|  | 2k. Evaluate current bike paths and identify possible improvements to enhance bike connections to local transit locations                   |  |  |                 |  |
|  | 2l. Promote national bike month (May) and Bike Commute Challenge (September) throughout the City  |  |  |                 |  |

|   |   |  |   |  |  |
|---|---|--|---|--|--|
|   | 2m. Examine the feasibility of becoming a member of the Westside Transportation alliance to assist in transportation issues facing the City             |  |   |  |  |
|   | 2n. Explore practices implemented by other organizations and feasibility of promoting Oregon’s Safe Routes to School Program                            |  |   |  |  |
| 3. Retrofit electric car charging station with plugs/adapters to fit all types of cars and electric bicycles. | 3a. Work with Forest Grove Light and Power to add adapters that will fit all electric cars and bicycles including ones not currently supported          |  | Increased ability of electric car drivers and bicyclists to utilize current charging stations |  |  |
| 4. Add peak hour express buses from Forest Grove to Hillsboro Transit Center                                  | 4a. Work with TriMet and Ride Connection to introduce a pilot program for Line 57 express bus route from Forest Grove to Hillsboro TC during peak hours |  | Increased ridership on bus/max  |  |  |

|   |  |  |   |  |  |
|---|--|--|---|--|--|
| 5. Expand light rail to Forest Grove  | 5a. Initiate a corridor planning effort with Cornelius and Hillsboro to improve the status of the Forest Grove extension in the Regional Transportation Plan |  | Expansion of MAX into Forest Grove                    |  |  |
|   | 5b. Develop a strategic plan process with the goal to extend light rail to Forest Grove  |  |   |  |  |
| 6. Fit new city vehicles and Ride Connection buses to run on electric power | 6a. Meet with TriMet and Ride Connection staff to encourage purchasing new vehicles equipped with electric power   |  | Cleaner air for Forest Grove and all areas they serve |  |  |

**Possible Partners:** Metro Councilors, Forest Grove City Council, Forest Grove City Staff, Emerald Bike Path, TriMet, Ride Connection, Quarterly Trails Forum, Council Creek Trail, Bicycle Transportation Alliance, Forest Grove Light and Power, Washington Country Transportation Alliance, Forest Grove Farmer’s Market

## VII. Education Action Plan (Tenative Subject to Commission Review)

### Vision

Forest Grove will be a city that fosters sustainable practices for all generations by supporting projects and education in our schools; encourage sustainable practices from an early age by offering resources toward practical and affordable actions.

### Initial Action

**Consult with the Forest Grove School District to create a white paper that will evaluate current sustainability programs within the District. As part of this effort, a comparison of models used by other schools shall be evaluated. The intent of the white paper is to explore the target areas and possible related actions that are listed below.**

| Target Areas   | Possible Action   | Priority | Measures  | Stakeholders                               | Founding Source |
|--|---|----------|---|--|-----------------|
| 1. Outline goals and objectives for fostering sustainability practices in the Forest Grove School District schools | 1a. Align goals, objectives and plans with the district office  | High     | Document between city and school district             | Connie Potter                              |                 |
|  | 1b. Enlist experts to conduct workshops for teachers, administrators, facilities, and custodial staff                                     | High     | Schedule of workshops                                 | Connie Potter                              |                 |
|  | 1c. Work with Forest Grove school district and waste haulers to improve recycling at schools by recommending a student recycling campaign |          | Waste audits for baseline and increased labeling bins | Waste Management and FGSD Facilities Staff |                 |

| Target Areas   | Possible Action  | Priority     | Measures                                      | Stakeholders | Founding Source |
|--|--|--------------|---|--------------|-----------------|
|  | 1d. Work to ensure trash containers are always accompanied by recycling containers. Trash containers labeled with the word "Landfill" to increase awareness. |              |   |              |                 |
| 2. Collaborate with schools on sustainability projects that can be done at low or no cost within confines of the school curriculum | 2a. Work with the school principals to understand school curriculum, and identify practical, low-cost projects for various grade levels                      | High         | Meeting with principals and/or administrators |              |                 |
|  | 2b. Provide the means for a materials wish list (e.g., digital thermometers*, consumable materials)  | High         | List(s) from school(s); funding available     |              | City grant      |
|  | 2c. Request for students to demonstrate projects to the Commission (e.g., solar ovens) and during other public events  | High/<br>Med | Schedule of projects and commission agenda    |              |                 |

| Target Areas  | Possible Action   | Priority | Measures  | Stakeholders | Founding Source |
|---|---|----------|---|--------------|-----------------|
|   | 2d. Hold a competition for best sustainability practices implemented in schools/city projects with prizes for best project in each school | Med      | Arrange projects & support required   |              |                 |
|   | 2e. Apply for a CEP grant to help fund sustainability projects  | High     | List of materials that would need to be purchased                           |              |                 |
|   | 2f. Tap city budget & department resources for funding school projects, consistent with the city's commitment to sustainability           | High     | Identify available funds  |              |                 |
| 3. Implement and maintain an ongoing behavior change campaign | 3a. Promote in-class workshop and/or sustainability idea book with a list of different activities classes could do                        | Med      | complete with instructions on how to do them and a list of materials needed |              |                 |
|   | 3b. Bring in experts to demonstrate ideas and work with classrooms - one-time appearance or ongoing                                       | High     | compile a list of guest speakers to come in and help kids with a project    |              |                 |

| Target Areas                                       | Possible Action   | Priority | Measures   | Stakeholders | Founding Source |
|--|---|----------|--|--------------|-----------------|
| 4. Implement energy conservation plans & practices | 4a. Conduct an energy audit   | High     | Publish the results of the audit & determine plans |              |                 |
|  | 4b. Assist the district to provide the means to retrofit schools for energy conservation, choosing a suite of strategies that, in aggregate, return x% annually of the initial capital cost |          |  |              |                 |
|  | 4c. Follow-up on City of Forest Grove Sustainability Summit to the School Board   | Med      | Arrange to get on the agenda                       |              |                 |
|  | 4d. Work with the Forest Grove School District to develop a plan to replace lighting with LED's   |          |  |              |                 |

\* needed for precise readings to determine materials for best insulators

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**FOREST GROVE CITY COUNCIL WORK SESSION  
(LIGHT AND POWER RATE STUDY)  
OCTOBER 13, 2014 – 5:30 P.M.  
COMMUNITY AUDITORIUM  
PAGE 1**

*Minutes are unofficial until approved by Council.*

**1. ROLL CALL:**

Mayor Peter Truax called the Work Session to order at 5:38 p.m. **ROLL CALL:**  
**COUNCIL PRESENT:** Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Camille Miller; Ronald Thompson; Elena Uhing; and Mayor Peter Truax. **STAFF PRESENT:** Michael Sykes, City Manager; Paul Downey, Administrative Services Director; George Cress, Light and Power Director; and Anna Ruggles, City Recorder.

**2. WORK SESSION: LIGHT AND POWER RATE DESIGN AND COST OF SERVICE STUDY PRELIMINARY PRESENTATION**

Downey, Cress and Sykes facilitated the work session, noting the purpose of the work session was to provide a preliminary overview to Council on the Light and Power (L&P) Department's electric cost-of-service analysis and rate design and discuss revenue requirement findings and next steps. Downey and Cress introduced Financial Consulting Solution Group (FCS Group) consultants who presented PowerPoint presentation slides titled "Overview of Rate Study Process; Overview of Revenue Requirement; Key Factors, Key Factors: Power; Capital Plan; Revenue Requirements Summary (base case); Revenue Requirements Summary (proposed); Next Steps; and referenced various Appendixes. Downey reported L&P has not performed a formal cost-of-service analysis study for at least sixteen years, noting typically, electric rate increases are pass-through rates from Bonneville Power Administration (BPA). Downey and Cress reported the City engaged services of FCS Group to conduct a cost-of-service analysis study on the City's electric utility to ensure that electric rates are recovering adequate revenue in an equitable manner, noting the analysis performed evaluated total cost of providing electric service, which resulted in a calculation of the revenue requirements for L&P. Downey explained the revenue requirement is the amount of revenue that L&P needs to generate to fund all financial obligations, including maintaining sufficient reserves, noting the cost-of-service study distributes revenue requirements among each customer class based on allocation of costs and develops a multi-year rate implementation strategy. In addition, Downey, Cress and consultants referenced various slides showing total capital plan costs of \$5.5 million through FY2018 and compared revenue requirements summaries: 1) Revenue requirements summary (base case) showed a 15 percent rate increase in FY2015 and two percent rate increases in FY2016-FY2018, to which staff explained this proposed scenario does not meet existing operating costs and falls short of meeting future needs, and 2) Revenue requirements summary (proposed) showed six percent rate increases in FY2015-FY2018, to which staff explained this proposed scenario minimizes rate impacts over time and assumes use of

**FOREST GROVE CITY COUNCIL WORK SESSION  
(LIGHT AND POWER RATE STUDY)  
OCTOBER 13, 2014 – 5:30 P.M.  
COMMUNITY AUDITORIUM  
PAGE 2**

\$1.23 million of reserves between FY2015 and FY2017, ending reserve target met by FY2018. In conclusion of the above-noted staff report, Downey and Cress referenced a graph showing the monthly bill comparison of a residential customer using 1,200 kWh of electricity per month as outlined in the staff report.

**Council Discussion:**

Mayor Truax opened the floor and roundtable discussion ensued pertaining to various components based on the cost-of-service analysis study and preliminary findings and recommendations of electric rates. Downey, Cress and Sykes responded to various concerns, inquiries and scenarios Council presented pertaining to preliminary findings of revenue requirements, future capital needs, maintaining adequate reserves, electric rates; and future power investments, i.e., green power, noting the factors used to determine the revenue requirements and electric rate increases proposed in the above-mentioned scenarios are needed to meet revenue requirements as well as capital outlay cost factors over the next four years as outlined in the Light and Power Capital Improvement List (three substation upgrades; major tool and equipment; property improvements; specialized equipment; distribution system upgrades; and vehicle purchase replacement program). In conclusion of the above-noted discussion, Sykes explained staff is seeking Council direction on how to proceed based on the cost-of-service analysis study and preliminary findings and recommendations of electric rates, to which Council collectively recommended considering six percent rate increases in FY 2015-18 as proposed in order to meet revenue requirements. Downey noted staff would present the formal rate study component to Council in a follow-up work session next month.

Council took no formal action nor made any formal decisions during the work session.

**3. ADJOURNMENT**

Mayor Truax adjourned the work session at 6:34 p.m.

Respectfully submitted,

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Anna D. Ruggles, CMC, City Recorder

**FOREST GROVE CITY COUNCIL EXECUTIVE SESSION  
ORS 192.660(2)(E) REAL PROPERTY TRANSACTION  
OCTOBER 13, 2014 – 6:30 P.M.  
COMMUNITY AUDITORIUM – CONFERENCE ROOM  
PAGE 1**

*Minutes are unofficial until approved by Council.*

**1. ROLL CALL:**

Mayor Peter Truax called the Executive Session to order at 6:30 p.m. **ROLL CALL: COUNCIL PRESENT:** Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Camille Miller; Ronald Thompson; Elena Uhing; and Mayor Peter Truax. **STAFF PRESENT:** Paul Downey, Administrative Services Director, and Anna Ruggles, City Recorder. **STAFF ABSENT:** Michael Sykes, City Manager, recused.

**2. EXECUTIVE SESSION:**

The City Council met in Executive Session in accordance with:

ORS 192.660(2)(E) to deliberate with persons designated by the governing body to negotiate in real property transactions.

**3. ADJOURNMENT**

Mayor Truax adjourned the Executive Session at 6:50 p.m.

Respectfully submitted,

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Anna D. Ruggles, CMC, City Recorder

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**FOREST GROVE CITY COUNCIL REGULAR MEETING  
OCTOBER 13, 2014 – 7:00 P.M.  
COMMUNITY AUDITORIUM  
PAGE 1**

*Minutes are unofficial until approved by Council.*

**1. ROLL CALL:**

Mayor Peter Truax called the regular City Council meeting to order at 7:02 p.m. and led the Pledge of Allegiance. **ROLL CALL: COUNCIL PRESENT:** Thomas Johnston, Council President; Richard Kidd; Victoria Lowe; Camille Miller; Ronald Thompson; Elena, Uhing; and Mayor Peter Truax. **STAFF PRESENT:** Michael Sykes, City Manager; Paul Downey, Administrative Services Director; Rob Foster, Public Works Director; Michael Kinkade, Fire Chief; Janie Schutz, Police Chief; Mike Herb, Police Caption; Kevin Ellingsburg, Police Captain; Mindy Laird-Garcia, Public Works/Watershed; Derek Robbins, Project Engineer; George Cress (in the audience); and Anna Ruggles, City Recorder.

**1. A. SWEARING-IN CEREMONY:**

Ruggles administered Oath of Office to Bradley Schuetz, who was sworn-in as Police Reserve Officer, and Whitney Black, who was sworn-in as Police Officer. Police Chief Schutz read the biographies and introduced, welcomed and presented each Officer with their official Police badge.

**1. B. PROCLAMATION:**

Mayor Truax publicly proclaimed October 23 – 31, 2014, as “Red Ribbon Week” in Forest Grove. Mayor Truax presented the Proclamation to two young members representing the Oregon Cascade Young Marine’s.

**2. CITIZEN COMMUNICATIONS:**

Tom Beck, Fernhill Wetlands Council, gave an update to Council on Fernhill Wetland-related activities. Beck thanked Council for supporting their Community Enhancement Program (CEP) grant application, noting the CEP grant monies will used to provide “tool boxes” at Fernhill Wetlands.

**3. CONSENT AGENDA:** Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the Consent Agenda item(s).

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- A. Approve City Council Regular Meeting Minutes of September 8, 2014.
- B. Approve City Council Regular Meeting Minutes of September 22, 2014.
- C. Accept Historic Landmarks Board Meeting Minutes of August 26, 2014.
- D. Accept Parks and Recreation Commission Meeting Minutes of July 16, 2014.
- E. Accept Planning Commission Meeting Minutes of August 4, August 18 and September 15, 2014.
- F. Accept Public Arts Commission Meeting Minutes of August 14, 2014.
- G. Community Development Department Monthly Building Activity Informational Report for September 2014.
- H. Fire Chief Report for August 23 – September 21, 2014.

**RESOLUTION NO. 2014-75 MAKING APPOINTMENT TO ECONOMIC DEVELOPMENT COMMISSION (Appointing Justin Norman, Woodfold-Marco Manufacturing (Wood/Ag Products), Term Expiring December 31, 2015).**

**MOTION:** Councilor Lowe moved, seconded by Councilor Kidd, to approve the Consent Agenda as presented. MOTION CARRIED 7-0 by voice vote.

**4. ADDITIONS/DELETIONS:**

Resolution No. 2014-76 was added to Council Meeting Agenda as noted below. An Executive Session, in accordance with ORS 192.660(2)(e) to deliberate with persons designated by the governing body to negotiate real property transactions, was held earlier.

**4. A. RESOLUTION NO. 2014-76 AUTHORIZING DIRECTOR OF ADMINISTRATIVE SERVICES TO COMPLETE SALE OF PROPERTY KNOWN AS THE TIMES LITHO SITE**

**Staff Report:**

Downey presented the above-proposed resolution requesting to authorize the sale of City-owned property known as the “Times Litho” property site to Sycan B Corporation (Purchaser) for \$925,000. Downey reported Sycan submitted a real estate sales agreement to buy the property site to turn the site into a hotel (totaling approximately 2.33

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acres, located between Pacific Avenue and A Street, and includes Tax Lot Nos. 1S3W06BB4100, 1S3W06BB4200, 1S3W06BB4301, 1S3W06BB4400, 1S3S06BB4300, 1S3W06BB4500, 1S3W06BB3400, 1S3W06BB3800, 1S3W06BB3702 and 1S3W06BB3701). Downey advised the property sales agreement does not include parking lot located at northeast corner of 21<sup>st</sup> Avenue and A Street (Tax Lot No. 1N3W31CC9500), which City would retain, noting the sales agreement is contingent if the market study shows there is a market demand in Forest Grove for a hotel. Downey added the City has agreed to pay one-half of the proposed \$10,000 to conduct a market study, noting after the study is completed, the Purchaser will have 30 days to determine if they want to proceed with a development proposal or terminate sales agreement. Downey reported the Purchaser would deposit to the title company \$50,000 in earnest money, which would be refunded if sales transaction does not close, noting if approved, the Purchaser would have 36 weeks from execution date to obtain development conditions issued by the City and accepted by the Purchaser. In conclusion of the above-noted staff report, Downey advised staff is recommending adoption of the resolution, noting upon successful completion of the property sale, sale proceeds would replace \$825,000 in Capital Project Funds, which was monies used to purchase the Times Litho property in December, 2012.

Mayor Truax read Resolution No. 2014-76 by title.

**MOTION: Councilor Kidd moved, seconded by Councilor Miller, to adopt Resolution No. 2014-76 Authorizing Director of Administrative Services to Complete Sale of Property known as the Times Litho Site.**

**Council Discussion:**

Hearing no discussion from the Council, Mayor Truax asked for a roll call vote on the above motion.

**ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.**

**5. PRESENTATIONS:**

Scoggins Creek Fire Update

Fire Chief Kinkade presented a PowerPoint presentation highlighting the

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Scoggins Creek Fire-related events as they occurred, noting the Scoggins Creek Fire began around 2:30 pm on September 19, 2014, and was fully contained by 3pm on September 23, 2014. Kinkade reported the Scoggins Creek Fire burned hundreds of acres that were contained to privately owned land and came within 1.0 of mile of the City's watershed. Kinkade highlighted slides showing areas on the map of the fire boundaries, fire crews at work, and fire equipment used to douse the blaze, noting there were no human casualties. Kinkade recapped lessons learned as outlined in his presentation, noting joint Emergency Operations Command Center (EOC) and Forest Grove/Cornelius new Emergency Operations Plan (EOP) worked very well; coordination with partnering agencies was outstanding; and public notification, evacuation and shelter systems worked well. In conclusion of above-noted presentation, Council commended Fire Chief Kinkade for his leadership and outstanding work and services of all fire/rescue crews who responded to the fire, noting it was a job well done.

2014 Watershed Timber Harvest Update

Foster introduced Barry Sims, Watershed Consultant, who presented a PowerPoint presentation highlighting the 2014 Watershed Timber Harvest-related activities, noting timber harvest is currently 75 percent completed and should be finished by the end of October. Sims reported projected timber harvest is 1500 MBF and current net revenue is \$381,906. Sims highlighted the 2014 maintenance projects and wildfire protection management during the Scoggins Creek Fire, noting the fire came within 1.0 of mile of the City's watershed. Foster introduced Laird-Garcia who gave an update on the 2014 Timber Harvest-related activities, noting the City donated two large portal cedar trees from the City's watershed to Clean Water Services, which will be placed at the entrance of the new Natural Treatment System at Fernhill Wetlands. Lowe pointed out the portal trees will contain a brass plaque mentioning the portal trees are from the City's watershed. In conclusion of the above-noted presentation, Foster, Sims and Laird-Garcia addressed various Council inquiries pertaining to fire protection, road maintenance, road systems, and culvert replacement costs.

6. **CONTINUE PUBLIC HEARING FROM COUNCIL MEETING OF SEPTEMBER 22, 2014: SECOND READING OF ORDINANCE NO. 2014-10 GRANTING A FRANCHISE TO ASTOUND BROADBAND, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, TO CONDUCT A GENERAL TELECOMMUNICATIONS BUSINESS AND GRANTING A RIGHT TO USE PUBLIC RIGHTS OF WAYS WITHIN THE CITY OF**

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**FOREST GROVE**

First reading of Ordinance No. 2014-10 and first Public Hearing occurred at the Council meeting of September 22, 2014.

**Staff Report:**

Downey had nothing further to report.

**Public Hearing Continued:**

Mayor Truax continued the Public Hearing from the meeting of September 22, 2014.

**Proponents:**

No one testified and no written comments were received

**Opponents:**

No one testified and no written comments were received.

**Others:**

No one testified and no written comments were received.

**Public Hearing Closed:**

Mayor Truax closed the Public Hearing.

**Council Discussion:**

Hearing no discussion from the Council, Mayor Truax asked for a roll call vote on the motion made at the meeting of September 22, 2014.

Sykes read Ordinance No. 2014-10 by title for second reading.

**ROLL CALL VOTE: AYES: Councilors Johnston, Kidd, Lowe, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. MOTION CARRIED 7-0.**

7. **RESOLUTION NO. 2014-74 AUTHORIZING THE MAYOR AND CITY MANAGER TO ENDORSE AMENDMENT NO. 1 TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FOREST GROVE AND THE OREGON DEPARTMENT OF TRANSPORTATION FOR THE COUNCIL CREEK REGIONAL TRAIL MASTER PLAN PROJECT**

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**Staff Report:**

Foster and Robbins presented the above-proposed resolution requesting to authorize Mayor and City Manager to endorse an Amendment to Intergovernmental Agreement (IGA) (Exhibit A) between City of Forest Grove and Oregon Department of Transportation for Council Creek Regional Trail Master Plan Project, Robbins reported the original IGA is scheduled to expire in November, noting Amendment No. 1 is extending project end date to October 31, 2016, to allow adequate time to complete the project. In conclusion of the above-noted staff report, Robbins advised staff is recommending adoption of the resolution, noting Council and public are invited to attend the an Open House on the project on November 5, 2014, 6pm, Community Auditorium.

Sykes read Resolution No. 2014-74 by title.

**MOTION: Councilor Kidd moved, seconded by Councilor Lowe, to adopt Resolution No. 2014-74 Authorizing the Mayor and City Manager to Endorse Amendment No. 1 to the Intergovernmental Agreement between the City of Forest Grove and the Oregon Department of Transportation for the Council Creek Regional Trail Master Plan Project.**

**Council Discussion:**

Hearing no discussion from the Council, Mayor Truax asked for a voice vote on the above motion.

**VOICE VOTE: AYES: Councilors Johnston, Kidd, Lowe, Miller, Thompson, Uhing, and Mayor Truax. NOES: None. MOTION CARRIED 7-0 by voice vote.**

**8. CITY MANAGER'S REPORT:**

Sykes reported on upcoming events as noted in the Council calendar and reported on other various upcoming local meetings and community-wide events as noted in the City Manager's Report. Sykes reported one of the two boilers at the Aquatic Center has failed due to age, noting staff is considering replacing both boilers at the same time. Sykes indicated replacement cost is estimated at \$125,000, noting funds will come from the Major Maintenance Repair Fund, which was setup to have funds available to replace costly and aging facility-related systems without impacting current General Fund operating budget. Sykes added the Solar Powered Trash Compactor was delivered, noting staff is currently

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working with Waste Management to install trash compactor at the corner of Main Street and 21<sup>st</sup> Street. Sykes distributed copies of the 2014-15 Leaf Pickup Program, noting in response to Council's goals, community need, staff has added a central leaf drop-off site and extended program to annexed properties, noting the program is part of the City's Storm Water Management Program. Sykes explained residents would have ability to haul leaves and small tree limbs to drop-off site, located at 22<sup>nd</sup> Avenue and Yew Street, on three scheduled Saturdays as outlined in the flyer. In addition, Sykes distributed a copy of his written report, which outlined various meetings he attended and provided updates on various City department-related activities, projects, and upcoming city-wide events.

**9. COUNCIL COMMUNICATIONS:**

Council President Johnston reported attending Public Safety Advisory Commission's (PSAC) SWOT Analysis Work Session, noting City Manager Sykes assisted PSAC as they identified Strengths, Weaknesses, Opportunities and Threats. Johnston noted PSAC also developed a Vision Statement. Johnston announced the Mayor's Ball is scheduled Saturday, October 25, 2014, 6pm, Forest Grove Senior and Community Center. In addition, Johnston reported on other matters of interest and upcoming meetings he was planning to attend.

Kidd reported attending Historic Landmarks Board (HLB) meeting, noting HLB has completed Design Guidelines and Standards for Historic Districts and has published documents for public comment on its webpage. Kidd explained following public comment, HLB would submit to Planning Commission for formal review and recommendation to Council for consideration and formal adoption. Kidd presented a video clip of Mayor Truax's speech as incoming President of League of Oregon Cities. In addition, Kidd reported on other matters of interest and upcoming meetings he was planning to attend.

Lowe reported attending Fernhill Wetlands Birds and Brew Festival, noting the event was a great success. In addition, Lowe reported on other matters of interest and upcoming meetings she was planning to attend.

Miller reported attending Public Arts Commission (PAC) meeting, noting this was her last meeting before her elected term ends on Council. Miller commended PAC for all their work and dedication, noting she has truly enjoyed working with such a great group of people. Miller announced

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Forest Grove Fire Fighters Association is taking over the light parade and is seeking volunteers, noting City Club is no longer involved.

Thompson announced the GroveLink Summit is scheduled Tuesday, October 21, 2014, 6pm, Community Auditorium, noting CCI is sponsoring the Summit. In addition, Thompson reported on other matters of interest and upcoming meetings he was planning to attend.

Uhing reported attending Economic Development Commission (EDC) meeting, noting Viasystems spoke to EDC about the recent purchase of Viasystems. Uhing reported attending Westside Economic Alliance (WEA) meeting, noting she was appointed to the Land Use and Housing Committee. Uhing added WEA would like to host a meeting for the Board in Forest Grove after November's election. In addition, Uhing reported on other matters of interest and upcoming meetings she was planning to attend.

Mayor Truax announced dates of various upcoming activities and meetings as noted in the Council Calendar. Mayor Truax asked Councilmember sign sympathy cards on behalf of Forest Grove City Council, noting the cards are for Portland Commissioner Amanda Fritz and Washington County Commissioner Dick Schouten. Mayor Truax warmly remembered Barbara Peck, who passed away recently at the age of 105, noting Peck was a huge community advocate. In addition, Mayor Truax reported on other various local, regional, Metro, and Washington County meetings he attended and community-related events he was planning to attend.

**10. ADJOURNMENT:**

Mayor Truax adjourned the meeting at 9:10 p.m.

Respectfully submitted,

---

Anna D. Ruggles, CMC, City Recorder



3D

**APPROVED**

**COMMUNITY FORESTRY COMMISSION  
CITY AUDITORIUM  
MAIN STREET, FOREST GROVE, OR  
June 18, 2014**

**Meeting called to order at 5:37:13. President Jen Warren in Chair.**

**Members Present** – President Jen Warren in Chair, Mark Nakajima, Dale Wiley, Bruce Countryman, Lance Schamberger

**Members Absent** - David Hunter Lance Schamberger

**Staff Present:** Dan Riordan

**Council Liaison:** Ron Thompson

**Meeting Minutes Approval:** Minutes were presented and reviewed as presented by Dan. Bruce moved and Mark seconded for approval of the minutes. Unanimous vote for approval.

**Citizen Communication:** None

### **CONTINUING BUSINESS**

**25 Anniversary Celebration 2015** - Discussion on the 25<sup>th</sup> Anniversary Tree Celebration in 2015. There will be a county commissioner proclamation, along with a City Mayoral Proclamation. We will look at ways of participating in this celebration possibly Arbor Day Flags, and a potential tree planting event from our sister city in Japan.

**Commemorative Tree Project** – Marks son will be working on this project over the summer.

**Summer Hiatus** - Dale moved and Bruce seconded to not hold meetings in July or August. Unanimous vote for approval.

**Event Display Board** – Jen presented paper drafts of the display board and asked for CFC input or changes. All agreed it was a great draft, contributed some minor technical changes and agreed Jen should move forward with the display board.

**NEW BUSINESS**

None at this time

**PROJECT REPORTS**

None at this time.

**NEXT MEETING**

Next meeting will be September 17, 2014 at the Community Auditorium at 5:30 pm.

**MEETING ADJOURNMENT**

Mark moved and Lance seconded to adjourn the meeting. Unanimous affirmative vote adjourned the meeting. Meeting was adjourned at 6:15:10 pm.

Respectfully submitted,

Dale Wiley  
CFC Secretary

**APPROVED**



**COMMUNITY FORESTRY COMMISSION  
CITY AUDITORIUM  
MAIN STREET, FOREST GROVE, OR  
September 17, 2014**

**Meeting called to order at 5:36 pm President Jen Warren in Chair.**

**Members Present** – President Jen Warren in Chair, David Hunter, Bruce Countryman, Mark Nakajima, Lance Schamberger

**Members Absent** – Dale Wiley

**Staff Present:** Dan Riordan

**Council Liaison:** Ron Thompson

**Meeting Minutes Approval:** No minutes were presented for approval.

**Citizen Communication:** None

### **OLD BUSINESS**

**URBAN FOREST MANAGEMENT PLAN** – Bruce presented the latest draft of the Urban Forest Management Plan. The Plan includes a summary of tree related considerations in City parks. David is working on a tree species list with scientific and common names. The list could be incorporated into the Plan. Bruce requested that Commission members review the draft carefully and bring back comments and suggestions at the next Commission meeting on October 15<sup>th</sup>. Bruce is looking for comments on whether the document fits together and makes sense. Jen suggested that Plan be divided into sections with various sections discussed in detail at upcoming Commission meetings.

**COMMEMORATIVE TREE PROJECT/BROCHURE** – No update.

**HAZARD RISK ASSESSMENT WORKSHOP** – David recommended that the hazard risk assessment workshop be postponed until May 2015. The Commission agreed to conduct a tree pruning workshop in November in lieu of the hazard workshop this fall. The tree pruning workshop will be held on November 8<sup>th</sup> at 9:00 AM at Talisman Park. Dan will request that an

announcement be included with the utility billing statement. An advertisement will also be published in the News Times.

**ARBOR WEEK CELEBRATION** – The Commission continued the discussion on ways to commemorate Arbor Week in 2015. Ideas included planting a tree to honor Forest Grove’s sister city. Another idea was to plant Oregon white oak trees at the AT Smith House. Planting trees at Hazel Sills Park was mentioned. It was also suggested that 25 trees be planted to observe 2015 being the 25<sup>th</sup> year of the City’s designation as a Tree City USA.

**NEW BUSINESS**

**NEXT MEETING**

Next meeting will be October 15, 2014 at the Community Auditorium at 5:30 pm.

**MEETING ADJOURNMENT**

Dave moved and Lance seconded to adjourn the meeting. Unanimous affirmative vote adjourned the meeting. Meeting was adjourned at 6:25 pm.

Respectfully submitted,

Dan Riordan  
CFC Staff Liaison

**APPROVED**

**MEETING MINUTES**

**ATTENDEES:** George Cress, Jeff King, Mark Nakajima, James Draznin, Mark Frandsen, Elena Uhing, Eduardo Corona, John Hayes, Howard Sullivan, Tim Budelman, Justin Norman, Guy Storms, Tom Steele.

**ALSO ATTENDING:** Michael Doherty (Guest Speaker from Doherty Ford).

**1. CALL TO ORDER:**

The meeting was called to order @ 12:11 p.m. by EDC Chair Tim Budelman.

**2. CITIZEN COMMUNICATION:**

None.

**3. APPROVAL OF MAY 8<sup>TH</sup>, 2014 SUMMARY MINUTES:**

Mark Frandsen moved to accept the meeting minutes as presented. Guy Storms seconded the motion. The minutes passed unanimously.

**4. ADDITIONS/DELETIONS & STAFF SUMMARY:**

Jeff King reported that Chaucer Foods is still renovating the building that they will be operating out of. They are currently hiring, and hope to open in the fall. Next Jeff said that the City Council approved the Urban Renewal Program. Jeff stated that Izgara Restaurant has closed and the owner moved to Florida, and that a restaurant called Dickie's Ribs may decide to lease the space next. He is meeting with the owner of Dickie's Ribs and it looks promising. Jeff also said he has a meeting tomorrow with a broker to discuss the possible development of the Hagen site which may end up as retail space coupled with apartments.

**5. BUSINESS:**

**A. McMENAMIN'S HOST UPDATE:**

Zack from McMenamin's addressed the group. He said that June had been a very good month for them, and also the past year in general had seen an increase, especially the hotel business & catering. He mentioned that they had hosted several weddings in the past few months, and then added that Hilary Olivos has left McMenamin's to take a job with the state of Oregon in Salem.

**B. FOREST GROVE CHAMBER OF COMMERCE UPDATE:**

Howard Sullivan gave a brief update on Chamber news. He said that since May 1<sup>st</sup> the Chamber has welcomed 9 new members. He also reported that the Chamber is joining forces with Adelante Mujeres to support micro-business in Forest Grove and to help those businesses grow. Howard mentioned that his assistant will be leaving soon due to the fact that she will be moving to north Portland.

**C. GUEST SPEAKER ---- MICHAEL DOHERTY FROM DOHERTY FORD:**

Michael Doherty of Doherty Ford introduced himself to the commission and explained that he is a 3<sup>rd</sup> generation business owner, Doherty Ford was started in 1948 and has been handed down in his family. He explained that Doherty Ford's mission is to provide a full array of vehicle needs including sales, parts, vehicle repair, and a body shop. He was proud to announce that Doherty Ford has several long-term employees, some which have been with them as long as 30 years. Next he listed some of the priorities and goals of his dealership, and took several questions from EDC members.

**D. 2014 – 2015 ECONOMIC DEVELOPMENT BUDGET & WORK PLAN:**

Jeff King provided handouts to the group and explained the upcoming budget and work plan for Economic Development in the new 2014 – 2015 fiscal year.

**6. COUNCIL COMMUNICATIONS:**

Elena Uhing reported that the City Council has completed the budget process for the City's new fiscal year, that the final session was on May 29<sup>th</sup>, and that it was approved on June 23<sup>rd</sup>. Next Elena went on to announce several interesting events that have occurred or are upcoming within the City.

**7. STAFF & BOARD MEMBER COMMUNICATIONS:**

Jeff King thanked all of the board members for their support and input over the last fiscal year. He said that because of that support the EDC was able to accomplish quite a bit and were able to extend a reduction of fees to new businesses and start-ups within the City.

John Hayes mentioned briefly that with the up-turn in the economy, the School District is again hiring, and currently has 50 new employment positions open, most of which are for teaching staff.

8. **ANNOUNCEMENT OF NEXT MEETING:**

EDC Chair Tim Budelman announced that the next meeting of the EDC will be on September 11<sup>th</sup>, 2014 @ 12:00 noon @ McMenamain's Grand Lodge in the Alice Inkley Room. There will be no meeting next month as August is the normal recess period for the EDC.

9. **ADJOURNMENT:**

The meeting was adjourned @ 1:32 p.m. by EDC Chair Tim Budelman.

Approved by the Forest Grove Economic Development Commission:

Date: \_\_\_\_\_

9/11/14

Signed: \_\_\_\_\_



EDC Chair

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APPROVED

MEETING MINUTES

**ATTENDEES:** George Cress, Jeff King, Elena Uhing, Eduardo Corona, John Hayes, Howard Sullivan, Tim Budelman, Peter Truax, Michael Sykes, Don Jones, Hope Kramer, James Draznin, John Hayes, Bruce McVean, Nyssa Rivera, Guy Storms, Robert Weaver, Jim Flemming.

**ALSO ATTENDING:** Connely Woody, Commercial Broker CRA

1. **CALL TO ORDER:**

The meeting was called to order @ 12:08 p.m. by EDC Chair Tim Budelman.

2. **CITIZEN COMMUNICATION:**

None.

3. **APPROVAL OF JULY 10<sup>TH</sup>, 2014 SUMMARY MINUTES:**

Bruce McVean moved to accept the meeting minutes as presented. Seconded by Hope Kramer. The minutes passed unanimously.

4. **ADDITIONS/DELETIONS & STAFF SUMMARY:**

Jeff King reported on the status of Chaucer Foods, which should be starting up by the end of this year. He also mentioned that there is potential for 150 employees and a new plant in the area over the next three years if all goes well. Next, Jeff updated the group on Summit Foods who had previously presented to the commission regarding their new apple chip product, and their location in Forest Grove, stating that there were lots of positive progress in the company's development and sales of the product. A commission member asked where the apple chips would be available, which will be at Urban Decanter and Waltz Brewing and they are in New Season locations as well. Jeff then gave an update on the Times Litho building and discussed interest from a hotel development company that seems serious. The development company has received the RFP to a feasibility study. Jeff went on to mention that there was potential on the Haggen site which may be used for 160 to 180 higher end market apartments with commercial use out front. Jeff also updated on the former Izgara restaurant site that is now going to be a Dickie's Ribs, which has had some struggles but it seems to be moving forward once again.

Jeff noted the record number of attendance for local and community events, and great start up for Waltz Brewing. He went on to discuss questions of why there is tourism growth in the community, and pointed out a number of articles that are drawing attention to Forest Grove, including pieces in Oregon Business Magazine and their WebWrap, and in Oregon Travel's fall e-issue.

Lastly, Jeff discussed the Small Business Program and the courses that are happening at the Small Business Development Center.

**BUSINESS:**

A. **MCMENAMINS – HOST UPDATE:**

**ECONOMIC DEVELOPMENT COMMISSION**  
**THURSDAY SEPTEMBER 11, 2014**  
**McMENAMIN'S GRAND LODGE – ALICE INKELY ROOM**  
**PAGE 2**

Jeff King reported that McMenamins has seen steady growth and activities, including an increase of 1,500 rooms being used over the past year, which illustrates positive growth not only for McMenamins but also within Forest Grove.

**B. FOREST GROVE CHAMBER OF COMMERCE UPDATE:**

Howard Sullivan gave a brief update on Chamber news. He told the commission that his previous assistant had left, and he has started working with a new assistant, Susan Durose. He went on to discuss the upcoming Corn Roast on the Pacific campus (9/20) and asked for sponsorships. Howard then described a new investment program for Chamber Members and he has seen a more active interest from Members regarding their status within the program. The Chamber has also created a new banner with all the sponsors on it. Lastly, he reported that there is a Chamber Luncheon next Monday, Sept. 15, 12pm, at the ATC Smith House.

**C. GUEST SPEAKER ---- CONNELLY WOODY, COMMERCIAL BROKER  
CRA:**

Jeff started by introducing Connelly Woody with quick note about income growth in the community and population growth. And the community suffers from retail leakage, but Jeff pointed out that there is some opportunity at the retail site at the former Alberstons site and the Haggen site. We wanted to get an idea from Connelly regarding trends, what he is seeing out in the market and the community.

Connelly started by thanking everyone for the invitation and stating that he was glad to be with the commission. He went on to focus on the property he is working with directly, owned by Jeff Rasik. Connelly was the developer, who pulled property together for Alberstons. The whole property ended up going on the market with HSM, but Jeff kept a 28,000 sq. feet section on the corner for leasing. Connelly discussed the challenges of trying to lease such a small piece for both larger and smaller user standpoints. When larger retailers, Starbucks and Blackrock looked at the site it became unfeasible with the costs, and even the costs using a contractor to put in basic infrastructure to the site makes it a very cost prohibitive site. He passed around some renderings of the property for the commission to review. Connelly then explained that when he pitches the site to national retailers he often gets the response that there are other properties in the Portland Metro area that are a higher priority for development. He pointed out that retailers are very interested in Tanasbourne, Washington Square and Cedar Hills areas first and then once they are established have interest in moving out into smaller areas. Forest Grove is not considered a high priority.

Connelly opened it up for questions from EDC members. There was a discussion regarding what could be put into Jeff's property, the overall market demand for retail space, the effects of Intel's expansion, what Forest Grove can offer retailers and how can Forest Grove can make itself more attractive to new business. Connelly responded regarding SDC fees, lower

development costs, and open books between developers and the tenants. He also noted that retailers are always positive about signage, parking and visibility, which is the opposite direction where retail sites are going in zoning. Setbacks, visibility and parking out front, are what seems to be preferred amongst retailers. Connelly said that demand will continue to grow as the economy improves, and this may create more demand in Forest Grove in the long run.

**D. SUBCOMMITTEE REALIGNMENT/STRATEGIC PLAN**

Tim Budelman opened the discussion by asking EDC members if subcommittees should be merged. Jeff King proposed that the next EDC meeting in October or November to be dedicated to discussing the subcommittee's findings and proposals regarding the Strategic Plan. Jeff also discussed how the subcommittees have been active, and how some have been absorbed within one another. There was discussion from EDC members regarding the questions put forth. Members decided that over the next month the subcommittees will meet again with Jeff to create concise points for changes or comments to the Strategic Plan and Jeff will present these findings to EDC members in the November meeting, which will not have a speaker. The October meeting will have a guest speaker.

**E. SUBCOMMITTEE UPDATES**

Jeff King started the discussion pointing to a handout showing economic indicators for the Portland Metro area. Nyssa Rivera discussed an article "Oregon Cities on the Rise" which presented economic indicator data from during the recession from across the State. Nyssa noted that there was a new data set coming out on October 23 and December 4 and perhaps there would be different findings once this data was analyzed.

**5. COUNCIL COMMUNICATIONS:**

Elena Uhing announced several interesting events coming up in the City. Elena also reported on projects conducted by Administrative Services, the Aquatic Center, the Library, Pacific University, the Fire Department, and GroveLink. Peter Truax also added a number of comments regarding the items that Elena mentioned and also updated on a number of other events coming up in the City.

**6. ANNOUNCEMENT OF NEXT MEETING:**

EDC Chair Tim Budelman announced that the next meeting of the EDC will be on October 2.

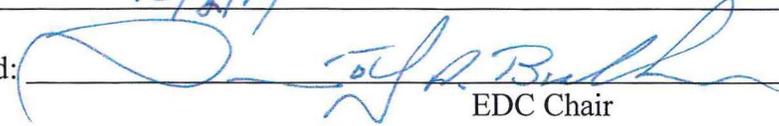
**7. ADJOURNMENT:**

The meeting was adjourned @ 1:40 p.m. by EDC Chair Tim Budelman.

ECONOMIC DEVELOPMENT COMMISSION  
THURSDAY SEPTEMBER 11, 2014  
McMENAMIN'S GRAND LODGE – ALICE INKELY ROOM  
PAGE 4

Approved by the Forest Grove Economic Development Commission:

Date: 10/2/14

Signed:  \_\_\_\_\_  
EDC Chair

APPROVED

*Library Commission approved minutes as amended on Oct 14, 2014.*

**1. CALLED TO ORDER AND ROLL CALL:**

Pamela Bailey, Chair, called the meeting of the Library Commission to order at 6:30PM on Tues Sep 9, 2014.

**Members Present:** Pamela Bailey, Chair; Nickie Augustine; Doug Martin; Jon Youngberg, Secretary.

**Members Absent:** Annie Hicks; Kathleen Poulsen, Vice-Chair; Dayla Skye-Martin;

**Staff:** Colleen Winters, Library Director

**Council Liaison:** Peter Truax, Mayor

**Others:** None

**2. ADDITIONS/DELETIONS: None.**

**3. APPROVE LIBRARY COMMISSION MEETING MINUTES OF (Aug 19, 2014):**

**MOTION:** Doug moved, seconded by Nickie, to approve the Aug 19, 2014 minutes as presented. **MOTION CARRIED** by all.

**4. CITIZEN COMMUNICATIONS: None.**

**5. INFORMATIONAL ITEMS:**

**5a. FOUNDATION REPORT: Colleen Winters reported about the Library Foundation of Forest Grove:**

**a)** The “glass” portion of the Ed Carpenter art project for the library (called “Mollie’s Garden”) was installed in the ceiling/skylight area near the library’s circulation desk over the 3-day Labor Day weekend. See Ed Carpenter’s website for more info (and pictures) related to this project:  
(<http://www.edcarpenter.net/home/home.html>)

**b)** This project includes participation and collaboration by metal artist Eric Canon and wood artist Greg Kriebel. Their contributions to the project will

focus on enhancement of the four wooden columns, and new light sconces, all under the skylight. These portions of the art work (and any other remaining necessary adjustments) may be installed during Nov 2014.

c) The dedication/celebration for the entire Ed Carpenter art project will not be scheduled until all the work is done, so that date has not been set.

d) Many positive comments were made by members of the Library Commission about the glass artwork. The Ed Carpenter art project has been planned for 16 years. Positive local newspaper coverage is expected. Mayor Truax said that the cultural life of the city has been enhanced. Doug mentioned all the effort (including fundraising) that was needed to get the artwork ready and installed, and that the artwork is a real boost to the city.

e) The Foundation has returned to fundraising efforts that will provide “furnishings” for the older part (Children’s part) of the library. This interrupted campaign will continue trying to raise \$75,000 to \$100,000 for new furniture, signage, and for more art for a “sense of arrival” into the Children’s part of the library, going up the ramp, etc. Local design, artists, materials to be favored.

f) The annual Foundation “Friends & Family” fundraiser will be held Tues Sep 30, 2014 from 5PM to closing for those having dinner at the Ironwork Grill, with 50% of proceeds going to the Foundation.

g) See the Library Foundation of Forest Grove’s web site ([www.fglf.org](http://www.fglf.org)).

**5b. FRIENDS REPORT:** Colleen Winters reported about the Friends of the Forest Grove Library:

a) The Friends board will next meet Wed Sep 10, 2014.

b) The first Friends Cultural series event (Mrs. Pittcock visits, Part 2) of the 2014 – 2015 season occurred Sep 2, 2014. There were 81 attendees.

c) Dave Pauli and Susan Munger are in charge of planning of the Friends Cultural Series. Dave Pauli wishes to step down from this task after many years in charge of the series.

d) A new Friends Cultural series of events is being held in Spanish for the 2014 – 2015 season, with 4 programs, to be held on Monday nights. The first event was held Sep 8, 2014 starting at 6PM, with an event called “Latin Flavor: Musical Travels and Encounters” - presented by Professor Victor Rodriguez, of Pacific University. There were 29 attendees.

e) The Fall Used Book Sale will be held during the week of Nov 10, 2014, with setup starting Nov 4 and continuing that week until done.

f) The Friends web site is at: [fglibraryfriends.org](http://fglibraryfriends.org).

**5c. COUNCIL LIAISON REPORT :**

- a) City election (City Council and Mayor) coming up in November.
- b) A 9/11 flag ceremony will be held Sep 11, 2014 at about 9am at the large City flag pole on Pacific Ave at Laurel St.
- c) Backyard burning ban was passed, to take effect in 2015. Allows burning on some days during a few weeks in the Spring, only, depending on weather conditions. (Mar–Jun 15, with DEQ deciding which days.) That is, no backyard burning would be allowed in the Fall starting in 2015. This proposed ban would be in effect inside the City Limits only. A complete ban on backyard burning might be considered in a few years.
- d) Hearing held on a possible housing development west of B Street, an appeal of an earlier planning decision to the City Council. Expected that the developer will work with City planning staff to make another plan.

**5d. LIBRARY DIRECTOR’S REPORT:** Colleen Winters reported these items:

- a) The 2014 Summer Reading program has been completed. A total of 869 children, 142 teens, and 136 adults participated this summer, all numbers up from the summer of 2013. Children and teens checked out 14,051 books, and each received a free book.
- b) Dedication for the new (small) quilt on the north wall of the Children’s part of the library will be held Sep 23, 2014 at 5pm.
- c) An in-service training session on “Ethics” will be held for library staff.
- d) Oregon Symphony Preschool Storytimes programs will be held each of the last 4 Wednesdays in October, with an Oregon Symphony musician. Public Arts Commission helped sponsor. For ages 3-6.
- e) There is another vacancy for a part-time library assistant. Have not yet completed earlier work choosing on-call, part-time professional position(s), where higher qualifications are needed.

**6. DISCUSSION OF ITEMS:**

a) The revision of the Behavior Policy that the Library Commission looked at in August was considered again. No further changes have been made to the document in the last month. The language was considered to be well-enough written to cover illegal or disruptive activities that no change would be needed to highlight that smoking on City property is now illegal.

1) Colleen mentioned that we all desire the library to be friendly and welcoming. So, the “Behavior Policy” (a list of rules) is not posted on the walls by the entrances. But the document can easily be handed out on

request, or as needed. A Spanish language version of the document will also be prepared.

2) If the Library Commission approves this new proposed Behavior Policy, it would ultimately go to the City Council for approval.

**3) Approval of the Forest Grove City Library Behavior Policy:**

**Motion:** Doug moved, seconded by Nickie, to approve the revised Behavior Policy as presented at the Aug and Sep 2014 Library Commission meetings. **Motion Carried** by all.

b) At the next meeting of the Library Commission, we should consider a draft of what we want the LVPP committee to do with regard to the Library Visioning and Planning Process. Mayor Truax and Kathleen provided written notes to add to Jon's early notes document that should help with this.

**7. ANNOUNCEMENT OF NEXT MEETING:**

The next Library Commission meeting will be held on Tues Oct 14, 2014 at 6:30PM in the Rogers Conference Room at the Forest Grove Library.

**8. ADJOURNMENT:**

Hearing no further business, Chair Bailey adjourned the meeting at 8PM.

Minutes respectfully submitted by:

Jon Youngberg, Library Commission Secretary

**APPROVED**

**PARKS AND RECREATION COMMISSION REGULAR MEETING  
WEDNESDAY, SEPTEMBER 17, 2014  
COMMUNITY AUDITORIUM-CONFERENCE ROOM  
PAGE 1 OF 2**

- 1) **ROLL CALL:**
  - a) **Commissioners** – Quinn Johnson, Mike Olson, Howard Sullivan, Susan Taylor, Jeremiah Toews, Paul Waterstreet and Todd Winter.
    - i) Absent – Ralph Brown and Glenn VanBlarcom
  - b) **Staff** – Tom Gamble, Steve Huffman and Cindy Donovan
  
- 2) **CITIZEN COMMUNICATIONS:**
  
- 3) **APPROVAL OF MINUTES:** The minutes of the July 16, 2014 meeting were approved.
  
- 4) **ADDITION/DELETIONS:** None
  
- 5) **PRESENTATION:**
  - a) **North Entrance Eagle Project** – presentation postponed
  
- 6) **OLD BUSINESS:**
  - a) **Talisman Park**
    - i) A group will meet tonight at 5:00 p.m. to work on the posts and platforms.
    - ii) Next work party will be on the 26<sup>th</sup> to hopefully finish the project.
  - b) **Volunteer Awards**
    - i) There were nominations for two programs and six Eagle Scout projects.
    - ii) A letter will be sent to all the nominees and the winners will be recognized before the City Council.
    - iii) Paul, Todd and Steve will visit all the Eagle Scout projects and make a formal motion next meeting for the selection of the winner.
  - c) **Tobacco Policy Update**
    - i) Tom spoke at the ORPA conference on how we implemented our policy.
    - ii) Compliance has been good with no major issues.
    - iii) The signage that was put in place is still there.
    - iv) Park staff has time for other issues since they are not spending so much time picking up cigarette butts.
  - d) **Sundial Project**
    - i) Construction is underway and the concrete has been poured.
    - ii) Around October 3<sup>rd</sup>, once the concrete has cured, artwork and numbers will be added.
    - iii) Funds are still being raised and there are 3 numbers left to purchase, six month tiles (\$150 each) or individual tiles (\$10 each).
    - iv) To use the sundial, the person is the gnomon that casts the shadow.

**PARKS AND RECREATION COMMISSION REGULAR MEETING  
WEDNESDAY, SEPTEMBER 17, 2014  
COMMUNITY AUDITORIUM-CONFERENCE ROOM  
PAGE 2 OF 2**

7) **NEW BUSINESS:**

a) **Property Purchase Southwest**

- i) The purchase of the property located at the south end of Elm Street from the Friends of Historic Forest Grove is underway. It is a 3.2 acre parcel.
- ii) Preliminary clearing of the site will include removing the pile of asphalt and the concrete moved and ground up.
- iii) There will be a gravel access drive to the A.T. Smith House.
- iv) A conceptual design will be done for our property and the A.T. Smith House.
- v) The biggest challenge is perception because the property is located in an industrial area.

b) **Fall Pool Maintenance/Programs**

- i) There was a three week closure this year for maintenance. The pool was built in 1967 and things wear out.
- ii) The many layers of paint were removed from the bottom of the pools and they were repainted and new tiles were installed in the showers.
- iii) We kept our patrons up to date with Facebook posts, which they really seemed to appreciate.

c) **Grant Update**

- i) The Natures and Neighborhood contract is signed.
- ii) Next step is a Request for Proposal for trail design.
- iii) This is a two year deal and we need to be building by this time next year.

8) **COMMISSIONER'S REPORTS:** None

9) **STAFF REPORTS:**

a) **Tom:**

- i) The Gresham Outlook ran an article about swimming lessons at schools being the best way to prevent drowning's. He was asked to write an article about the issue. He attended a meeting with many different agencies represented. They discussed preventative, helpful measures. Public education is key and swimming lessons should be a priority for people.

10) **ANNOUNCEMENT OF NEXT MEETING:** The next meeting will be Wednesday, October 15, 2014 at 7:00 a.m.

11) **ADJOURNMENT:** The meeting was adjourned at 8:22 a.m.

APPROVED

Minutes approved by the PAC on October 9, 2014.

**1) CALL TO ORDER:** Kathleen Leatham called the meeting to order at 5:00PM.  
**PRESENT:** Kathleen Leatham, Helvi Smith, Pat Truax, Dana Zurcher ,Laura Frye , Linda Taylor, Dana Lommen, and Kathy Broom **Staff Liaison:** Colleen Winters, Tom Gamble and Camille Miller **Guests:** Emily Lux, Cindi Dauer, Linda Saari, Josh Gunderson, Lars Stewart, Emily Frankie and Marcia Alajoki.

**2) CITIZEN COMMUNICATION:** Josh Gunderson introduced himself as a street artist who is pursuing a venue for a legal site to graphically express himself. Kathleen explained the goals and guidelines for PAC grants. Several board members gave suggestions to further his quest.

**3) APPROVAL OF PAC MEETING MINUTES:** Dana Z. moved, seconded by Linda, to approve the corrected minutes from August 14, 2014, the vote was favorable.

**4) ADDITIONS/DELETIONS: Add**

- 1. Update on the Community Sundial project for PAC.
- 2. Approve PAC ByLaws for the 2<sup>nd</sup> time
- 3. Reception at the Library for quilt project.

**5) BUSINESS:**

**a) TCP Art Studio presentation-**Lars Stewart and Emily Frankie shared the growth of the Art Studio program. They are presently serving 15-16 clients weekly and have hosted successful art shows for their clients. The studio is open Tuesday through Friday from 9 to 5 pm. Their next reception will be September 19, 2014, from 6-8:30 at TMUES.

**b) Mini-Grant Request:** - Marcia Alajoki presented a grant request from Valley Art for \$500 to be used at their Annual Artist Event for advertising. Suggestions were made for a clearer financial recording for the application. Helvi moved and Laura seconded a motion to approve the request with the funds to be taken from discretionary funds. The vote was favorable.

**c) Walking Brochure Project** - Dana Z. presented rough draft of the brochure. Tour Buddy software at \$40 a month looked into as a possibility for this project. A committee of Dana Z., Kathleen, Kathy, Pat and Emily will meet on Monday, September 15, in the library at the Beehive to continue working on the brochure and possible walking sites.

**d) Update on the Community Sundial project for PAC** - Dana Z. will work with her sister to create a PAC logo for our tile.

**e) Approve PAC ByLaws for the second time-**As prescribed in our bylaws, a change needs to be presented and voted upon at two separate meetings. The proposed change is to allow members of the commission to be selected from the population on their

interest in art, not with a business or group. Pat moved and Helvi seconded a motion to approve the change in the Bylaws. The vote was favorable. Emily Lux has already been interviewed for a PAC board position and will join as an official member following the city commission's acceptance for our change.

**f) Reception at the Library for quilt project** - Linda presented a request of \$35 for the reception on September 23 from 5-5:30 at the library. Laura moved and Dana Z. seconded a motion for the funds to come from discretionary funds. The vote was favorable.

**g) Updates:**

**Meet the Artist Dinner.**-At this point 23 tickets have been sold for the September 13 event at the home of Camille Miller.

**FG Library Foundation:** Ed Carpenter has installed his part of Mollie's Garden. There is no completion date or reception set at this time.

**Finances**-The finances have been updated to reflect current balance.

**6) COMMISSIONERS COMMENTS:** Linda Taylor reported on a successful dance presentation at the Library.

**7) STAFF COMMUNICATIONS:** Colleen announced the Oregon Symphony will present a program during the 3-5 year old story time in October.

**8) ADJOURNMENT:** The meeting adjourned at 5:55. The next meeting will be October 9, 2014, in the Rogers Room at the Library.

Respectfully Submitted by Pat Truax

## Memorandum

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**To:** Mayor Truax and City Councilors  
**From:** Anna D. Ruggles, City Recorder  
**Subject:** Accept Resignation on Public Safety Advisory Commission  
**Date:** October 27, 2014

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Laura Hale, Public Safety Advisory Commission (PSAC), representing Citizen At-Large, Term Expiring December 31, 2017, has informed staff of her desire to resign from the PSAC as per her attached resignation letter notification.

**STAFF RECOMMENDATION:**

Staff recommends Council accept the above-noted resignation and deem the seat vacant.

## Anna Ruggles

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**From:** Sharon Cox  
**Sent:** Monday, October 20, 2014 12:43 PM  
**To:** 'Robert Mills'  
**Cc:** Michael W. Kinkade; Janie Schutz; Anna Ruggles  
**Subject:** FW: Laura Hale ~PSAC

See Laura's resignation below.

**From:** Laura Hale [REDACTED]  
**Sent:** Monday, October 20, 2014 12:13 PM  
**To:** Sharon Cox  
**Subject:** Laura Hale ~PSAC

It is with great regret that I am writing to inform PSAC that I will no longer be able to fulfill my volunteer position. An unexpected opportunity has presented itself to me and my family and through much deliberation and consideration, my husband and I both feel it is the right time to accept. I know that PSAC requires and deserves 100% focus and dedication from its volunteers and in integrity I know I can longer fulfill that commitment. Please except this notice as my immediate resignation. It has been an honor to work PSAC, our Chief of police and fire Chief. I hope to one day resume my position, and will absolutely continue to look for ways to be a part of change and growth in our beautiful city of Forest Grove.

Sincerely,

Laura Hale

# CERTIFICATE OF APPRECIATION

*Awarded to*

*Laura Hale*

*Public Safety Advisory Commission  
2013 ~ 2014*

In Recognition of Dedicated Service to the  
City of Forest Grove and Citizens of Forest Grove

*The Forest Grove City Council sincerely thanks you for your dedicated years of service and  
the exceptional leadership you exemplified on the Public Safety Advisory Commission.*



city of  
forest  
grove

A handwritten signature in black ink, appearing to read 'Peter B. Truax'.

Peter B. Truax, Mayor  
Forest Grove City Council  
October 27, 2014

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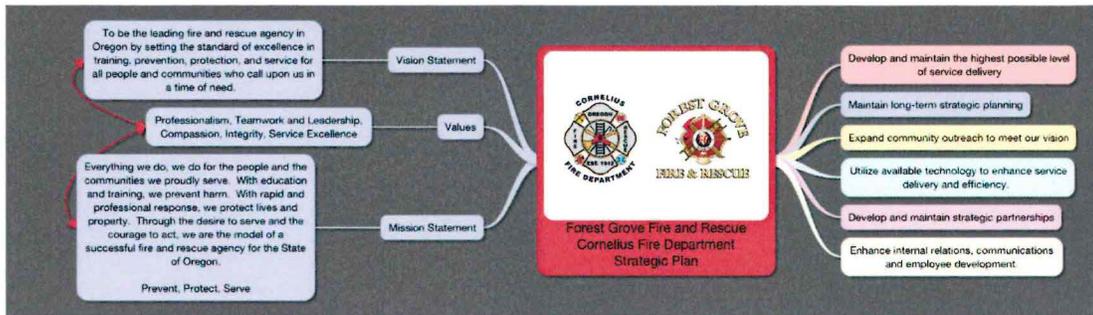


# Fire Chief's Report

Reporting Period: September 22-October 10, 2014



35



## SEPTEMBER UPCOMING EVENTS

- **October 24: Gales Creek Halloween Party, 1820-2000, Gales Creek School**
- **October 24: Breast Cancer Awareness fundraiser at the Human Bean in Cornelius, all day.**
- **October 31: Be-Seen-At Halloween: 5 PM, meet at Station 4 at 4:30, handout glow sticks to trick-or-treaters downtown so they can be seen in the dark later!**
- **November 11: Veterans Day Ceremony, Cornelius Veteran's Park, 1100-1200.**
- **December 6: Holiday Light Parade, MANDATORY EVENT, more details coming! 1600-1900.**
- **January 17: Crab Feed 2015! MANDATORY EVENT**

## Notable Calls and Events

- Forest Grove: October 10 we responded to a reported barn fire in the Verboort, which turned out to be a large burn pile of illegal materials. The pile was extinguished and the incident will be referred to DEQ.
- Joint: On October 4 both houses conducted their annual open house. Over 1500 people attended the Forest Grove Open House, and 300 people took part in activities at the Cornelius Fire Station.





# Fire Chief's Report

Reporting Period: September 22-October 10, 2014



- Forest Grove: On September 26 responded to a victim that fell out of a second story window. Patient was transported to an area trauma center.
- Fire Prevention month activities were held at most of the local schools, with over 600 kids hearing our fire and life safety messages.



## Projects and Administration

Links to strategic goals are indicated by the SG# at the end of each update. See chart on page 1. To see the latest updates to our strategic plan use link:

<https://www.dropbox.com/s/y85q1lh7zmixbuk/Strategic%20Plan%20-%20Strategies.pdf?dl=0>

- Forest Grove: Completed the contract approval process for the new Type III from HME. It is on order and should be here this spring. (SG1)
- Forest Grove: Continued to provide a brush truck and tender to the Scoggins Creek fire under contract with ODF until September 23, and then we provided paramedic support until September 25. (SG5)



## Fire Chief's Report

Reporting Period: September 22-October 10, 2014



- Forest Grove: The new Tender has arrived in Hillsboro and is having finishing work done on it at True North. (SG1)
- Forest Grove: Chief David Nemeyer researched possible exemption process for new burning ordinance – recommendations forthcoming.
- Cornelius: Christian Viera offered \$5000 for the Cascade Unit, which we have accepted. The unit will be used by the Asuncion Fire Department in Paraguay. Captain George Robards is completing the necessary paperwork to complete this.
- Cornelius: The CFD Type I and the new Tender are both on order and on schedule for delivery this fiscal year. (SG1)
- Forest Grove: Received notification that we were unsuccessful for our 2013 AFG grant request for a fire training simulator and fitness equipment.
- Joint: Update on Cooperative Work Efforts Study – Received the data requests from ESCI, on Thursday uploaded over a gigabyte of data to a shared cloud folder for both Cities and both rural fire districts. There are several data items still being gathered – we are about 80% done. Data requests for Banks and Gaston were forwarded to them on Friday. The team will be out here October 28-31 for data collection – currently working on scheduling for site visits and interviews. (SG5)
- Forest Grove: Completed presentation for Forest Grove City Council on Scoggins Creek Fire – presentation to be delivered October 13. Will also provide presentation to PSAC, City of Cornelius, and both Rural Fire Districts at upcoming meeting. (SG1)
- Cornelius: BC Patrick Wineman has started the planning process for the annual Crab Feed. He will serve as the IC. His team includes Planning Chief Kevin Ritcheson, Operations Chief Jason Lawson, Finance Chief Jeff Bade, and Logistics Chief John Phelan. Date is January 15, 2015. Mark your calendars. (SG3)
- Forest Grove: Captain Smith completed testing and evaluation of the problems with the ladder truck. The “Toomey Strut” has been repaired, and no hydraulic leak has been found. The truck has been returned to service. (SG1)
- Joint: Completed grant contract with State Office of Emergency Management for COOP project (\$40,300), and contacted vendor to begin process. (SG2)





# Fire Chief's Report

Reporting Period: September 22-October 10, 2014



- Joint: Met with Washington County administrator to review possible plan to raise \$95 million for necessary radio infrastructure upgrades for Washington County. (SG2, 5)
- Joint: TVID Update: Division Chief O'Connor met with TVID representatives and provided location information and initial discussions for first hydrant installation. We proposed a location on Visitation Road. (SG5)
- Joint: On September 23 the Cornelius Rural Fire Protection District met and approved the WCCCA Intergovernmental Agreement, on September 25 the Forest Grove City Council approved, on September 29 the Cornelius City Council approved, and on October 1 the Forest Grove Rural Fire Protection District approved. All 19 user agencies have now approved this. (SG5)
- Joint: NFPA 1410 evaluations are being conducted by Captain Tad Buckingham. These evaluations measure our firefighter skill performance against national standards. Lt. Phil Duncan is coordinating annual physical ability test for all personnel. (SG1, 6)
- Joint: On September 24 the joint Forest Grove and Cornelius Firefighter's Association and agreed to change their name to the Western Washington County Firefighter's Association. The association also agreed to offer to help in any way possible to make sure the Holiday Light Parade occurs, since the previous sponsor has stepped away. (SG3)
- Joint: I attended the WCCCA Board of Commissioner retreat on September 25. I was elected to the CEO Board of WCCCA, the union contract was approved, a CAD update was provided (still on target), an update to the Communications System project was provided, and a presentation on PSAP consolidation was reviewed. (SG5)
- Joint: I have been attending a meeting of community members that are helping to put together the Holiday Light Parade. Things are going well, but on December 6 we will need lots of volunteers to make this happen. Two meetings have been held so far and a Incident Action Plan has been developed. (SG2)
- Forest Grove: On September 2 the Forest Grove IT Steering committee met. I assumed the role of chair, a status update was provided by Mike Nolop, and recommendations were made regarding email retention, social media, blogs or Facebook pages for Commissions, and upcoming projects. The meetings have now been moved to quarterly.



## Fire Chief's Report

Reporting Period: September 22-October 10, 2014



- Forest Grove: Attended the Pacific University Cascade Hall dedication. Lt. Karen Hendrix-Nordstrom is working on a preplan for this new facility.
- Forest Grove: On October 4 and 5 FGFR provided medical coverage to football games at Pacific University. They reimburse us for our cost for this. (SG1, SG3)
- Forest Grove: Met with Daniel Robles to discuss upcoming disaster exercise design, tentatively scheduled for November 19. (SG2)
- Joint: Met with Captain Mike Lanter and Lieutenant Phil Duncan, our safety committee chairs, regarding Fire Department Safety Committees. Decision was made to combine our committees and to focus on NFFF 16 Life Safety Initiatives to enhance firefighter safety. This is in the developmental stages. (SG6)
- Joint: Met with Department Wellness Team and review projects from last year and developed goals for this year. Forest Grove is now utilizing Fitness 1440, we are investigating using The Gym for Cornelius. We are beginning the firefighter fitness evaluation project with graduate students from Pacific University, which is being coordinated by the Wellness Team. Team was tasked with researching and developing a list of fitness equipment needs for each station. (SG6)
- Forest Grove: On October 16 I met with the Arts Commission where we discussed our mural project on the south wall of the fire station. Several action items were developed and the commission has adopted this as a project. (SG3)
- Forest Grove: Captain Chris Woodford completed several projects for the station, including the installation of a framed cork board in our "hall of maps," installation of a window training prop for our fire prevention program, and installation of protective piping on our roof for ladder training evolutions.



# WCCCA KPI FORM D - Month End Internal ACTIVITY REPORT



|                           |                  |
|---------------------------|------------------|
| <b>KPI REPORT PERIOD:</b> | <b>September</b> |
|---------------------------|------------------|

| Dispatch Figures              |               |               |               |                |  |                                    |
|-------------------------------|---------------|---------------|---------------|----------------|--|------------------------------------|
| WCCCA Generated               | Last Month    | % Change +/-  | YTD           |                |  |                                    |
| Priority 1                    | 144           | 155           | -7.10%        | 1,339          |  |                                    |
| Priority 2                    | 2,959         | 2,894         | 2.25%         | 26,911         |  |                                    |
| Priority 3                    | 3,731         | 3,743         | -0.32%        | 33,534         |  |                                    |
| Priority 4                    | 2,816         | 2,728         | 3.23%         | 26,437         |  |                                    |
| Priority 5                    | 5,123         | 5,278         | -2.94%        | 47,872         | <b>PDCC Interface Calls</b>  |                                    |
| EMS                           | 3,271         | 3,292         | -0.64%        | 31,853         | PDCC Agency  | Total # of calls sent via PDCC ESB |
| FIRE                          | 1,023         | 952           | 7.46%         | 7,849          |  |                                    |
| <b>Self-Initiated (Field)</b> |               | Last Week     | % Change +/-  | YTD            | Alarms   | 0                                  |
|                               |               |               |               |                | BOEC   | 9                                  |
| Law                           | 24,399        | 23,154        | 5.38%         | 233,120        | CCOM   | 14                                 |
| EMS                           | 27            | 19            | 42.11%        | 249            | COLCOM   | 0                                  |
| Fire                          | 43            | 39            | 10.26%        | 342            | COW  | 0                                  |
| <b>Total Law</b>              | <b>39,172</b> | <b>37,952</b> | <b>3.21%</b>  | <b>369,213</b> | CRESA  | 0                                  |
| <b>Total Fire</b>             | <b>1,066</b>  | <b>991</b>    | <b>7.57%</b>  | <b>8,191</b>   | LOCOM  | 17                                 |
| <b>Total EMS</b>              | <b>3,298</b>  | <b>3,311</b>  | <b>-0.39%</b> | <b>32,102</b>  | AMR  | 0                                  |
| <b>Total</b>                  | <b>43,536</b> | <b>42,254</b> | <b>3.03%</b>  | <b>409,506</b> | MWA  | 0                                  |
|                               |               |               |               |                | Total Interface Calls  | <b>40</b>                          |

| PERSONNEL           |              |              | Logistics / Production               |       |                   |               |
|---------------------|--------------|--------------|--------------------------------------|-------|-------------------|---------------|
| CLASSIFICATION      | FTE Auth     | FTE Act      | Work Orders IS                       |       | Work Orders Radio |               |
| Administration      | 4.00         | 4.00         | Completed                            | 17    | Completed         | 147           |
| Dispatchers         | 64.00        | 61.00        | Hours                                | 16.38 | Hours             | 174.75        |
| Information Service | 5.00         | 4.00         | <b>Total Work Orders Processed =</b> |       |                   | <b>164</b>    |
| Operations          | 7.00         | 6.00         | <b>Total Hours =</b>                 |       |                   | <b>191.13</b> |
| Performance Mgmt    | 4.50         | 5.50         |                                      |       |                   |               |
| Radio Service       | 7.50         | 7.50         |                                      |       |                   |               |
| <b>Total</b>        | <b>92.00</b> | <b>88.00</b> |                                      |       |                   |               |

### System Outage Report

|       |
|-------|
| Notes |
|-------|

|       |
|-------|
| Notes |
|-------|

# WCCCA KPI FORM D - Month End Internal ACTIVITY REPORT



|                           |                  |
|---------------------------|------------------|
| <b>KPI REPORT PERIOD:</b> | <b>September</b> |
|---------------------------|------------------|

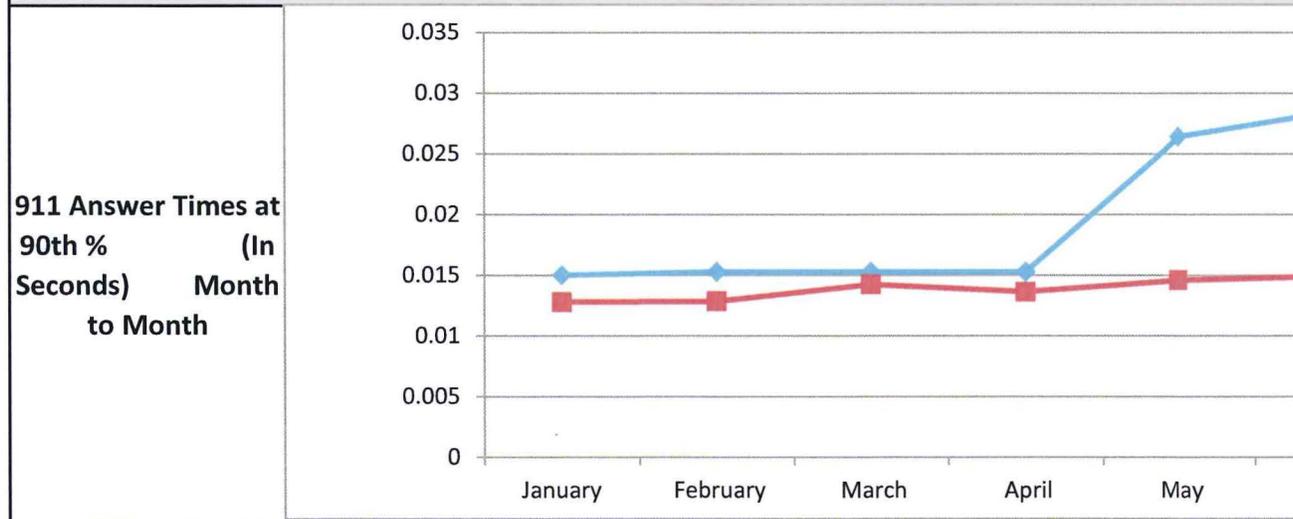
| 911 Telephone Activity       |       |         | Last Month | % Change +/- | YTD     | XMU Performance                        |            |
|------------------------------|-------|---------|------------|--------------|---------|--|------------|
| 911 Cellular                 | 8,595 | 67%     | 7,794      | 10.28%       | 254,138 | Cell XMU Routed                        | 13,082     |
| 911 Wireline                 | 4,307 | 33%     | 3,775      | 14.09%       | 109,672 | Cell XMU Blocked                       | 4,487      |
| 911 Average Talk Time        |       | 0:00    |            |              |         | <b>% of Cell Phone Calls Blocked =</b> | <b>34%</b> |
| 911 Total Talk Time hh:mm:ss |       | 1:11:49 |            |              |         |  |            |

| Non- Emergency Telephone Activity |               |                            |          |           |               |       |       |
|-----------------------------------|---------------|----------------------------|----------|-----------|---------------|-------|-------|
| Aband Calls                       | Alarms        | Fire Direct                | Non-Emer | Ops Calls | Out Bound     | Press | 911 C |
| 1,767                             | 0             | 870                        | 16,326   | 3,547     | 6,705         | 151   | 1,821 |
| <b>Total 911</b>                  | <b>12,902</b> |                            |          |           |               |       |       |
| <b>Total Non E</b>                | <b>22,715</b> | <b>Total Phone Traffic</b> |          |           | <b>42,322</b> |       |       |

| Wire Line 911 Telephone Activity                                     |         |          |      |                       |                         |      |      |             |
|--|---------|----------|------|-----------------------|-------------------------|------|------|-------------|
| Wire Line 911 Answer Times for all positions Dispatch and Call Taker |         |          |      |                       |                         |      |      |             |
| Answer Time in Seconds   |         |          |      | Total WL<br>911 Calls | Answer Time in Fractals |      |      |             |
| 0 to 5   | 6 to 10 | 11 to 15 | 16 + |                       | 25%                     | 50%  | 75%  | 90%         |
| 1,783  | 1,694   | 278      | 552  | <b>4,307</b>          | 0:04                    | 0:06 | 0:09 | <b>0:17</b> |
| 41%  | 39%     | 6%       | 13%  |                       |                         |      |      |             |

| Wireless 911 Telephone Activity                                     |         |          |       |                         |                             |      |      |             |
|---|---------|----------|-------|-------------------------|-----------------------------|------|------|-------------|
| Wireless 911 Answer Times for all positions Dispatch and Call Taker |         |          |       |                         |                             |      |      |             |
| Answer Time in Seconds  |         |          |       | Total Cell<br>911 Calls | Answer Time in Fractals     |      |      |             |
| 0 to 5  | 6 to 10 | 11 to 15 | 16 +  |                         | 25%                         | 50%  | 75%  | 90%         |
| 88  | 580     | 5,472    | 2,455 | <b>8,595</b>            | 0:12                        | 0:12 | 0:19 | <b>0:37</b> |
| 1%  | 7%      | 64%      | 29%   |                         |                             |      |      |             |
| <b>Abandoned 911 Calls</b>  |         |          |       | <b>1,767</b>            | <b>Average Abandon Time</b> |      |      | <b>0:02</b> |

**911 Answer Time Chart**



## WCCCA KPI FORM D - Month End Internal ACTIVITY REPO

|                           |                  |
|---------------------------|------------------|
| <b>KPI REPORT PERIOD:</b> | <b>September</b> |
|---------------------------|------------------|



| TIMED PERFORMANCE                                     |                                       |      |      |      |            |             |             |
|---|---------------------------------------|------|------|------|------------|-------------|-------------|
| Dispatch Activity                                     |                                       |      |      |      | Last Month | YTD (avg)   |             |
| <b>P -1 Calls</b><br>GOAL= 1:45                       | AVG Call Ans to Inc Generation        |      |      | 1:17 |            | 1:12        | 1:08        |
|   | AVG Speed Inc Gen to Dispatch         |      |      | 0:27 |            | 0:26        | 0:29        |
|   | <b>AVG Speed Call Ans to Dispatch</b> |      |      |      |            | <b>1:45</b> | <b>1:39</b> |
| <b>Total Processing Time (Fractals)</b>               |                                       |      |      |      |            |             |             |
| Percentile  | 25%                                   | 50%  | 75%  | 90%  |            |             |             |
| Time (m:ss)   | 1:03                                  | 1:30 | 2:05 | 2:57 |            |             |             |
|   |                                       |      |      |      |            |             |             |
| <b>Code 3 Fire</b><br>GOAL=1:30                       | AVG Call Ans to Inc Generation        |      |      | 1:01 |            | 1:12        | 1:06        |
|   | AVG Speed Inc Gen to Dispatch         |      |      | 0:23 |            | 0:29        | 0:23        |
|   | <b>AVG Speed Call Ans to Dispatch</b> |      |      |      |            | <b>1:25</b> | <b>1:42</b> |
| <b>Total Processing Time (Fractals)</b>               |                                       |      |      |      |            |             |             |
| Percentile  | 25%                                   | 50%  | 75%  | 90%  |            |             |             |
| Time (m:ss)   | 0:56                                  | 1:15 | 1:36 | 2:48 |            |             |             |
|   |                                       |      |      |      |            |             |             |
| <b>Code 3 Medical</b><br>GOAL=1:30                    | AVG Call Ans to Inc Generation        |      |      | 0:56 |            | 1:03        | 1:04        |
|   | AVG Speed Inc Gen to Dispatch         |      |      | 0:15 |            | 0:14        | 0:14        |
|   | <b>AVG Speed Call Ans to Dispatch</b> |      |      |      |            | <b>1:12</b> | <b>1:18</b> |
| <b>Total Processing Time (Fractals)</b>               |                                       |      |      |      |            |             |             |
| Percentile  | 25%                                   | 50%  | 75%  | 90%  |            |             |             |
| Time (m:ss)   | 0:56                                  | 1:13 | 1:34 | 1:57 |            |             |             |
|   |                                       |      |      |      |            |             |             |
| <b>Code 3 Medical with Code 1 Option</b><br>GOAL=2:00 | AVG Call Ans to Inc Generation        |      |      | 1:23 |            | 1:28        | 1:30        |
|   | AVG Speed Inc Gen to Dispatch         |      |      | 0:17 |            | 0:18        | 0:17        |
|   | <b>AVG Speed Call Ans to Dispatch</b> |      |      |      |            | <b>1:41</b> | <b>1:46</b> |
| <b>Total Processing Time (Fractals)</b>               |                                       |      |      |      |            |             |             |
| Percentile  | 25%                                   | 50%  | 75%  | 90%  |            |             |             |
| Time (m:ss)   | 1:06                                  | 1:34 | 2:16 | 3:01 |            |             |             |
|   |                                       |      |      |      |            |             |             |
| <b>Code 3 Medical CPR</b><br>GOAL= 1:30               | AVG Call Ans to Inc Generation        |      |      | 1:12 |            | 1:09        | 1:10        |
|   | AVG Speed Inc Gen to Dispatch         |      |      | 0:13 |            | 0:13        | 0:13        |
|   | <b>AVG Speed Call Ans to Dispatch</b> |      |      |      |            | <b>1:26</b> | <b>1:22</b> |
| <b>Total Processing Time (Fractals)</b>               |                                       |      |      |      |            |             |             |
| Percentile  | 25%                                   | 50%  | 75%  | 90%  |            |             |             |
| Time (m:ss)   | 1:02                                  | 1:22 | 1:41 | 1:58 |            |             |             |

**FOREST GROVE CITY LIBRARY CIRCULATION STATISTICS REPORT: OCTOBER 2014**

314

|  | SEPT 2014 | AUG 2014 | SEPT 2013 |
|--|-----------|----------|-----------|
| <b>MONTHLY TRAFFIC</b>                       |           |          |           |
| Eye Count (Daily count of patrons for month) | 12,754    | 13,070   | 12,356    |
| Number of Days Open to the Public:           | 25        | 25       | 24        |
| New Registrations (New Patron card issued)   | 141       | 141      | 143       |
| <b>CIRCULATION:</b>                          |           |          |           |
| Total Check-outs:                            | 29,394    | 27,836   | 29,688    |
| Total Check-ins:                             | 20,945    | 21,856   | 22,111    |
| ILLs (Inter-library loans/out of county):    | 114       | 89       | 74        |
| <b>COURIER:</b>                              |           |          |           |
| Intra-library Holds to Forest Grove:         | 10,347    | 9,406    | 10,826    |
| Intra-library Holds from Forest Grove:       | 9,619     | 9,430    | 8,946     |
| <b>PROGRAMS:</b>                             |           |          |           |
| # of Adult Programs                          | 2         | 2        | 4         |
| Adult attendance at Adult Programs           | 11        | 27       | 49        |
| Teen attendance at Adult Programs            | 1         | 1        | 2         |
| Children attendance at Adult Program         | 0         | 0        | 0         |
| # of Children's Programs                     | 11        | 3        | 13        |
| Children's attendance at Children's Programs | 131       | 238      | 113       |
| Adult attendance at Children's Programs:     | 82        | 242      | 62        |
| Teen attendance at Children's Programs       | 0         | 7        | 0         |
| # of Community Programs                      | 4         | 0        | 2         |
| Adult attendance at Community Programs       | 136       | 0        | 2         |
| Children's attendance at Community Programs  | 23        | 0        | 0         |
| Teen attendance at Community Programs        | 0         | 0        | 0         |
| # of Teen Programs                           | 1         | 0        | 0         |
| Teen attendance at Teen Programs             | 11        | 0        | 0         |
| Adult attendance at Teen Programs            | 4         | 0        | 0         |
| Children's attendance at Teen Programs       | 0         | 0        | 0         |
| # of Early Childhood Discovery Time Programs | 4         | 0        | 4         |
| # of Families at ECDT                        | 15        | 0        | NA        |
| <b>REFERENCE:</b>                            |           |          |           |
| # of Reference Questions                     | 1,235     | 1,317    | 1,230     |
| <b>SELF CHECK-OUT:</b>                       |           |          |           |
| Self-Check Out Patrons Accepted              | 2,343     | 2,378    | 2,415     |
| Self-Check-Out Patrons Denied                | 159       | 127      | 146       |
| Self-Check-Out Total Items                   | 9,539     | 8,859    | 9,844     |
| Self-Check-Out Items Denied                  | 101       | 106      | 105       |
| Self Check-Out Items Renewed                 | 43        | 40       | 70        |
| <b>VOLUNTEERS:</b>                           |           |          |           |
| Number of volunteers                         | 39        | 41       | 42        |
| Volunteer hours                              | 264       | 279      | 271       |
| <b>COMPUTER USE:</b>                         |           |          |           |
| # of sessions                                | 2,130     | 2,190    | 2,160     |
| Total user hours                             | 1,860     | 1,962    | 1,391     |
| Average session time in minutes              | 52        | 54       | 39        |

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Date: October 27, 2014

**ORDER AUTHORIZING A DE NOVO PUBLIC HEARING TO CONSIDER REVISIONS  
TO THE GALES CREEK TERRACE PLANNED DEVELOPMENT APPLICATION  
(FILE NUMBER PRD-14-00181)**

**PROJECT TEAM:**

Jon Holan, Community Development Director  
Daniel Riordan, Senior Planner  
Rich Blackmun, Engineering  
Rob Foster, Public Works Director  
Michael J. Sykes, City Manager

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**ISSUE STATEMENT:** On September 8, 2014, City Council tabled the public hearing to consider the applicant's appeal of the Planning Commission decision to deny the Gales Creek Terrace planned unit development proposal. Subsequently, the applicant has prepared substantive changes to the design of the project to address comments provided by the City including the Planning Commission. The issue before the City Council on October 27<sup>th</sup> is the process for considering proposed changes to the development plan:

Should the Council refer proposed revisions to the Planning Commission for reconsideration or should the Council conduct a de novo public hearing on November 10, 2014, on the proposal?

This memo provides additional information to frame the question.

**BACKGROUND:** On March 11, 2014, the applicant filed an application for a planned residential development and concurrent tentative subdivision plat known as Gales Creek Terrace. The application was deemed complete by the City on May 22, 2014.

The original proposal included 191 unit single-family detached dwellings on small lots. The project site is located south of Pacific Avenue west of D Street. The site is zoned Multifamily High Density (RMH). The development site is 47.42 acres, of which approximately 19.72 acres would be developed. The project as proposed would be developed over three phases. Phase 1 would include 59 units. Phase 2 would add 47 units and Phase 3 would complete the project with an additional 85 units.

The Planning Commission held a public hearing on the planned development application as required by the Development Code on August 4, 2014. After considering the evidence

presented, the testimony in the record and applying the applicable review criteria the Planning Commission voted to deny the application as originally submitted.

Subsequent to the Planning Commission action to deny the application, the applicant filed an appeal of the Planning Commission decision for consideration by City Council. City Council scheduled a public hearing on the record on September 8, 2014, as authorized by the Development Code. On September 8<sup>th</sup> the applicant submitted a 90 day time extension to the state mandated 120-day decision period to allow for refinement of the planned development application to address issues raised during the public hearing process. As a result of the 90-day extension a City decision including any local appeals must be completed by December 7, 2014.

### Revised Proposal

The applicant and City staff met on October 2 and October 9, 2014, to discuss revisions to the development concept. Significant progress has been made to address the City's concerns including issues raised by the Planning Commission. Most notably the applicant is interested in accommodating a variety of housing types including duplexes, attached townhomes, and single-family detached houses referred to by the applicant as detached townhomes as shown on Attachment A. This and other changes made to the proposal are substantive enough to warrant a new public hearing to allow for the submittal of the revised site plan and supporting documents.

An overview of the new proposal is provided by Attachment B. As shown by the attachment, the Applicant is open to including a variety of housing types including duplexes, attached townhomes and single family detached units. Although the project will still be predominately single family detached in nature the introduction of a variety of housing types creates more of a neighborhood and promotes housing options for a variety of income levels. The revised project would include 74 attached housing units representing about 37% of the development. The attached duplex housing product will be located closest to Pacific Avenue and near Tom McCall School.

The revision to the site plan also eliminates the smallest lots (24 feet wide) and increases driveway lengths to the standard 20 feet to address the Planning Commission's concerns about the "tightness" of the project and vehicular/pedestrian conflicts.

The revisions constitute a departure from the original proposal that was denied by the Planning Commission and will require the City Council to consider new evidence. Based on discussions with the City Attorney, the Code does not provide for remanding the application back to the Planning Commission. Given the deadline for the City to make a final decision, the process must be completed by the City Council. Remanding the application back to the Planning Commission may result in the applicant filing a writ of mandamus<sup>1</sup> against the City because sending the appeal back to the Planning Commission cannot be accommodated prior to the deadline of December 7<sup>th</sup>.

The City Attorney recommends continuing the hearing to the next meeting (November 10<sup>th</sup>)

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<sup>1</sup>A court order requiring some type of action. In this case approval of a land use application by a municipality.

to allow interested parties an opportunity to review the new material and prepare their own testimony and evidence. Procedurally, the Code requires the appeal to be on the record but allowing all interested parties the opportunity to review and respond to any new evidence ensures that everyone is able to participate equally. Therefore, the staff recommends that the City Council conduct a de novo hearing on November 10<sup>th</sup>.

**FISCAL IMPACT:** Approval of the planned development application will result in a three phase subdivision with 197 dwelling units. These dwelling units will provide additional building permit and property tax revenue to the City. The development will also require additional City services such as water and sewer service and police and fire protection. Much of the infrastructure costs will be borne by the developer or subsequent home owners. Additional property tax revenues will provide additional financial resources for police and fire protection.

**STAFF RECOMMENDATION:** Staff recommends the City Council approve the attached Order and hold a de novo public hearing on the Gales Creek Terrace Planned Development (PRD-14-00181) on November 10, 2014.

**ATTACHMENTS:**

- A. Gales Creek Terrace Revised Site Plan (October 16, 2014)
- B. Summary Chart of Proposed Project Revisions

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From: Gales Creek Development, LLC  
 To: City of Forest Grove  
 C/O Daniel Riordan  
 Re: Gales Creek Terrace Planned Development – Plan Changes

Following the recent works sessions between the Applicant of Gales Creek Terrace Planned Development, Gales Creek Development, LLC, and City Staff, where the discussion addressed roadways, lots, and housing types, the Applicant has prepared a revised preliminary plat and example street sections which reflect changes to the plan discussed in those meetings.

Three roadway sections and one alley section are now proposed (see attached sections):

1. Section 5b: 54' wide ROW – 32' pavement width, and parkway and sidewalks on both sides
2. Section 6b: 46' wide ROW – 28' Pavement width, parkway and sidewalk on the south side, and curb tight sidewalk on the north side.
3. Section 2b: 40' wide ROW – 28' pavement width, curb tight sidewalk on the south side and parkway on the north side.
4. Section 10b: 24' wide Alley ROW – 18' pavement width (concrete)

A mix of housing types are proposed (see attached preliminary plats). This includes multi-unit residential buildings, duplexes, attached townhouses, and corner attached townhouses, and detached houses. The more intensive land uses with higher residential density are generally placed closer to Pacific Ave, a collector street, with gradually less intensive uses south of Pacific Ave, and with the larger lots placed closer to the open space tracts along the southern edge of the development. The plan is designed to accommodate 2-4 on-site parking spaces per lot and allow 20' garage setbacks throughout.

The following is a table representing the new proposed lot and housing type mix.

| GCT – Lot and Housing Types     | Lots (Dwellings Units) | General Location   |
|---------------------------------|------------------------|--|
| Duplexes                        | 10 (20)                | Fronting on Pacific Ave                                  |
| Attached Townhouse Lots         | 12                     | Fronting on north side of 20 <sup>th</sup> Ave           |
| Attached Corner Townhouse Lots  | 8                      | Corner of 20 <sup>th</sup> Ave and H St                  |
| 26' Wide Detached Home Lots     | 18                     | South side of 20 <sup>th</sup> Ave*                      |
| 32' Wide Detached Home Lots     | 78                     | North side of 19 <sup>th</sup> and 18 <sup>th</sup> Ave* |
| 34'-40' Wide Detached Home Lots | 61                     | Along the south edge*                                    |
| Total                           | 187 (197)              | *with some exceptions                                    |

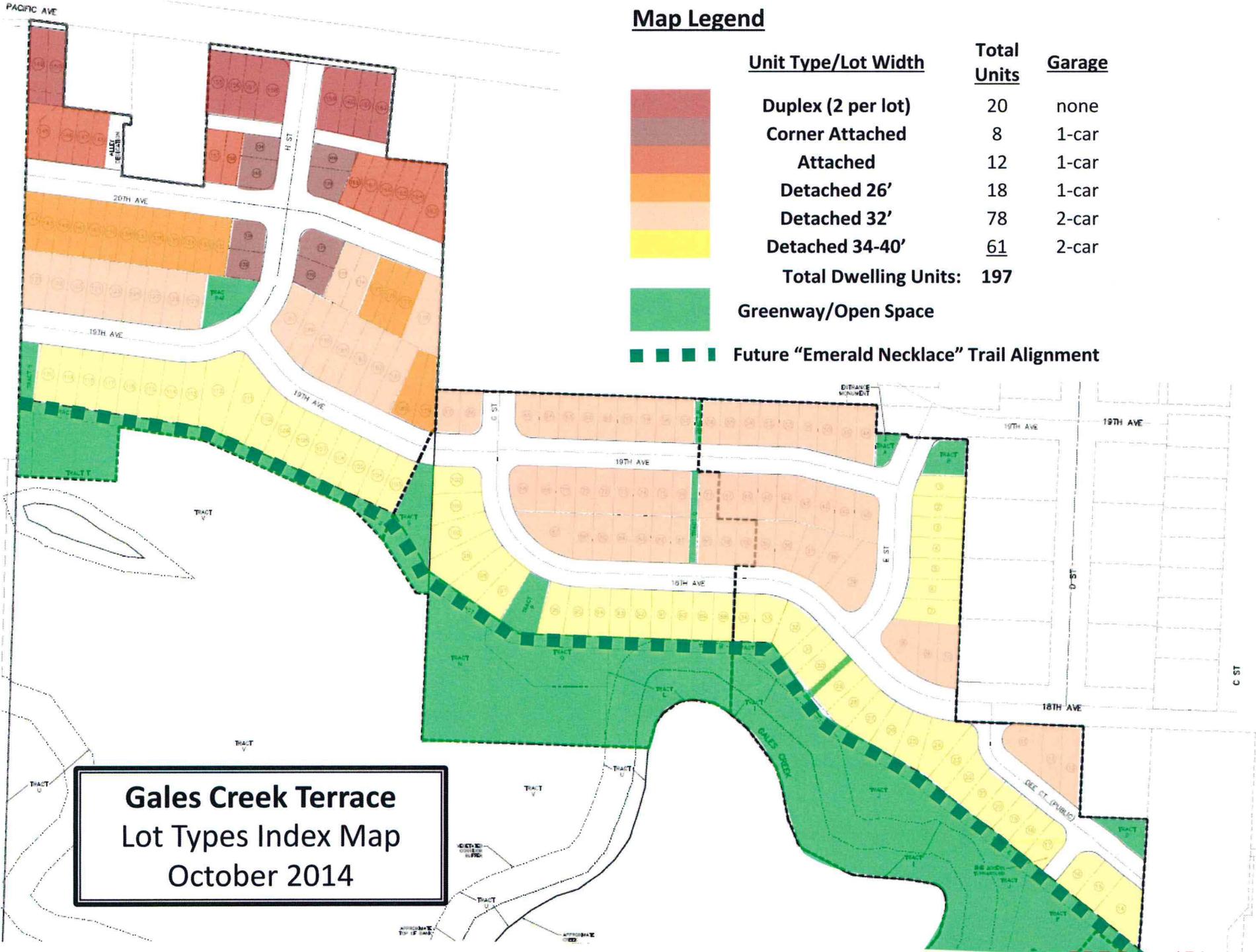
The linear open space tracts along the Gales Creek Corridor are designed to facilitate extension of the City's off-street pedestrian and bicycle loop trail, known as the Emerald Necklace. Tract Q and Tract R were shifted to locate the mid-block paths more centrally in the blocks. Tract P, located between 18<sup>th</sup> Ave and Tract N, has been enlarged, and a walkway was added within Tract P for direct access to the open space tracts. Tract P will have amenities like a picnic table and view point with a bench. Also, the playground, previously in Tract W, was moved to a more central location, Tract X, at the intersection of the proposed 19<sup>th</sup> Ave and H St.

Please consider these changes to the proposed Gales Creek Terrace Planned Development at the next City Council meeting.

**Map Legend**

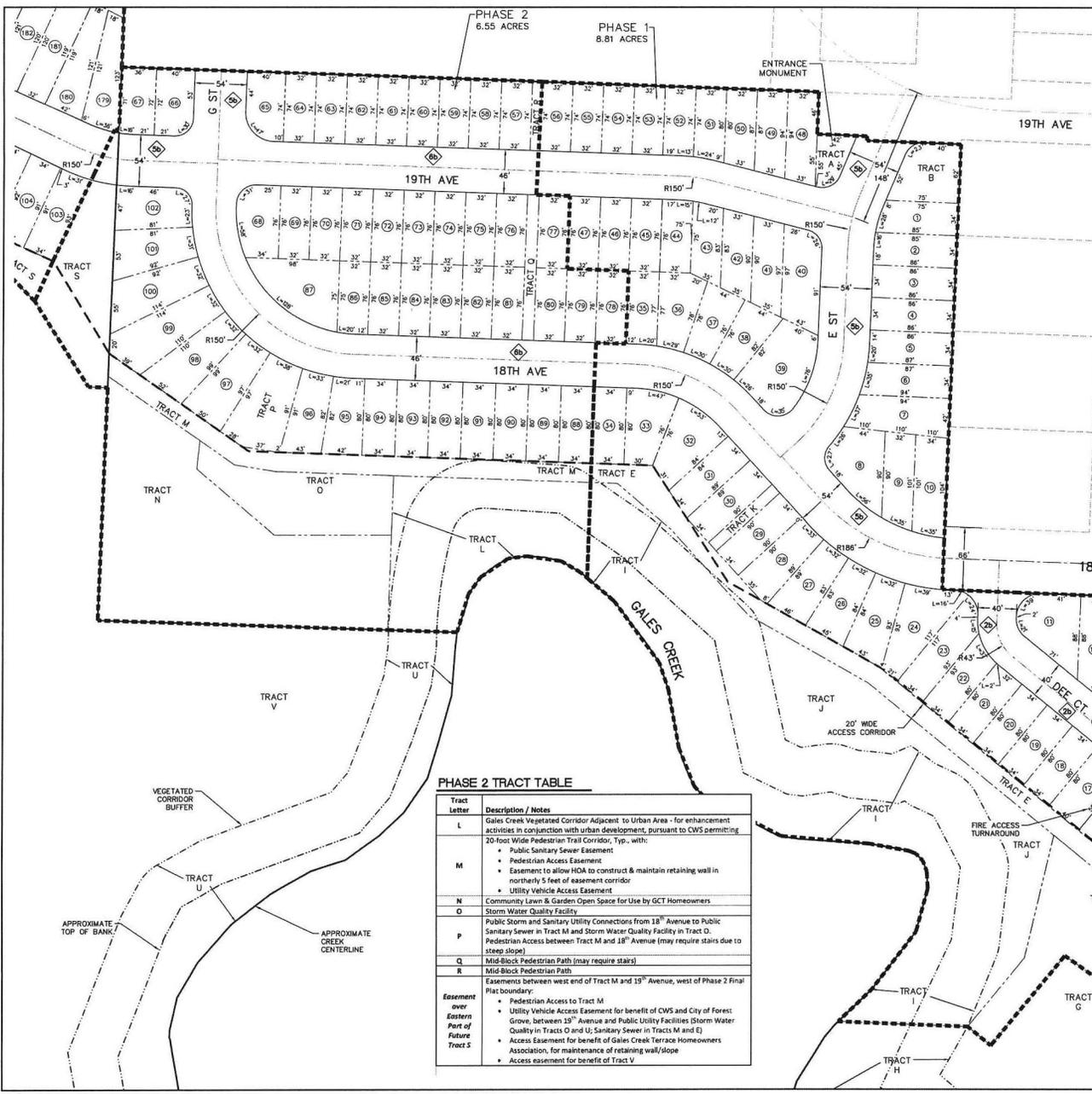
| Unit Type/Lot Width          | Total Units | Garage |
|------------------------------|-------------|--------|
| Duplex (2 per lot)           | 20          | none   |
| Corner Attached              | 8           | 1-car  |
| Attached                     | 12          | 1-car  |
| Detached 26'                 | 18          | 1-car  |
| Detached 32'                 | 78          | 2-car  |
| Detached 34-40'              | 61          | 2-car  |
| <b>Total Dwelling Units:</b> | <b>197</b>  |        |

■ ■ ■ ■ ■ Future "Emerald Necklace" Trail Alignment



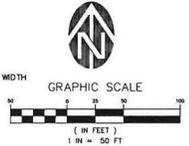
**Gales Creek Terrace  
Lot Types Index Map  
October 2014**

Property Name: P:\2410\01\13\p301.dwg User: Jm\_Ricciardi Date: 10/16/2014 Time: 10:29:11 AM  
 Job No: 2410-01



**LOT LAYOUT (PRELIMINARY PLAT)**

TOTAL AREA: PHASE 1: 6.65 ACRES  
 PHASE 2: 4.99 ACRES  
 MINIMUM SETBACKS:  
 FRONT - 11'  
 GARAGE - 20'  
 SIDE - 3' TYP. (VARIES)  
 SIDE (ADJACENT TO STREETS) - 1' MORE THAN P.U.E. WIDTH  
 SIDE (ADJACENT TO PROJECT BOUNDARIES) - 5'  
 REAR - 12' OR 15' ALONG GALES CREEK CORRIDOR



**PHASE 1 TRACT TABLE**

| Tract Letter | Description / Notes  |
|--------------|--|
| A            | Landscaping and Entrance Monument Sign   |
| B            | Neighborhood Mini-Park / Play Area   |
| C            | Not Used   |
| D            | Landscaping / Passive Open Space Use   |
| E            | 20-foot Wide Pedestrian Trail Corridor, Typ., with:<br><ul style="list-style-type: none"> <li>Public Sanitary Sewer Easement</li> <li>Pedestrian Access Easement</li> <li>Easement to allow HOA to construct &amp; maintain slope or retaining wall in northerly 5 feet of easement corridor</li> <li>Utility Vehicle Access Easement</li> </ul> |
| F            | Storm Water Quality Facility, including:<br><ul style="list-style-type: none"> <li>Access easement for benefit of Tract G over vehicular access route</li> </ul>   |
| G            | Reserve Area to be Retained by Declarant   |
| H            | Gales Creek Vegetated Corridor NOT Adjacent to Urban Area, for potential future enhancement activities pursuant to CWS permitting  |
| I            | Gales Creek Vegetated Corridor Adjacent to Urban Area - for enhancement activities in conjunction with GCT Phase 2 development, pursuant to CWS permitting   |
| J            | Open Space (Scenic and Passive Use)  |
| K            | Pedestrian Access between Tract E and 18 <sup>th</sup> Avenue (may require stairs due to steep slope)  |

**LEGEND**

- PROPERTY LINE
- PHASE LINE
- R.O.W. LINE
- R.O.W. CENTER LINE
- INTERIOR LOT/TRACT BOUNDARY LINE
- EASEMENT LINE
- CREEK BUFFER
- EX. TAX LOT/R.O.W. LINE
- URBAN GROWTH BOUNDARY / CITY DETERMINED FLOODPLAIN BOUNDARY, ±180' CONTOUR.
- ROADWAY TYPICAL SECTION. SEE SHEET P308 FOR DETAILS.

**PHASE 2 TRACT TABLE**

| Tract Letter                                 | Description / Notes  |
|--|--|
| L  | Gales Creek Vegetated Corridor Adjacent to Urban Area - for enhancement activities in conjunction with urban development, pursuant to CWS permitting   |
| M  | 20-foot Wide Pedestrian Trail Corridor, Typ., with:<br><ul style="list-style-type: none"> <li>Public Sanitary Sewer Easement</li> <li>Pedestrian Access Easement</li> <li>Easement to allow HOA to construct &amp; maintain retaining wall in northerly 5 feet of easement corridor</li> <li>Utility Vehicle Access Easement</li> </ul>  |
| N  | Community Lawn & Garden Open Space for Use by GCT Homeowners   |
| O  | Storm Water Quality Facility   |
| P  | Public Storm and Sanitary Utility Connections from 18 <sup>th</sup> Avenue to Public Sanitary Sewer in Tract M and Storm Water Quality Facility in Tract O.<br>Pedestrian Access between Tract M and 18 <sup>th</sup> Avenue (may require stairs due to steep slope)   |
| Q  | Mid-Block Pedestrian Path (may require stairs)   |
| R  | Mid-Block Pedestrian Path  |
| Easement over Eastern Part of Future Tract S | Easements between west end of Tract M and 19 <sup>th</sup> Avenue, west of Phase 2 Final Plat boundary:<br><ul style="list-style-type: none"> <li>Pedestrian Access to Tract M</li> <li>Utility Vehicle Access Easement for benefit of CWS and City of Forest Grove, between 19<sup>th</sup> Avenue and Public Utility Facilities (Storm Water Quality in Tracts O and U; Sanitary Sewer in Tracts M and E)</li> <li>Access Easement for benefit of Gales Creek Terrace Homeowners Association, for maintenance of retaining wall/slope</li> <li>Access easement for benefit of Tract V</li> </ul> |

**NOTES**

- SEE P300 FOR OVERVIEW OF PHASE 1, 2, AND 3
- SEE P302 FOR PHASE 3

**WESTLAKE CONSULTANTS**  
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**GALES CREEK TERRACE**  
 FOREST GROVE, OR  
 PRELIMINARY PLAT - EAST

PRELIMINARY  
 SHEET **P301**  
 JOB NO. 2410-01  
 DATE \_\_\_\_\_ DESCRIPTION \_\_\_\_\_  
 REVISIONS: \_\_\_\_\_  
 231204P300



**Gales Creek Terrace  
Proposed Planned Development**

| <b>Topic</b>                           | <b>Original Proposal – August 4, 2014 Hearing</b>  | <b>Revised Proposal – October 16, 2014</b>   |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
|--|--|--|------|-------------------------|------|------------------|------|----------------------------------|-------|----------------------------------|-------|---------------------------------|------|------------------------------------|------|----------------------------------|-------|----------------------------------|-------|---------------------------------|------|--------------------------|-------|---------------------------------|---------------|---|-----------------------|-------|-------------------------|------|-------------------|------|----------------------------------|------|----------------------------------|-------|--|-------|---------------------------------|---------------|
| <b>Number of Units</b>                 | 191  | 197  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>Dwelling Type</b>                   | <p>Exclusively single family detached homes</p> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 80%;">0 Duplex</td><td style="text-align: right;">0.0%</td></tr> <tr><td>0 Corner Attached Units</td><td style="text-align: right;">0.0%</td></tr> <tr><td>0 Attached Units</td><td style="text-align: right;">0.0%</td></tr> <tr><td>23 Detached on 24 foot wide lots</td><td style="text-align: right;">12.1%</td></tr> <tr><td>24 Detached on 24 foot wide lots</td><td style="text-align: right;">12.6%</td></tr> <tr><td>3 Detached on 28 foot wide lots</td><td style="text-align: right;">1.5%</td></tr> <tr><td>7 Detached on 29/30 foot wide lots</td><td style="text-align: right;">3.7%</td></tr> <tr><td>54 Detached on 32 foot wide lots</td><td style="text-align: right;">28.3%</td></tr> <tr><td>39 Detached on 34 foot wide lots</td><td style="text-align: right;">20.4%</td></tr> <tr><td>5 Detached on 40 foot wide lots</td><td style="text-align: right;">2.6%</td></tr> <tr><td>36 Corner/Irregular Lots</td><td style="text-align: right;">18.8%</td></tr> <tr><td><b>191 Total Dwelling Units</b></td><td style="text-align: right;"><b>100.0%</b></td></tr> </table> | 0 Duplex   | 0.0% | 0 Corner Attached Units | 0.0% | 0 Attached Units | 0.0% | 23 Detached on 24 foot wide lots | 12.1% | 24 Detached on 24 foot wide lots | 12.6% | 3 Detached on 28 foot wide lots | 1.5% | 7 Detached on 29/30 foot wide lots | 3.7% | 54 Detached on 32 foot wide lots | 28.3% | 39 Detached on 34 foot wide lots | 20.4% | 5 Detached on 40 foot wide lots | 2.6% | 36 Corner/Irregular Lots | 18.8% | <b>191 Total Dwelling Units</b> | <b>100.0%</b> | <p>Single family detached, duplex, attached townhouses:</p> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 80%;">20 Duplex (2 per lot)</td><td style="text-align: right;">10.2%</td></tr> <tr><td>8 Corner Attached Units</td><td style="text-align: right;">4.1%</td></tr> <tr><td>12 Attached Units</td><td style="text-align: right;">6.1%</td></tr> <tr><td>18 Detached on 26 foot wide lots</td><td style="text-align: right;">9.1%</td></tr> <tr><td>78 Detached on 32 foot wide lots</td><td style="text-align: right;">39.6%</td></tr> <tr><td>61 Detached on 34 to 40 foot wide lots</td><td style="text-align: right;">30.9%</td></tr> <tr><td><b>197 Total Dwelling Units</b></td><td style="text-align: right;"><b>100.0%</b></td></tr> </table> | 20 Duplex (2 per lot) | 10.2% | 8 Corner Attached Units | 4.1% | 12 Attached Units | 6.1% | 18 Detached on 26 foot wide lots | 9.1% | 78 Detached on 32 foot wide lots | 39.6% | 61 Detached on 34 to 40 foot wide lots | 30.9% | <b>197 Total Dwelling Units</b> | <b>100.0%</b> |
| 0 Duplex                               | 0.0%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 0 Corner Attached Units                | 0.0%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 0 Attached Units                       | 0.0%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 23 Detached on 24 foot wide lots       | 12.1%  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 24 Detached on 24 foot wide lots       | 12.6%  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 3 Detached on 28 foot wide lots        | 1.5%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 7 Detached on 29/30 foot wide lots     | 3.7%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 54 Detached on 32 foot wide lots       | 28.3%  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 39 Detached on 34 foot wide lots       | 20.4%  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 5 Detached on 40 foot wide lots        | 2.6%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 36 Corner/Irregular Lots               | 18.8%  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>191 Total Dwelling Units</b>        | <b>100.0%</b>  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 20 Duplex (2 per lot)                  | 10.2%  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 8 Corner Attached Units                | 4.1%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 12 Attached Units                      | 6.1%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 18 Detached on 26 foot wide lots       | 9.1%   |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 78 Detached on 32 foot wide lots       | 39.6%  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| 61 Detached on 34 to 40 foot wide lots | 30.9%  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>197 Total Dwelling Units</b>        | <b>100.0%</b>  |  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>Density</b>                         | Approximately 14.5 dwellings per net acre with slope reduction   | Approximately 15 units per net acre with slope reduction   |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>Street design</b>                   | <p>Variety of street cross-sections to accommodate slope and reduce required cut/fill:</p> <p>28 foot to 58 foot right-of-way<br/> Typical right-of-way 50 foot to 54 foot<br/> 15 to 20 foot wide alley</p> <p>Smallest pavement width: 24 feet</p>   | <p>Variety of cross-sections to accommodate slope and reduce required cut/fill:</p> <p>40 foot right-of-way to 54 foot right-of-way<br/> 24 foot alley</p> <p>Smallest pavement width: 28 feet</p> |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>Sidewalk design</b>                 | Curb tight with rolled curb in some locations  | <p>Curb tight with parkways</p> <p>Curb tight sidewalks will be 6 feet wide rather than standard five feet</p> <p>Developer will construct a sidewalk along the west side of D Street</p>          |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>Driveway design</b>                 | 18 feet depth at some locations  | 20 feet depth throughout development   |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>Parkway design</b>                  | 2 foot planting area   | 4.5 feet planting area (2 feet in right-of-way)  |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |
| <b>Dwelling elevation</b>              | Similar to Casey Meadows   | <p>Variety of trim levels with highest level near primary development entrance and along Gales Creek</p> <p>50% of units could have higher trim level with masonry</p>                             |      |                         |      |                  |      |                                  |       |                                  |       |                                 |      |                                    |      |                                  |       |                                  |       |                                 |      |                          |       |                                 |               |   |                       |       |                         |      |                   |      |                                  |      |                                  |       |  |       |                                 |               |

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**ORDER NO. 2014-05**

**ORDER REQUESTING CITY COUNCIL APPROVE SETTING A DE NOVO PUBLIC HEARING ON NOVEMBER 10, 2014, TO CONSIDER A REVISED APPLICATION FOR GALES CREEK TERRACE PLANNED RESIDENTIAL DEVELOPMENT (FILE NO. PRD-14-00181)**

**WHEREAS**, on March 11, 2014, Gales Creek Development, LLC and Mark and Tripti Kenzer (“Applicant”) submitted an application for a Planned Residential Development known as “Gales Creek Terrace” (PRD-14-00181); and

**WHEREAS**, the Forest Grove Planning Commission (“Planning Commission”) held a public hearing on the application on August 4, 2014; and

**WHEREAS**, after considering the evidence in the record including the application, staff report, and testimony from the applicant and the public, and considering the evidence against the applicable criteria, the Planning Commission voted to deny the application; and

**WHEREAS**, the Applicant filed a written appeal of the Planning Commission decision on the record on August 27, 2014; and

**WHEREAS**, at the City Council public hearing on Planning Commission denial scheduled on the record on September 8, 2014, the City Council TABLED the hearing to a date no later than December 8, 2014; and

**WHEREAS**, the Applicant has revised the Gales Creek Terrace Planned Residential Development Application subsequent to the September 8, 2014, City Council hearing to address issues raised during the public hearing process; and

**WHEREAS**, the revisions constitute a departure from the original proposal that was denied by the Planning Commission and requires the City Council to consider new evidence; and

**WHEREAS**, the City Council desires to hold a de novo public hearing on November 10, 2014, in order to allow interested persons an opportunity to review new material and prepare their own testimony and evidence.

**NOW, THEREFORE, THE CITY OF FOREST GROVE ORDERS AS FOLLOWS:**

**Section 1.** The City of Forest Grove City Council hereby approves holding a de novo public hearing on November 10, 2014, to consider the revised Gales Creek Terrace Planned Residential Development application (PRD-14-00181).

**Section 2.** This Order is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** on the 27<sup>th</sup> day of October, 2014.

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Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 27<sup>th</sup> day of October 2014.

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Peter B. Truax, Mayor



## Memorandum

**To:** City Council  
**From:** Richard Mead, Building Official  
Jon Holan, Community Development Director  
Paul Downey, Administrative Services Director  
Michael Sykes, City Manager  
**Date:** October 27, 2014  
**Re:** IGA with State Building Codes Division

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**Issue:** Staff is requesting the City Council approve executing an Intergovernmental Partnership Agreement (IGA) between the City and the State Building Codes Division of the Department of Consumer and Business Services to provide ePermit tracking software and services to the City.

**Discussion:** The Community Development Department has used permit tracking software called Eden from Tyler Technology since 2010. This software is no longer being sold by Tyler. Currently, the City pays \$3686 annually for licenses. While Tyler says the software will be supported in the future, staff is concerned about enhancements to improve the product on technology changes.

Staff has been searching for a replacement for the Eden System. Cost for permit tracking software can range from \$50,000 to \$100,000+. During this search, representatives from the State Building Division have approached the City about using the State ePermitting system which is provided through Accela Corporation. About 31 cities and 15 counties currently use the ePermitting in some form. There are 2 cities and 6 counties in the process of implementing the program. The closest community using the system is Hillsboro.

While Accela offers a stand-alone version that can be purchased, the E-Permitting software is provided without cost to the City. The funding for the State system is through a portion of the twelve percent surcharge the State collects on all building, plumbing and mechanical permits throughout the state. There is no charge to install the software and there are no yearly license fees to pay. Further, it is a web-based system that is maintained by the State. This results in little if any maintenance requirements for the City.

The software is for building related permits (e.g. building, plumbing, mechanical, grading, etc.) However, the State is working with Accela and several jurisdictions to develop a similar system for planning related activities (e.g. zone changes, conditional use permits, site plan review, subdivisions, etc.). It is currently being developed and staff will seek this upgrade when it becomes available. Similar to the building permit software, there is no cost.

**Fiscal Impact:** As the name implies, the State permit system is designed to allow for electronic permitting where the permit and payment is made on-line rather than having to bring the permit to the counter. This is intended for small permits where there is no staff review and the permit is issued "over-the-counter." Examples include replacement of furnaces, hot water heaters and air conditioning units. From September 2013 to September 2014, the City of Forest Grove issued 464 over-the-counter permits along with an additional 81 for the City of Cornelius for a total of 545 permits (about 47.2 percent of all building related permits); it takes approximately twenty minutes to process each permit verses printing out a copy of the online applications. This would save the City about 180 staff hours annually if all of these permits were submitted electronically. It also saves time for the customer to be able to obtain a permit on-line rather than having to travel to City Hall.

The City has not pursued this service in the past due to the inability to accept credit card payments for building permits due to bank charges. These charges are about 1 to 3 percent to process these payments. For the above over the counter permits, about \$75,000 in permit fees were collected. If these permits were paid by credit card, the total bank charges would have been about \$750 to \$2,240 depending on the percentage (between 1 to 3 percent). The City would absorb the bank charges with the present permit fees. There would be a one-time cost of \$500 for a credit card terminal.

The permit system also supports Integrated Voice Recognition (IVR). This allows a person to schedule inspections on-line or via phone without staff having to manually transcribe each inspection request to be entered into the current permit tracking system. This feature would save about 1.5 to 2.0 hours of staff time per day which is the time required to manually input the inspection requests into the current permit tracking software.

Staff also intends to implement E-Permitting system with iPads or similar devices. This would allow the inspector to enter the results of an inspection one time rather than the two times it currently takes (to write the inspection in the field and re-enter the inspection back in the office). The current Eden software does not support this feature. The cost for iPads, accessories and cases, and in-car printers is estimated to be \$5,230.

In the future, staff's goal is to operate paperless building review process. This means that building permit submissions for any project would be submitted electronically and reviewed with large screen monitors. This would require computer upgrades and large monitors with an estimated cost of \$3,750. We are not pursuing this option at this time due to glitches in the system experienced by other jurisdictions implementing the paperless process.

In summary, the cost to implement the system would be as follows:

|                       |               |
|-----------------------|---------------|
| Software Purchase     | \$0           |
| License Fees          | \$0           |
| iPads and accessories | \$5230        |
| Credit Card reader    | <u>\$ 500</u> |
|                       | \$5730        |

|                        |        |
|------------------------|--------|
| Future Enhancements    |        |
| Monitors and computers | \$3750 |

There are sufficient reserves in the Building Fund to cover these costs. In addition, the new system would result in staff time and customer savings due to improved efficiency the system would provide.

Next Step: To proceed with implementing the State ePermitting software, the City needs to execute an Intergovernmental Partnership Agreement (IGA) between the City and the State Building Codes Division of the Department of Consumer and Business Services.

**Staff Recommendation:** Staff recommends the City Council authorize the City Manager to execute the IGA on behalf of the City as provided in Exhibit A of the attached resolution.

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**RESOLUTION NO. 2014-77**

**RESOLUTION AUTHORIZING CITY MANAGER TO ENDORSE AN INTERGOVERNMENTAL PARTNERSHIP AGREEMENT BETWEEN THE CITY OF FOREST GROVE AND THE OREGON DEPARTMENT OF CONSUMER AND BUSINESS SERVICES (DCBS), BUILDING CODES DIVISION (BCD), FOR ePERMIT SYSTEM AND SERVICES**

**WHEREAS**, Oregon Revised Statute ORS 455.095 provides that State Department of Consumer and Business Services (DCBS) shall develop and implement a system that provides electronic access to building permitting information and requires DCBS to make the system accessible for use by municipalities in carrying out the building inspection programs administered and enforced by the municipalities; and

**WHEREAS**, on or about August 8, 2008, DCBS and Accela, Inc., entered into a contract (“ePermit contract”) by which Accela licensed to DCBS ePermitting system software, an IVR system and provided related configuration, implementation and hosting services (collectively the “ePermit System”); and

**WHEREAS**, the ePermit contract provided that the ePermit System and related Services would be available to municipalities (“Participating Jurisdictions”); and

**WHEREAS**, The City of Forest Grove has requested that State Building Codes Division (BCD) provide access to the ePermitting system and related services; and

**WHEREAS**, the ePermitting system and related services are available to the City of Forest Grove upon entering into an Intergovernmental Partnership Agreement (IGA) with BCD; and

**WHEREAS**, it is in the best interest of BCD and Forest Grove to ensure that construction-related development activities proceed in a manner as quickly and efficiently as practical by having a flexible and responsive permit system available to construction businesses through partnering together to maximize the use of scarce resources.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:**

**Section 1.** The City Council of the City of Forest Grove hereby approves the IGA between the City of Forest Grove and the Oregon Department of Consumer and Business Services, Building Codes Division, for e-Permit System and Services, as provided in the attached Exhibit A.

**Section 2:** The City Manager is hereby authorized to endorse the IGA (attached as Exhibit A) on behalf of the City of Forest Grove.

**Section 3:** This resolution is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** this 27<sup>th</sup> day of October 2014.

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Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 27<sup>th</sup> day of October 2014.

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Peter B. Truax, Mayor

**INTERGOVERNMENTAL PARTNERSHIP AGREEMENT**  
ePermit System and Services

**THIS INTERGOVERNMENTAL PARTNERSHIP AGREEMENT** (“Agreement”) will become effective when all required signatures have been obtained by and between The State of Oregon, acting by and through the Department of Consumer and Business Services (DCBS), Building Codes Division (“BCD”) and Forest Grove (“Jurisdiction”), a political subdivision of the State of Oregon. BCD and the Jurisdiction may collectively be referred to herein as the Parties and individually as the Party. The Parties enter into this Agreement to cooperate and share services pursuant to the authority granted under Oregon Laws 2013 Chapter 528 (SB 582). The purpose of this partnering agreement is to encourage economic development through construction and to use experimentation and innovation for administration of building inspection programs. It is in the best interest of BCD and Forest Grove leaders to ensure that construction-related development activities proceed in a manner as quickly and efficiently as practical. Having a flexible and responsive system requires sufficient staff and resources to be available to construction businesses. By partnering together, BCD and Forest Grove can explore new ways to maximize the use of scarce resources.

**DCBS:**

Celina Patterson,  
ePermitting Manager  
1535 Edgewater St NW  
PO Box 14470  
Salem, OR 97309  
(503) 373-0855

**Jurisdiction:**

Michael Sykes, City Manager  
City of Forest Grove  
1924 Council Street  
PO Box 326  
Forest Grove, OR 97116  
(503) 992-3234

**RECITALS**

- A. Oregon Revised Statute ORS 455.095 provides that DCBS shall develop and implement a system that provides electronic access to building permitting information. The statute also requires DCBS to make the system accessible for use by municipalities in carrying out the building inspection programs administered and enforced by the municipalities.
- B. The Department of Administrative Services, State Procurement on behalf DCBS issued a Request for Proposal (RFP) for a statewide ePermit system and associated products and services (“ePermit System”). Accela, Inc. was the successful proposer. On or about August 8, 2008, DCBS and Accela, Inc. entered into a contract (“ePermit contract”) by which Accela, Inc, licensed to DCBS ePermitting system software, an IVR system and provided related configuration, implementation and hosting services (collectively the “ePermit System”).
- C. The ePermit contract provided that the ePermit System and related Services would be available to municipalities (“Participating Jurisdictions”).

- D. BCD is the division of DCBS that implements and administers the ePermitting system.
- E. Jurisdiction has requested that BCD provide access to the ePermitting System and related Services to Jurisdiction and to implement the Jurisdiction as a Participating Jurisdiction as set forth in the ePermitting contract.
- E. BCD is willing, upon the terms of and conditions of this Agreement, to provide access to Jurisdiction to the ePermitting System and related Services and to implement Jurisdiction as provided herein.

## **1. DEFINITIONS.**

- 1.1. As used in this Agreement, the following words and phrases shall have the indicated meanings.
- 1.2. "Agreement" means this Intergovernmental Agreement.
- 1.3. "ePermitting Contract" has the meaning set forth in Recital B and includes all amendments thereto.
- 1.4. "ePermit System" means the entire system including the ePermitting software licensed implemented and configured pursuant to the ePermit contract and related Services including hosting and IVR.
- 1.5. "Jurisdiction" has the meaning set forth in the first paragraph of this Agreement.

## **2. TERM, RENEWAL AND MODIFICATIONS.**

- 2.1. Term. This Agreement is effective, and will be considered fully executed, upon signature by both parties, and shall remain in effect until termination of this Contract as provided herein. Unless otherwise terminated as provided herein, this Contract will be in effect for the period that Jurisdiction administers and enforces a building inspection program. This Agreement will automatically renew in the event that the Jurisdiction's program assumption is renewed for an additional period.
- 2.2. Agreement Modifications. Notwithstanding the foregoing, or, any other provision of the Agreement, BCD may propose a modified Agreement or new intergovernmental agreement for Jurisdiction access to the ePermit System. BCD will propose such modified Agreement or new intergovernmental agreement with at least 60 days written notice prior to expiration of the Jurisdiction's current program assumption period. The new

intergovernmental agreement or modified Agreement will be effective on the effective date of the renewal of Jurisdiction's program assumption. If the parties cannot agree to the new intergovernmental agreement or modified Agreement, this Agreement will terminate effective on the renewal date of Jurisdiction's program assumption. Additionally, during the term of this Agreement, BCD may propose modifications to this Agreement and which will become effective upon mutual agreement by the parties in accord with section 19 of this Agreement.

### **3. PERFORMANCE AND DELIVERY.**

#### 3.1 Responsibilities of BCD.

3.1.1. BCD shall use its best efforts to provide Jurisdiction access to the ePermit System and related Services. BCD shall use its best effort to provide the Jurisdiction with satisfactory access on a parity with all other jurisdictions implemented by BCD to the ePermit System.

3.1.2. BCD will implement the Jurisdiction using the process according to the ePermitting Implementation Methodology set forth in Exhibit B. In the event that a Work Order Contract is used to implement a specific city or county, a copy of that agreement shall be provided in Exhibit E.

3.1.3. Upon implementation, Jurisdiction will have access to the System and the functionality as described in the ePermit contract and determined during the implementation process.

3.1.4. BCD will provide technical support for the ePermit program. Support shall be provided to Jurisdiction 8:00 a.m. to 5:00 p.m. Monday through Friday, except for state observed holidays and from 8:30-10:00 am on Mondays when ePermitting staff holds its weekly staff meeting. The general support structure shall be as follows:

3.1.4.1. State ePermitting team provides technical support to participating city or county.

3.1.4.2. Accela provides technical support to State ePermitting team.

In the event that the State team is unable to communicate a solution to the participating city or county, the State team will facilitate communication between Accela and participant.

#### 3.2. Responsibilities of Jurisdiction.

3.2.1. Jurisdiction agrees to the requirements of Exhibit A.

3.2.2. Jurisdiction agrees to abide by the terms and conditions of the Software

License set forth in Exhibit B.

3.2.3. Jurisdiction agrees to abide by the implementation model that is identified in Exhibit E.

#### **4. REPRESENTATIONS AND WARRANTIES.**

4.1 Representations of Jurisdiction. Jurisdiction represents and warrants to BCD as follows:

4.1.1. Organization and Authority. Jurisdiction is a political subdivision of the State of Oregon (or an intergovernmental entity formed by political subdivisions of the State of Oregon under ORS Chapter 190) duly organized and validly existing under the laws of the State of Oregon. Jurisdiction has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder. Jurisdiction has assumed and administers a building inspection program under ORS 455.148 to ORS 455.153.

4.1.2. Due Authorization. The making and performance by Jurisdiction of this Agreement (1) have been duly authorized by all necessary action of Jurisdiction and (2) do not and will not violate any provision of any applicable law, rule, and regulation.

4.1.3. Binding Obligation. This Agreement has been duly executed and delivered by Jurisdiction and constitutes a legal, valid and binding obligation of Jurisdiction, enforceable according to its terms.

4.1.4. Jurisdiction has reviewed the ePermit contract and ePermit System and is knowledgeable of the ePermit system functionality and performance and has entered into this agreement based on its evaluation of the ePermit Contract and the ePermit System

4.2. Representations and Warranties of BCD. BCD represents and warrants to Jurisdiction as follows:

4.2.1. Organization and Authority. BCD is an agency of the state government and BCD has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

4.2.2. Due Authorization. The making and performance by BCD of this Agreement (1) have been duly authorized by all necessary action of BCD and (2) do not and will not violate any provision of any applicable law, rule, and regulation.

4.2.3. Binding Obligation. This Agreement has been duly executed and delivered by BCD and constitutes a legal, valid and binding obligation of BCD, enforceable according to its terms.

4.2.4. Performance Warranty. BCD will use its best efforts to provide Jurisdiction access to the ePermit System and implement the Jurisdiction according to the ePermit contract and Exhibit B. Notwithstanding the foregoing, Jurisdiction understands and agrees that the ePermit System is composed of software and services provided by third parties and BCD has no responsibility to Jurisdiction for the functionality or performance of the ePermit System.

4.3. The warranties set forth above are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

## **5. ACCESS TO RECORDS AND FACILITIES.**

5.1. Records Access. BCD, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers and records of the Jurisdiction that are directly related to this Agreement, for the purpose of making audits, examinations, excerpts, copies and transcriptions.

5.2. Retention of Records. Jurisdiction shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the termination of this Agreement.

5.3. Public Records. Jurisdiction shall be deemed the Custodian for the purposes of public records requests regarding requests related to Jurisdiction's building inspection program.

## **6. JURISDICTION DEFAULT.** Jurisdiction shall be in default under this Agreement upon the occurrence of any of the following events:

6.1. Jurisdiction fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein.

6.2. Any representation, warranty or statement made by Jurisdiction herein is untrue in any material respect when made.

## **7. BCD DEFAULT.** BCD shall be in default under this Agreement upon the occurrence of any of the following events:

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

7.2. Any representation, warranty or statement made by BCD herein is untrue in any material respect when made.

## **8. TERMINATION.**

8.1. Jurisdiction Termination. Jurisdiction may terminate this Agreement in its

entirety as follows:

- 8.1.1. For its convenience, upon at least six calendar months advance written notice to BCD, with the termination effective as of the first day of the month following the notice period;
- 8.1.2. Upon 30 days advance written notice to BCD, if BCD is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as Jurisdiction may specify in the notice; or
- 8.1.3. Immediately upon written notice to BCD, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that Jurisdiction no longer has the authority to meet its obligations under this Agreement.

**9. DCBS, BCD TERMINATION.** BCD may terminate this Agreement as follows:

- 9.1. For its convenience, upon at least twenty-four calendar months advance written notice to Jurisdiction, with the termination effective as of the first day of the month following the notice period.
- 9.2. Upon termination of the ePermit Contract with such reasonable notice to Jurisdiction as feasible under the terms of the ePermit Contract.
- 9.3. Immediately upon written notice to Jurisdiction if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that BCD no longer has the authority to meet its obligations under this Agreement.
- 9.4. Upon 30 days advance written notice to Jurisdiction, if Jurisdiction is in default under this Agreement and such default remains uncured at the end of said 30 day period or such longer period, if any, as BCD may specify in the notice.
- 9.5. Immediately, in the event that Jurisdiction no longer administers and enforces a building inspection program.

**10. EFFECT OF TERMINATION.**

- 10.1. No Further Obligation. Upon termination of this Agreement in its entirety, BCD shall have no further obligation to provide access to the ePermit System and related Services to Jurisdiction.
- 10.2. Survival. Termination or modification of this Agreement pursuant to sections 8 and 9 above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination or modification. However, upon receiving a notice of termination, Jurisdiction shall immediately

cease all activities under this Agreement, unless expressly directed otherwise by BCD in the notice of termination.

10.3. **Minimize Disruptions.** If a termination right set forth in section 8 or 9 is exercised, both parties shall make reasonable good faith efforts to minimize unnecessary disruption or other problems associated with the termination.

10.4. **Jurisdiction Data.** Jurisdiction may obtain a copy of data related to its building inspection program.

**11. NOTICE.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to Jurisdiction or BCD at the addresses or numbers set forth on page one of this agreement, or to such other addresses or numbers as either party may indicate pursuant to this section. Any communication or notice so addressed and mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against BCD, any notice transmitted by facsimile must be confirmed by telephone notice to BCD's ePermitting Manager. To be effective against Jurisdiction, any notice transmitted by facsimile must be confirmed by telephone notice to Jurisdiction's City Manager or County Administrative Officer. Any communication or notice given by personal delivery shall be effective when actually delivered.

**12. SEVERABILITY.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**13. COUNTERPARTS.** This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

**14. GOVERNING LAW, CONSENT TO JURISDICTION.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between BCD (and/or any other agency or department of the State of Oregon) and Jurisdiction that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court in the State of Oregon of proper jurisdiction. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any

Claim or from the jurisdiction of any court. JURISDICTION, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

- 15. COMPLIANCE WITH LAW.** The parties shall comply with all state and local laws, regulations, executive orders and ordinances applicable to the Agreement. All employers, including BCD and Jurisdiction, that employ subject workers who provide Services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.
- 16. ASSIGNMENT OF AGREEMENT, SUCCESSORS IN INTEREST.** The parties agree there will be no assignment or delegation of the Agreement, or of any interest in this Agreement, unless both parties agree in writing. The parties agree that no services required under this Agreement may be performed under subcontract unless both parties agree in writing. The provisions of this Agreement shall be binding upon and shall inure to the parties hereto, and their respective successors and permitted assignees.
- 17. NO THIRD PARTY BENEFICIARIES.** BCD and Jurisdiction are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- 18. WAIVER.** The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. No waiver or consent shall be effective unless in writing and signed by the party against whom it is asserted.
- 19. AMENDMENT.** No amendment, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and when required by the Department of Administrative Services and Department of Justice. Such amendment, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Jurisdiction, by signature of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- 20. HEADINGS.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
- 21. CONSTRUCTION.** This Agreement is the product of extensive negotiations between BCD and representatives of Jurisdiction. The provisions of this Agreement are to be interpreted and their legal effects determined as a whole. An arbitrator or court interpreting this Agreement shall give a reasonable, lawful and effective meaning to the Agreement to the extent possible, consistent with the public

interest.

**22. INDEPENDENT CONTRACTOR.** The parties agree and acknowledge that their relationship is that of independent contracting parties and that neither party is an officer, employee, or agent of the other as those terms are used in ORS 30.265 or otherwise.

**23. LIMITATION OF LIABILITY.**

23.1. Jurisdiction agrees that BCD shall not be subject to any claim, action, or liability ARISING IN ANY MANNER WHATSOEVER OUT OF ANY ACT OR OMISSION, INTERRUPTION, OR CESSATION OF ACCESS OR SERVICE UNDER THIS AGREEMENT. THE STATE SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY DIRECT, INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES SUSTAINED BY THE POLITICAL SUBDIVISION, INCLUDING, BUT NOT LIMITED TO, DELAY, INTERRUPTION OF BUSINESS ACTIVITIES, OR LOST RECEIPTS THAT MAY RESULT IN ANY MANNER WHATSOEVER FROM ANY ACT OR OMISSION, INTERRUPTION, OR CESSATION OF SERVICE.

23.2. EXCEPT FOR LIABILITY ARISING UNDER SECTION 26 NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

**24. FORCE MAJEURE.** Neither BCD nor Jurisdiction shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, natural causes, or war which is beyond the reasonable control of BCD or Jurisdiction, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

**25. TIME IS OF THE ESSENCE.** Time is of the essence in the performance of all under this Agreement.

**26. CONTRIBUTION**

26.1. If any third party makes any claim or brings any action, suit or proceeding ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and

copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

26.2. With respect to a Third Party Claim for which BCD is jointly liable with the Jurisdiction (or would be if joined in the Third Party Claim ), BCD shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Jurisdiction in such proportion as is appropriate to reflect the relative fault of BCD on the one hand and of the Jurisdiction 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 BCD on the one hand and of the Jurisdiction 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. BCD's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if BCD had sole liability in the proceeding.

26.3. With respect to a Third Party Claim for which the Jurisdiction is jointly liable with BCD (or would be if joined in the Third Party Claim), the Jurisdiction 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 BCD in such proportion as is appropriate to reflect the relative fault of the Jurisdiction on the one hand and of BCD on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Jurisdiction on the one hand and of BCD on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Jurisdiction's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

**27. AGREEMENT DOCUMENTS IN ORDER OF PRECEDENCE.** This Agreement consists of the following documents that are listed in descending order of precedence:

- This Agreement less all exhibits;
- Exhibit A - Jurisdiction Obligations
- Exhibit B - ePermit License Agreement
- Exhibit C - ePermit Contract (not attached, but made available to Jurisdiction)
- Exhibit D - (Work Order, if applicable)
- Exhibit E – Implementation Model

All attached and referenced exhibits are hereby incorporated by reference.

**28. MERGER CLAUSE.** 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 all parties unless in writing and signed by both parties and all necessary State 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 BCD to enforce any provision of this Agreement shall not constitute a waiver by BCD of that or any other provision.

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

A. Jurisdiction

By: \_\_\_\_\_ Date: October 27, 2014

Printed Name: Michael J. Sykes

Title: City Manager of the City of Forest Grove

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**B. State of Oregon, Acting by and through its Department of Consumer and  
Business Services, Building Codes Division**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**C. State of Oregon, acting by and through its Department of Consumer and Business  
Services, Building Codes Division**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **Exhibit A Jurisdiction Obligations**

### **Jurisdiction Software**

As part of the state hosted system, any software being used by Jurisdiction to support either the building permitting system or any supplemental products being purchased from Accela, must be compatible with the Accela product.

### **Product Features**

Jurisdiction agrees to sell permits online through the ePermitting Portal. Jurisdiction agrees to offer online and IVR inspection scheduling for permits in an appropriate status. Jurisdiction agrees to offer online submittal of plan documents at appropriate point(s) in the application process as dictated by the Jurisdiction's workflow associated with each record type.

### **Permit Numbering Scheme.**

As a full service participant, Jurisdiction agrees to include the pre-assigned three digit prefix to all permits covered by and processed through ePermitting system. Permits for any supplemental products purchased through Accela, hosted in the State of Oregon environment and being serviced through the State of Oregon ePortal must also use the three-digit prefix in the permit number. Permits for supplemental products purchased through Accela that will not be hosted or maintained on the Oregon platform and that are not serviced through the State of Oregon ePortal are not required to use the three-digit prefix.

### **Status and Result Codes.**

All status and result codes such as inspections, plan review, permit issuance status will be pursuant to a statewide uniform system. Jurisdiction shall only use the uniform status and result codes.

### **Inspection Codes.**

Inspection types for code required inspections must be consistent throughout the state. Unique inspection types must be requested through and assigned by the ePermitting staff.

### **Supplemental Products Purchased by Jurisdiction through Accela.**

Any supplemental product such as, but not limited to, Land Use, Enforcement, Licensing or other services, are licensed directly to Jurisdiction by Accela. Support services for the supplemental products fall outside of the scope of this Intergovernmental Agreement and are therefore provided through direct agreement with Accela or other service provider. Installation of supplemental products onto the State hosted servers cannot occur before the State ePermitting team begins active development of the building permitting module.

### **Version (Product) updates.**

Migration from one product version of Accela Automation to another product version will be regulated and coordinated through BCD. Supplemental products will be required to migrate to the same version of the product at the same time as the product version for the building product module. After implementation, Jurisdiction is required to test the configuration against new versions of the product in the timeframe specified by BCD.

**Exhibit B**  
**Software License Agreement**

**Note: DCBS through the ePermit Contract has the right to permit Jurisdictions to use the ePermit System software as set forth in Exhibit G, License Agreement, of the ePermit Contract. While the entire software license agreement between the State and Accela, Inc., including the added language in Amendment 7, has been provided here for continuity and ease of use, a participating city or county is only bound by Sections 3.1, 3.2, and 4 as specified in this Agreement.**

|                                    |  |
|------------------------------------|--|
| 1. Parties ACCELA                  | CUSTOMER                               |
| Accela, Inc.                       | State of Oregon                        |
|                                    | Department of Consumer & Business      |
| 2633 Camino Ramon, Suite           | Services P.O. Box 14470                |
| 120 Bishop Ranch 3                 |  |
| San Ramon, California              | Salem, OR 97309                        |
| 94583 Attention: Contracts         | Attention: Building Codes              |
| Administration T: 925.659.3200     | Division T: (503)378-4100 F:           |
| F: 925.407.2722                    | (503)378-3989                          |
| e-Mail: contractsadmnin@accela.com | e-Mail: chris.s.huntington@state.or.us |

This License Agreement ("LA") is intended for the exclusive benefit of the Parties; except as expressly stated herein, nothing will be construed to create any benefits, rights, or responsibilities in any other parties.

2. Term and Termination

2.1 Term Provided that Customer signs and returns this LA to Accela **no later than August 8, 2008**, this LA is effective as of the date of Customers signature ("Effective Date") and will continue until terminated as provided herein.

2.2 Termination Either party may terminate if the other party materially breaches this LA and, after receiving a written notice describing the circumstances of the default, fails to correct the breach within thirty (30) calendar days. Upon any termination or expiration of this LA, all rights granted to Customer are cancelled and revert to Accela.

3 Intellectual Property

3.1 License The software products ("Software") listed in Exhibit A are protected under the laws of the United States and the individual states and by international treaty provisions. Accela retains full ownership in the Software and grants to Customer a perpetual, limited, nonexclusive, nontransferable license to use the Software, subject to the following terms and conditions:

3.1.1 The Software is provided for use only by Customer employees. For the purposes of subsections 3.1, 3.2 and Sections 4 of this LA, Customer means: i) the

individual Jurisdiction with respect to its use of the Software, provided that the licensing fee has been paid for such Jurisdiction, and ii) the State of Oregon acting by and through its Department of Consumer and Business Services with respect to its use of the Software.

- 3.1.2 The Software may be installed on one or more computers but may not be used by more than the number of users for which the Customer has named user licenses. For the purposes of this License Agreement, the Customer has unlimited use, per department, of any license covered by this agreement. The Software is deemed to be in use when it is loaded into memory in a computer, regardless of whether a user is actively working with the Software. Accela may audit Customer's use of the Software to ensure that Customer has paid for an appropriate number of licenses. Should the results of any such audit indicate that Customer's use of the Software exceeds its licensed allowance, Customer agrees to pay all costs of its overuse as determined using Accela's then-current pricing; any such assessed costs will be due and payable by Customer upon assessment. Customer agrees that Accela's assessment of overuse costs pursuant to this Subsection is not a waiver by Accela of any other remedies available to Accela in law and equity for Customer's unlicensed use of the Software.
- 3.1.3 Customer may make backup copies of the Software only to protect against destruction of the Software. With exception of the Entity Relationship Diagram and any other documentation reasonably-designated and specifically-marked by Accela as trade secret information not for distribution, Customer may copy Accela's documentation for use by those persons described in section 3.1.1, supra, provided that such use is for business purposes not inconsistent with the terms and conditions of this Licensing Agreement. "Trade Secret" has the meaning set forth in ORS 192.501(2)
- 3.1.4 Customer may not make any form of derivative work from the Software, although Customer is permitted to develop additional or alternative functionality for the Software using tools and/or techniques licensed to Customer by Accela.
- 3.1.5 Customer may not obscure, alter, or remove any confidentiality or proprietary rights notices.
- 3.1.6 Subject to the limitations of Article XI, § 7 of the Oregon Constitution and the Oregon Tort Claims Act (**ORS 30.260 through 30.300**), Customer is liable to Accela for any direct damages incurred as the result of unauthorized reproduction or distribution of the Software which occur while the Software is in Customer's possession or control.
- 3.1.7 Customer may use the Software only to process transactions relating to properties within both its own geographical and political boundaries and in counties contiguous to Oregon with populations below 100,000. Customer may not sell, rent, assign, sublicense, lend, or share any of its rights under this LA.

3.1.8 Customer is entitled to receive the Software compiled (object) code and is licensed to use any data code produced through implementation and/or normal operation of the Software; Customer is not entitled to receive source code for the Software except pursuant to an Intellectual Property Escrow Agreement, which may be executed separately by the Parties. Accela and Customer will execute an Intellectual Property Escrow Agreement within 30 days of Contract execution.

3.1.9 All rights not expressly granted to Customer are retained by Accela.

3.1.10 Customers are allowed unlimited use, per department, of software products listed in Exhibit A, for in-scope record type categories defined in Attachment 1 to this LA. In addition, each customer is allowed five (5) additional record types for activities that fall outside of the in-scope record type categories defined in Attachment 1 to this L.A., are delivered under the Building Department and are submitted to and approved by DCBS.

### 3.2 License Warranties

3.2.1 Accela warrants that it has full power and authority to grant this license and that, as of the effective date of this LA, the Software does not infringe on any existing intellectual property rights of any third party. If a third party claims that the Software does infringe, Accela may, at its sole option, secure for Customer the right to continue using the Software or modify the Software so that it does not infringe. Accela expressly agrees to defend, indemnify, and hold Customer harmless from any and all claims, suits, actions, losses, liabilities, costs, expenses, including attorneys fees, and damages arising out of or related to any claims that the Software, or the Customers use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, that Customer shall provide Accela with prompt written notice of any infringement claim. Accela will have the sole right to conduct the defense of any legal action and all negotiations for its settlement or compromise; provided, however, Accela shall not settle any claim against the Customer with the consent of Customer.

3.2.2 Accela has no obligation for any claim based upon a modified version of the Software or the combination or operation of the Software with any product, data, or apparatus not provided by Accela, with the exception of those products identified in Exhibit J. Accela provides no warranty whatsoever for any third-party hardware or software products.

3.2.3 Except as expressly set forth herein, Accela disclaims any and all express and implied warranties, including but not necessarily limited to warranties of merchantability and fitness for a particular purpose.

### 3.3 Compensation

3.3.1 License Fees In exchange for the Software described hereinabove, Customer will pay to Accela the amounts indicated in Exhibit A3.

3.3.2 Payment Terms Amounts are quoted in United States dollars and do not include applicable taxes, if any. The payment terms of all invoices are net forty-five (45) calendar days from the dates of the invoices. Any payment not paid to Accela within said period will incur a late payment in an amount equal to two-thirds of one percent (.66%) per month (eight percent (8% per annum), on the outstanding balance from the billing date. Accela may, at its sole discretion, suspend its obligations hereunder without penalty until payments for all past-due billings have been paid in full by Customer. All payments to Contractor are subject to ORS 293.462

#### 4. Confidentiality

4.1 Confidentiality and Nondisclosure. Each party acknowledges that it and its employees or agents may, in the course of performing its responsibilities under this LA, be exposed to or acquire information that is confidential to the other party or the other party's clients. Any and all information clearly marked confidential, or identified as confidential in a separate writing as confidential provided by one party or its employees or agents in the performance of this LA shall be deemed to be confidential information of the other party ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by the recipient of such information shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by the party acquiring such information) publicly known or is contained in a publicly available document; (b) is furnished by the party disclosing such information to others without restrictions similar to those imposed by this LA; (c) is rightfully in the receiving party's possession without the obligation of nondisclosure prior to the time of its disclosure under this LA; (d) is obtained from a source other than the discloser without the obligation of confidentiality, (e) is disclosed with the written consent of the disclosing party, or; (f) is independently developed by employees or agents of the receiving party who can be shown to have had no access to the Confidential Information.

4.2 The recipient of Confidential Information agrees to hold Confidential Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own Confidential Information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than as contemplated by this LA or reasonably related thereto, including without limitation the use by Customer of Accela who need to access or use the System for any valid business purpose, and to advise each of its employees and Accela of their obligations to keep Confidential Information confidential.

- 4.3 Each party shall use commercially reasonable efforts to assist the other in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, each party shall advise the other immediately in the event it learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this LA and each party will at its expense cooperate with the other in seeking injunctive or other equitable relief in the name of the other against any such person.
- 4.4 Each party agrees that, except as provided in this LA or directed by the other, it will not at any time during or after the term of this LA disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this LA each party will turn over to the other all documents, papers and other matter in its possession which embody Confidential Information.
- 4.5 Each party acknowledges that breach of this Article VIII, including disclosure of any Confidential Information will give rise to irreparable injury which is inadequately compensable in damages. Accordingly, each party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Each party acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the other and are reasonable in scope and content.
- 4.6 Customers obligations under this Article VIII shall be subject to the Oregon Public Records Laws, ORS 192.410 through ORS 192.505.

**Exhibit C**  
**ePermitting Contract**

The epermitting contract is available, upon request, for the Jurisdiction to review.

**Exhibit D**  
**Work Order Contract**

Under the terms and conditions of the ePermit System Agreement, BCD has the ability to enter into a Work Order Contract for implementation services. Should implementation services be used for the implementation of a specific participating city or county, the provisions of that agreement will be provided here.

A Work Order Contract is not being used to implement this jurisdiction.

**Exhibit E**

**IMPLEMENTATION**

**OREGON STANDARD MODEL**

**Oregon Standard Model (OSM), version 2 includes:**

- Standard Model Permits (records)
  - Exemption Tracking Record
  - Commercial Alarm Suppression Systems
  - Commercial & Residential Deferred Submittal
  - Commercial & Residential Demolition
  - Commercial & Residential Electrical
  - Commercial & Residential Investigation
  - Commercial & Residential Mechanical
  - Commercial & Residential Phased
  - Commercial & Residential Plumbing
  - Commercial RV Park or Manufactured Home Park
  - Commercial & Residential Septic – DEQ
  - Commercial & Residential Site Development
  - Commercial & Residential Structural
  - Commercial & Residential Research
  - Driveway (if used counts as 1 out of scope)
  - Inquiry
  - Post Disaster
  - Residential 1 & 2 Family Dwelling
  - Residential Manufactured Dwelling
- Standard Model Reports
  - Application About to Expire (List and Letters to Applicant and Owner)
  - Permit About to Expire ((List and Letters to Applicant and Owner)
  - Usage
  - Configuration Reports

- Fee by Account (Summary & Detail)
- Invoice
- Out of Balance
- Payments Applied
- Payments not Applied
- Refunds Issued
- Payments Received
- Payments Summary
- School Construction Excise Tax
- Inspection Correction Notice
- Inspection Summary
- Inspections Assigned
- Recent Inspection Activity
- Monthly Permit Summary
- Monthly Permits Issued
- Monthly Permits Issued Valuation Report
- State Surcharge
- State Surcharge Details
- Balance Due
- Building Application
- Building Permit
- Certificate of Occupancy
- Fee Estimate
- Fee by Record
- Phased Authorization to Begin Work
- Plan Review Checklist
- Temporary Certificate of Occupancy
- Work Authorization
- Receipt

Use of “Consistent Form and Fee Methodology”

Use of Elavon “Virtual Merchant” payment processor with US Bank for internet credit card processing in Accela Citizen Access (ACA)

**Oregon Standard Model Implementation includes:**

- Up to 5 “out of scope” (non-building department) permits: options include tracking record for Planning fees and applications and business licensing.
- Importing jurisdiction’s fee schedule into Accela
- Data conversion
- Address, Parcel, Owner Database Load
  - ePermitting will provide documentation about how data is to be formatted
  - Jurisdiction will provide files containing Address, Parcel, Owner reference data for loading into ePermitting database
- Interfaces to Jurisdiction Systems (optional)
  - Financial
    - ePermitting will provide files with specified fields for interfaces to jurisdiction’s on site systems
    - Jurisdiction will upload the files into their on site system
  - GIS

- ESRI ArcGIS Server 10 or ESRI ArcGIS Server 10 sp 1
  - Future versions of Accela Software may require upgrades to ESRI software to maintain interface operability
- Training
  - ePermitting provides online training through its ePermitting Web site, several Live trainings will also be arranged through Go To Meeting.
  - Jurisdiction’s “super users” will train other jurisdictional employees
- Administrative Responsibilities
  - State may provide limited training on administrative system administrative tools, allowing Jurisdiction to manage its users, fees, inspection calendars and email alerts; Jurisdiction may also write reports that can be run against the data warehouse.
  - ePermitting reserves the right to turn off administrative tools and rights if Jurisdiction’s use of the tools is causing problems to the system or if Jurisdiction does not have a trained system administrator.
- Coordination with Accela
  - If Jurisdiction purchases other modules, such as Planning or Code Enforcement, from Accela and has them implemented by Accela, an independent contractor or by Jurisdiction staff, Jurisdiction must coordinate that implementation with ePermitting.
    - Coordination with ePermitting means including ePermitting staff in project management meetings with Jurisdiction and the party implementing the other modules.
- Third Party Jurisdictions
  - If Jurisdiction uses a third party building official and/or inspection agency, Jurisdiction shall run the third party report provided with OSM and submit it with their program assumption Plans. ORS 455.148 (4).

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October 27, 2014

**REPORT AND RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE  
NEW NORTHWEST INTERGOVERNMENTAL ENERGY SUPPLY (“NIES”)  
JOINT RESOURCE PLANNING AND ACQUISITION AGREEMENT**

**PROJECT TEAM:** George Cress, Light & Power Director  
Michael J. Sykes, City Manager

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**ISSUE STATEMENT:** This agreement will replace the existing 2009 Load Commitment Agreement between NIES and its members. It will also replace the Joint Pooling Agreement between Energy Management Systems (“NEMS”), NIES and Northwest Energy Supply Cooperative (“NESC”).

**BACKGROUND:** The City is a member of Northwest Intergovernmental Energy Supply (“NIES”) which is supported by Northwest Energy Management Services (“NEMS”). NIES is made up of public utility districts and municipalities. NEMS also supports Northwest Energy Supply Cooperative (“NESC”), which is made up of cooperative utilities from across the Northwest. NEMS provides administrative support, market analysis, advocacy on BPA non-federal resource policies, and serves as a forum for information sharing on common electrical energy issues.

On September 12, 2011, Council approved Resolution No. 2011-74 authorizing the City Manager to provide notification to BPA of the City’s intent to serve a portion of Above High Water Mark Load with non-federal resources for purchase period 2015-2019 and authorizing the City Manager to negotiate and enter into a Load Commitment Agreement with NIES.

On June 27, 2014, the Boards of both (“NIES”) and (“NEMS”) each voted to establish a new Joint Resource Planning and Acquisition Agreement (“Agreement”). The purpose of the new Agreement is to codify the updated rights and obligations between NEMS, NIES and its members, which no longer include a mandatory load placement obligation by the members and generally provide more flexibility for the member in regards to termination rights and resource support services. Once executed, the Agreement will replace the Joint Pooling Agreement between (“NEMS”), (“NIES”) and (“NESC”).

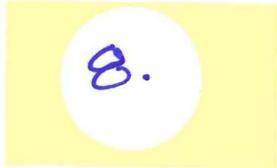
The City is entitled to purchase wholesale power from BPA on a preferential basis pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. In addition, the City has signed a Contract High Water Mark Contract with BPA for the period commencing October 1, 2011 and ending September 30, 2028.

The City may need to acquire wholesale power to serve its end-use customers in addition to the power purchased from BPA. Under this Agreement the City has maintained the right to purchase 1 aMW of non-federal resources for Fiscal Year 2015-2019 to serve Above High Water Mark Loads. NIES is an intergovernmental agency formed for the primary purpose of assisting its members in meeting their wholesale power needs to the extent that they are not served under the BPA Contract.

A NIES-Owned Resource is a resource, including a generating resource, power purchase agreement, or a similar power sales arrangement, an interest in which is acquired or developed and owned by one or more participating members of NIES, or an affiliated entity owned by one or more participating members of NIES, pursuant to a Resource Agreement and for which NEMS will provide support services upon approval of the NIES and NEMS boards.

**FISCAL IMPACT:** No additional costs, FY 2014-2015 NIES membership fee is \$9,066. This is an approved item in the Light and Power Department's Budget.

**STAFF RECOMMENDATION:** Staff recommends the City Council authorize the City Manager on behalf of the City to complete, execute and deliver the Joint Resource Planning and Acquisition Agreement in substantially similar form to Exhibit A, and all other documents and instruments as may be necessary or appropriate in order to carry out the intent of the attached Resolution.



**RESOLUTION NO. 2014-78**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ENDORSE THE  
NORTHWEST INTERGOVERNMENTAL ENERGY SUPPLY (NIES)  
JOINT RESOURCE PLANNING AND ACQUISITION AGREEMENT**

**WHEREAS**, City of Forest Grove is a member of the Northwest Intergovernmental Energy Supply (“NIES”), an inter-governmental entity formed and existing pursuant to Oregon Revised Statutes, Chapter 190; and

**WHEREAS**, Northwest Energy Management Services (“NEMS”), is a Cooperative under Oregon Revised Statutes, Chapter 62; and

**WHEREAS**, City of Forest Grove and NIES are currently parties to a Load Commitment Agreement (“LCA”), and NIES and NEMS are parties to a Joint Pooling Agreement (“JPA”). The purpose of the LCA and JPA are to meet part or all of the (Company)’s wholesale power needs that are not being served by the Bonneville Power Administration (“BPA”); and

**WHEREAS**, City of Forest Grove wishes to enter into a contract with NIES and NEMS called the Joint Resource Planning and Acquisition Agreement (“JRPAA”). The JRPAA would have the effect of superseding and replacing the LCA and JPA and would provide the basis by which NIES and NEMS would help the (Company) meet its wholesale power needs that are not being served by BPA; and

**WHEREAS**, City of Forest Grove’s representative to the NIES Board of Directors has reviewed the JRPAA, which has been prepared by NIES’ technical and legal consultants and are attached hereto as Exhibit A to this Resolution; and

**WHEREAS**, the City of Forest Grove City Council wishes to authorize the City Manager to complete and to execute the JRPAA on behalf of the City of Forest Grove.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:**

**Section 1.** The City of Forest Grove City Council hereby approves the Joint Resource Planning and Acquisition Agreement with NIES and NEMS in substantially similar form to Exhibit A.

**Section 2.** The City of Forest Grove City Council hereby represents and warrants that by this Resolution, it intends and agrees to be bound by the Joint Resource Planning and Acquisition Agreement, as may be further amended from time to time, according to their terms.

**Section 3.** The City of Forest Grove City Council hereby authorizes the City Manager on behalf of the City to complete, execute and deliver the Joint Resource Planning and Acquisition Agreement in substantially similar form to Exhibit A, and all other documents and instruments as may be necessary or appropriate in order to carry out the intent of this Resolution.

**Section 4.** This resolution is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** this 27<sup>th</sup> day of October 2014.

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Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 27<sup>th</sup> day of October 2014.

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Peter B. Truax, Mayor

# **JOINT RESOURCE PLANNING AND ACQUISITION AGREEMENT**

This Joint Resource Planning and Acquisition Agreement (“Agreement”) is executed by and between City of Forest Grove (“Member”), the Northwest Intergovernmental Energy Supply (“NIES”) and the Northwest Energy Management Services (“NEMS”). Member, NIES and NEMS may each be referred to herein as a “Party” or collectively as the “Parties.”

## **Recitals**

WHEREAS, Member is a Municipality serving end use consumers in the Pacific Northwest and is a member of NIES; and

WHEREAS, Member is entitled to purchase wholesale power from the Bonneville Power Administration (“BPA”) on a preferential basis pursuant to section 5(b) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. § 839c(b); and

WHEREAS, Member has signed a Contract High Water Mark Contract with BPA for the period commencing October 1, 2011 and ending September 30, 2028 (“BPA Contract”); and

WHEREAS, Member may need to acquire wholesale power to serve its end-use customers in addition to the power purchased from BPA; and

WHEREAS, NIES is an intergovernmental agency formed pursuant to ORS Chapter 190 for the primary purpose of assisting its members in meeting their wholesale power needs to the extent that they are not served under the BPA Contract; and

WHEREAS, Member and NIES previously executed and were parties to an Amended and Restated Load Commitment Agreement (“LCA”) pursuant to which Member was obligated to purchase, and NIES was obligated to deliver, a certain portion of Member’s wholesale power requirements that were not served under the BPA Contract; and

WHEREAS, NIES and NEMS, along with the Northwest Energy Supply Cooperative (“NESC”), previously executed and were parties to an Amended and Restated Joint Development, Agency and Power Pooling Agreement (“JPA”) pursuant to which NEMS was obligated to provide NIES and NESC with certain risk and power management services; and

WHEREAS, Under the JPA, many of NIES’ administrative obligations were authorized to be delegated to NEMS; and

WHEREAS, except as provided herein, Member, NIES and NEMS now intend to terminate the obligations of the Parties under the LCA and JPA and execute this Agreement to describe the Parties' respective rights and obligations.

NOW, THEREFORE, in consideration of the mutual obligations of NIES, Member, and NEMS as set forth in this Agreement, the Parties agree as follows:

## **I. DEFINITIONS**

### **A. Capitalized Terms**

All capitalized terms used herein shall have the respective meanings as defined below or as set forth in the body of this Agreement, unless the context in which such term is used clearly requires otherwise.

### **B. Definitions**

1. Credit Support Document. Any document describing or evidencing a Party's obligation to provide credit support as required by this Agreement or a Resource Agreement.

2. Fixed Purchase Amount. The amount or percentage share of energy and associated Nonpower Attributes, which a Member is obligated or entitled to purchase, own or receive and for which Member has agreed to be financially responsible through a Specific Resource Investigation Agreement or through a Resource Agreement.

3. Member-Owned Resource. A Member-Owned Resource is a Resource, including a generating resource, power purchase agreement, or a similar power sales arrangement, an interest in which is acquired or developed and owned by one or more Participating Members of NIES, or an affiliated entity owned by one or more Participating Members of NIES pursuant to a Resource Agreement and for which NEMS will provide support services upon approval of the NIES and NEMS boards.

4. NIES-Owned Resource. A NIES-Owned Resource is a Resource, including a Generating Resource, power purchase agreement, or a similar power sales arrangement an interest in which is acquired or developed and owned by NIES, or an affiliated entity for the benefit of one or more Participating Members pursuant to a Resource Agreement.

5. Nonpower Attributes. Any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from a renewable energy generating facility and its displacement of conventional energy generation. Nonpower Attributes include but are not limited to avoided emissions of pollutants to the air, soil or water, avoided emissions of carbon dioxide and other greenhouse gases and reporting rights (including 'green tag reporting rights') to such avoided emissions. Nonpower Attributes specifically exclude (i) energy, capacity, reliability, or other power attributes of the renewable energy generating facility, (ii) tax credits or deductions, financial incentives, grants or subsidies associated with the construction or operation of the

renewable energy generating facility or use of particular fuels and (iii) credits, benefits, emissions reductions, offsets, and allowances used or required to meet applicable laws or other requirements in connection with operating the renewable energy generating facility.

6. Participating Member. Any NIES member that has executed a Specific Resource Investigation Agreement or a Resource Agreement and has thereby agreed to participate in the investigation, development or acquisition of a Resource and to be responsible for a share of the costs of such Specific Resource Investigation or Resource.

7. Participating Member Representative. The person appointed by a Participating Member under any Specific Resource Investigation Agreement or Resource Agreement, as applicable, to represent the Member on all applicable Investigative or Resource Management Committees.

8. Percentage Cost Responsibility (“PCR”). A percentage cost allocation for each Participating Member with respect to each Specific Resource Investigation and each Resource, which is calculated by NIES pursuant to the Resource Policy and Procedures and set forth in the applicable Specific Resource Investigation Agreement or Resource Agreement.

9. Resource. Any NIES-Owned Resource or Member-Owned Resource that is subject to a Resource Agreement.

10. Resource Agreement. An agreement between each of the Participating Members in a Resource and NIES establishing each Participating Member’s agreement election to accept a PCR for such Resource in exchange for ownership of or entitlement to receive a Fixed Purchase Amount of such Resource, regardless of whether the Resource is ultimately terminated or operates at less than planned capacity and otherwise establishing each parties’ rights and responsibilities with respect to the development, acquisition, ownership, operation and maintenance of the Resource.

11. Specific Resource Investigation Agreement. An agreement between each of the Participating Members in a Specific Resource Investigation and NIES establishing each Participating Member’s election to accept a PCR for such Specific Resource Investigation consistent with its Fixed Purchase Amount for such Specific Resource Investigation and otherwise establishing each party’s rights and responsibilities with respect to the Specific Resource Investigation.

## **II. PURPOSE, TERM AND TERMINATION**

### **A. Purpose of Agreement.**

The purpose of this Agreement is, through joint or cooperative action of the Parties, to assist the Members to plan, finance, develop, acquire, construct, reconstruct, improve, operate and/or maintain Resources so as to enable the Members to provide reliable, competitive, low-cost electric service to their ratepayers.

**B. Conditions Precedent to Effectiveness of Agreement**

This Agreement shall become effective and binding upon each Party upon the date of the last to occur of each of the following (the “Effective Date”):

1. Execution by Member, NIES and NEMS. Each of the Parties to this Agreement shall have duly authorized, executed and delivered this Agreement.
2. Execution by all NIES Members. Each of NIES’ members, other than Member, shall have also authorized, executed and delivered an agreement that is substantially similar to this Agreement, or any non-signing member’s membership in NIES has been terminated in accordance with the NIES Bylaws. Provided, however, that this section II(B)(2) shall not apply to any NIES member that has sought and is waiting to receive approval from the Rural Utilities Service prior to execution of this Agreement. The parties may waive the requirements under section II(B)(2) by mutual written agreement of each of Member, NESC and NEMS.
3. Execution by NESC and all NESC Members. NESC shall have also authorized, executed and delivered an agreement that is substantially similar to this Agreement with each of its members and NEMS.

**C. LCA and JPA Terminated and Superseded**

Subject to the survival of any outstanding legal obligations pursuant to Section II(D) below, the Parties intend and agree that the rights and obligations of Member, NIES and NEMS under the LCA and the JPA shall terminate on the Effective Date and shall be superseded and be replaced by the rights and obligations of Member, NIES and NEMS under this Agreement. Except as provided in Section II(D), after the Effective Date, no additional rights or obligations may be created, or new costs incurred, under the terms of the LCA or JPA. Upon the Effective Date, and subject to Section II(D), the Agreement shall be the final and complete agreement of the Parties with respect to the subject matter addressed herein. All Administrative and General Costs, as defined by Section III(D)(1), incurred by NIES and payable by Member after the Effective Date shall be governed by this Agreement and any policies adopted by NIES. Any Resources investigated or acquired after the Effective Date shall be subject to the terms of this Agreement.

**D. Survival of Outstanding LCA and JPA Obligations**

Notwithstanding anything to the contrary in Section II(C) above, any legal or financial obligations or commitments arising under the LCA or the JPA that remain outstanding as of the Effective Date of this Agreement shall continue to be enforceable under, and governed by, the terms of the LCA and JPA until such obligations are fully satisfied. This includes any unpaid Member Payment Amount due and owing under the LCA. This also includes any obligations or commitments made by any Party with respect to any Closed Resource Pool existing on the Effective Date. For avoidance of doubt, Resource Pools created under the LCA and JPA shall continue to be governed by the terms of the LCA and JPA until all present and future obligations with respect to such Closed Resource Pool have been fully satisfied.

**E. Term of Agreement**

This Agreement shall remain in full force and effect until terminated by any of the Parties according to the terms of this Agreement. Prior to the expiration of the current BPA Contract in 2028, the Parties shall negotiate in good faith to revise and amend any of the terms and conditions of this Agreement as may be necessary to address any reasonably anticipated changes to the successor agreement to the BPA Contract.

**F. Termination**

This Agreement may be terminated pursuant to the following terms and conditions:

1. Termination By Member With NIES Approval. With the approval of two-thirds of the Board of Directors of NIES, Member may terminate this Agreement on the date on which all of the following conditions have been satisfied:
  - i. Member has delivered to NIES a written notice of intent to terminate this Agreement and has satisfied any requirements of the NIES Membership Agreement applicable to termination of this Agreement; and
  - ii. No suit, action, or other proceeding shall be pending or threatened by or before any court or governmental or administrative agency in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with Member's termination of this Agreement; and
  - iii. All required authorizations, consents, waivers, and approvals have been received from any government agency or third party whose consent is required, and have been provided to NIES by Member; and
  - iv. Member and NIES have entered into a termination agreement satisfactory to NIES, NEMS and Member making adequate provisions for the payment in full, of all its debts arising under this Agreement or any Resource Agreement or Specific Resource Investigation Agreement and for the satisfaction of all of Member's other obligations to NIES, NEMS, and/or to the other Participating Members in any NIES Owned Resource or Member Owned Resource, including obligations to third parties, and compliance with such other reasonable terms and conditions as the NIES Board may require in the termination agreement. NIES, NEMS, and Member will act in good faith and each shall make a commercially reasonable effort to negotiate a termination agreement that is equitable to all affected parties, including any third party creditors, and that will not detrimentally impact the best use of NIES-Owned Resources, Member-Owned Resources, financial commitments of the remaining members, and the efficient administrative tracking of costs.

- v. The terms and conditions of any termination must otherwise comply with the terms and conditions of any Specific Resource Investigation Agreement and Resource Agreement executed by the Member.

2. Termination by Member without NIES Approval. Notwithstanding any provision to the contrary in this Section II, Member may terminate its membership in NIES and this Agreement without approval of the NIES Board by providing written notice no later than August 1, 2015 to be effective January 1, 2016. Thereafter, Member may terminate its membership in NIES and this Agreement without approval of the NIES Board by providing written notice to NIES on or before December 31, 2018 to be effective January 1, 2020. Following December 31, 2018, Member shall have the right to provide a written notice of termination of its membership in NIES and this Agreement under this provision every four years. Specifically, Member may terminate its membership in NIES and this Agreement without approval of the NIES Board at any time after December 31, 2018 by providing at least two years advanced written notice; Provided, however, that such termination shall not be effective until the next four-year anniversary of January 1, 2020 following such written notice. For example, written notice provided any time between December 31, 2018 and December 31, 2022 will result in termination of the Agreement on January 1, 2024. Likewise, written notice provided any time between December 31, 2022 and December 31, 2026 will result in termination of the Agreement on January 1, 2028. This four-year termination right shall continue until the Agreement is terminated. In the event such notice of termination is given, each of the conditions set forth in Section II(E)(1)(i-v) and the NIES Bylaws must be satisfied for the termination to be effective. Except as agreed by the Parties, termination of this Agreement shall have no effect on and shall not terminate or otherwise impair any obligation of a Party under any Specific Resource Investigation Agreement, Resource Agreement or other agreement, including agreements with third parties, entered into by such party pursuant to this Agreement.

3. Termination upon Event of Default. This Agreement may be terminated by any non-defaulting Party upon the occurrence of an Event of Default pursuant to Section VIII.

4. Continuing Payment Obligations. Any payment obligation of Member arising under this Agreement, any Specific Resource Investigation Agreement or any Resource Agreement that remains outstanding at the time this Agreement is terminated shall survive termination and shall continue to be payable until paid in full.

### **III. MEMBER'S GENERAL RIGHTS AND OBLIGATIONS**

As of the Effective Date of this Agreement, Member shall have the following general rights and obligations:

#### **A. Member May Participate in Specific Resource Investigation**

In its sole discretion, Member may elect to participate in one or more Specific Resource Investigations approved by NIES, subject to the terms and conditions of a Specific Resource Investigation Agreement. Member shall be entitled to have its Participating

Member Representative appointed to an Investigation Committee that is created by NIES with respect to each Specific Resource Investigation in which Member has agreed to participate. Notwithstanding the forgoing, Member is not obligated to participate in any Specific Resource Investigation and shall not be liable for any Specific Resource Investigation costs in which Member does not agree to participate and has not signed a Specific Resource Investigation Agreement.

**B. Member May Participate in NIES-Owned Resources**

In its sole discretion, Member may agree to participate in one or more NIES-Owned Resources, subject to the terms and conditions of a Resource Agreement. Member shall be entitled to have a Participating Member Representative appointed to a Resource Committee that is created by NIES with respect to each Resource Agreement in which Member has agreed to participate. Notwithstanding the forgoing, Member is not obligated to participate in any NIES-Owned Resources, or otherwise acquire wholesale power from or through NIES, and Member shall not be liable or financially responsible for any NIES-Owned Resources in which Member has not agreed to participate and has not signed a Resource Agreement.

**C. Member May Participate in Member-Owned Resources**

In its sole discretion, Member may elect to participate in one or more Member-Owned Resources, subject to the terms and conditions of a Resource Agreement. Notwithstanding the forgoing, Member is not obligated to participate in any Member-Owned Resources and shall not be liable or financially responsible for any Member-Owned Resources regarding which Member has not agreed to participate by signing a Resource Agreement.

**D. Member Shall Pay its Member Payment Amount.**

Member shall pay its Member Payment Amount in full to NIES in accordance with the terms of this Agreement. Payments shall be made on a monthly basis unless otherwise agreed to by the Parties. The Member Payment Amount shall consist of each of the following costs, to the extent applicable to Member:

1. NIES Administrative and General Costs. Administrative and General Costs are those costs associated with the ongoing operation of NIES and NEMS and any other third party with whom NIES or NEMS contracts to provide services. Administrative and General Costs include all costs incurred by NIES that are not otherwise specifically allocated to NIES members as Specific Resource Investigation costs or Resource costs. Administrative and General Costs may include, without limitation, costs associated with developing resource plans; General Resource Investigation; assessing transmission, resource support services and other general requirements for resources to be available to serve NIES members' needs; interaction with BPA Power Services and Transmission Services (or their successors) on contractual and policy matters; general business functions, including governance, policy development, financial reporting, and regulatory compliance; and related matters that generally benefit all members. Administrative and General Costs exclude all costs that are considered Specific Resource Investigation costs, NIES-Owned Resource costs, and Member-Owned Resource costs.

2. Specific Resource Investigation Costs. The Member Payment Amount shall include a share of the costs incurred by NEMS and NIES in connection with any Specific Resource Investigation in which Member has agreed to participate pursuant to a Specific Resource Investigation Agreement. The Specific Resource Investigation Agreement will set forth the allocation of these costs among the Participating Members consistent with their agreed-upon PCR with respect to such Specific Resource Investigation.

3. Resource Costs. The Member Payment Amount shall include a share of the costs incurred by NIES in connection with any Resource in which Member elects to participate pursuant to a Resource Agreement. These costs may include, but are not limited to, those associated with acquiring, developing, owning, managing, maintaining, and operating Member's share of any NIES-Owned Resource. The Resource Agreement will set forth the allocation of Resource costs among the Participating Members consistent with their agreed-upon PCR with respect to such Resource.

**E. Member Shall Satisfy Creditworthiness and Credit Support Requirements**

Member shall satisfy all creditworthiness and credit support requirements determined by NIES pursuant to Section VII below.

**IV. NIES' GENERAL RIGHTS AND OBLIGATIONS**

As of the Effective Date of this Agreement, NIES shall have the following general rights and obligations:

**A. NIES Shall Calculate and Collect Member's Payment Amount**

NIES shall collect from Member, and from all other NIES members, the applicable Member Payment Amount. Unless otherwise determined by mutual agreement of the affected parties, Administrative and General Costs shall be allocated to such members pursuant to policies adopted by NIES. NIES shall maintain and update the Member Payment Amount from time to time and shall provide supporting documentation to Member. NIES shall include a projection of the Member Payment Amount for Administrative and General costs in its annual budget. NIES shall work with NEMS in discharging these obligations pursuant to Section V(A) below.

**B. Specific Resource Investigations**

The NIES Board shall be responsible for voting on whether or not to initiate a Specific Resource Investigation consistent with its Resource Policies and Procedures. Upon a majority vote by the NIES Board to initiate a Specific Resource Investigation, NIES shall determine which of its members wish to become Participating Members and shall establish an Investigation Committee to govern the Specific Resource Investigation. Participating Members shall enter into a Specific Resource Investigation Agreement which shall govern the rights and obligations of the Participating Members, NIES and NEMS regarding the Specific Resource Investigation.

1. Investigation Committee Representation. Each Participating Member shall appoint a Participating Member Representative to each Specific Resource Investigation Committee that is created.

### **C. Resource Approval**

Upon the conclusion of a Specific Resource Investigation, the NIES Board shall determine whether the Resource under investigation is consistent with its Resource Policies and Procedures. Upon a majority vote by the NIES Board approving the Resource, NIES shall determine whether any of its members wish to become Participating Members in such Resource as a NIES-Owned Resource. If one or more NIES members agrees to become a Participating Member in the Resource as a NIES-Owned Resource, then NIES shall establish a Resource Committee to govern the acquisition of the NIES-Owned Resource. Prior to acquiring the NIES-Owned Resource, NIES and each of the Participating Members shall negotiate an extension of the Specific Resource Investigation Agreement or execute a Resource Agreement pursuant to Section VI, below, which shall govern the rights and obligations of the Participating Members, NIES and NEMS regarding the Resource acquisition.

1. Resource Committee Representation. Each Participating NIES Member shall appoint a Participating Member Representative to each Resource Committee that is created with respect to a NIES-Owned Resource.

### **D. NIES May Acquire and Own NIES-Owned Resources**

NIES is authorized to acquire, own, operate and manage NIES-Owned Resources, regardless of whether such Resource was the subject of a Specific Resource Investigation, pursuant to a Resource Agreement and pursuant to Section VI below. The costs of such NIES-Owned Resources shall be allocated only to Participating Members pursuant to the PCRs set forth in a Resource Agreement. NIES may exercise this authority only upon a majority vote of its Board. Upon approval of the NIES Board and the applicable Resource Committee, a NIES-Owned Resource may be owned by an independent subsidiary or corporate affiliate of NIES.

### **E. Coordination with NEMS**

NIES shall be responsible for coordinating with NEMS for the provision of cost-recovery, investigative or resource management services with respect to any general resource investigation, Specific Resource Investigations and the management of any NIES-Owned Resource. NIES may request, upon approval by the NIES Board of Directors, the provision of resource management services from NEMS in support of any Member-Owned Resource.

### **F. NIES Creditworthiness and Credit Support Obligations**

NIES shall satisfy all applicable creditworthiness and credit support requirements pursuant to Section VII below.

## **V. NEMS' GENERAL RIGHTS AND OBLIGATIONS**

### **A. Cost-Recovery Services**

NEMS shall provide NIES and Member certain financial record keeping, accounting and billing services related to this Agreement as described in this Section. Such services may include: (i) determining the Member Payment Amount under this Agreement; (ii)

determining any other amounts owed to NIES by Member for goods, services, overhead or for any other reason; (iii) billing Member for any amounts owed by Member to NIES under this Agreement; (iv) determining any amounts that may be owed by NIES to Member under this Agreement; and (v) such other accounting and billing services as NIES may assign to NEMS. NIES may delegate to NEMS the right to enforce all payment obligations of Member to NIES. In addition, NIES may delegate to NEMS the responsibility and authority to monitor Member's compliance with creditworthiness and Credit Support requirements under this Agreement or any Resource Agreement and notify NIES if Member is not in compliance. Member consents to this delegation of responsibility to NEMS.

#### **B. Specific Resource Investigations**

Upon the majority vote of the NIES Board to initiate a Specific Resource Investigation, NEMS shall conduct a Specific Resource Investigation. NEMS shall serve at the direction of the Investigation Committee created by NIES to govern such Specific Resource Investigation. Such investigation would include, among other things, a detailed analysis of the costs, mechanical availability, risks, transmission capacity and other relevant factors associated with a specific generating facility or resource. The costs associated with such Specific Resource Investigation shall be allocated only to those NIES members that have elected to participate in such Specific Resource Investigation pursuant to a Specific Resource Investigation Agreement, and all other NIES members shall be held harmless.

#### **C. Provision of Resource Management Services**

At the request of NIES, NEMS shall provide cost-recovery and resource management services with respect to any NIES-Owned Resource. Such resource management services may include, but are not limited to the acquisition of transmission service, power delivery, resource shaping, surplus sales, and mitigation of underperformance or unavailability of the resource. The costs associated with such cost-recovery and resource management services shall be allocated only to those NIES members that have elected to participate in such NIES-Owned Resource and all other NIES members shall be held harmless. NEMS may, upon request of NIES and by approval of the NEMS Board of Directors, provide cost-recovery and resource management services with respect to any Member-Owned Resource pursuant to a Resource Agreement.

#### **D. Resource Management Committee**

NEMS shall establish and maintain a Resource Management Committee ("RMC") as a standing committee of NEMS. The representatives on the RMC shall be composed of at least seven representatives, with at least three representatives appointed by NIES, three representatives appointed by NESC and one representative appointed by the Board of NEMS (provided that NEMS' representative has not otherwise been appointed by NIES or NESC). Each Member shall have the right to appoint a representative or designee to the RMC provided that each Member shall have no more than one representative on the RMC, including any representative appointed by the NESC, NIES or NEMS Boards. The RMC shall be the technical advisory committee that provides direction to NEMS staff and recommendations to the Board of NEMS on technical and policy matters arising under this Agreement, subject to the policy guidance provided by the Board of NEMS. For the

avoidance of doubt, the authority of the RMC is not intended to overlap with or duplicate the authority of an Investigation Committee or a Resource Committee established pursuant to this Agreement to oversee and manage a Specific Resource Investigation or a Resource development. In addition, the RMC shall develop and submit for approval by NIES creditworthiness and Credit Support policies and a General Resource Investigation as described below:

1. Creditworthiness and Credit Support Policies. Such policies shall include the following:

- i. Creditworthiness and Credit Support standards, policies and requirements applicable to NIES and to each NIES member to the extent they have a PCR for a NIES-Owned Resource; and
- ii. Creditworthiness, Credit Support and financial risk standards applicable to Power suppliers and other counterparties with whom NIES or NESC or their individual Members may transact business pursuant to this Agreement.

2. General Resource Investigation. The RMC shall conduct a General Resource Investigation at least every two years. The General Resource Investigation shall evaluate the amount and type of existing Resources; estimate the new load obligations of NIES members, and provide guidelines for the type and amount of resources that may be available to NIES members every two years. The General Resource Investigation shall analyze and evaluate projected total resource costs, including costs associated with fuel, shaping and management services; risks associated with potential resources; transmission availability and costs; compliance with and/or costs associated with applicable state and federal laws and regulations; timing of resource online date or availability; counterparty viability and creditworthiness; resource diversity and long-term planning; and comparison to other resource options. The General Resource Investigation shall not include resources that have a significant adverse regulatory impact on NIES members. The General Resource Investigation shall take into consideration the state and/or federal renewable portfolio standard requirements and/or similar legislation or regulation applicable to NIES members. The costs for such General Resource Investigations shall be allocated to NIES' members pursuant to Section IV(A).

## **VI. RESOURCE AGREEMENTS**

### **A. NIES-Owned Resources**

Prior to acquiring, developing, owning, operating and/or managing a NIES-Owned Resource, NIES and all Participating Members shall negotiate and execute a written Resource Agreement or agreements governing the terms and conditions applicable to such NIES-Owned Resource. The Resource Agreement shall, among other things, assign each Participating Member a PCR and a Fixed Purchase Amount with respect to the NIES-Owned Resource. Each Participating Member shall be entitled to the full and exclusive use of its Fixed Purchase Amount of the NIES-Owned Resource, including any associated Nonpower Attributes.

**B. Member-Owned Resources**

Prior to acquiring, developing, owning, operating and/or managing a Member-Owned Resource, NIES and all Participating Members shall negotiate and execute a written Resource Agreement governing the terms and conditions applicable to each Member-Owned Resource. The Resource Agreement shall, among other things, assign each participating member a PCR and Fixed Purchase Amount with respect to the Member-Owned Resource. Each Participating Member shall be entitled to the full and exclusive use of its Fixed Purchase Amount of the Member-Owned Resource, including any associated Nonpower Attributes.

**C. Indemnity by Participating Members of other NIES Members**

Each Resource Agreement shall require the Participating Members to be solely liable for their share of the Resource costs consistent with their respective PCRs in the Resource. Participating Members shall indemnify and hold harmless any non-participating NIES members from any and all costs, claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, arising out of or relating to a Resource. Notwithstanding the foregoing, Participating Members may also be required to provide reasonable credit support instruments, including letters of credit, guarantees, other contractual and financial assurances, counterparty waivers and/or releases and take other reasonable measures, including giving consideration to project ownership structures that will minimize financial risk to non-participating NIES Members.

**VII. CREDITWORTHINESS AND CREDIT SUPPORT**

**A. NIES Shall Establish General Creditworthiness and Credit Support Obligations**

NIES shall consider the creditworthiness and credit support policies, standards and requirements recommended by the NEMS Resource Management Committee. NIES shall adopt creditworthiness and credit support policies, requirements and standards that will be applicable to (i) NIES, (ii) all members (iii) all members of NIES that elect to participate in a NIES-Owned Resource and (iv) to counter-parties with whom NIES transacts business.

**B. NIES Compliance With Creditworthiness and Credit Support Obligation**

NIES shall (i) meet and comply with on a continuous basis, general creditworthiness and credit support policies, standards and requirements adopted by the NIES Board, (ii) bundle credit support provided by participating members when necessary and feasible to acquire NIES-Owned Resources, and (iii) meet the financial and other obligations of NIES under this Agreement.

**C. Member General Creditworthiness and Credit Support Obligations**

Member shall: (i) meet and comply with on a continuous basis, general creditworthiness and credit support policies, standards and requirements adopted by the NIES Board, (ii) provide additional credit support as necessary and proportionate to its PCR for each NIES-Owned Resource in which Member elects to participate, and (iii) meet the financial and other obligations of Member under this Agreement.

1. Limitations on Credit Support Obligations; Illegality. Notwithstanding any provision in this Section VII, or any other provision in this Agreement, nothing in this Agreement shall require Member, without the express approval of its governing body, to pledge or purport to pledge its credit for any financial obligation of another member of NIES, or of NESC or any of its members, or to assume a credit or payment obligation of any NIES member or of NESC or any of its members, or to pledge its credit in violation of state or federal law. Nor shall any provision of this Agreement require NIES to pledge its credit in violation of state or federal law.

#### **D. Forms of Credit Support**

To the extent that any Party is required to provide credit support under the terms of this Agreement, such Party may satisfy this obligation by posting a letter of credit; making a cash prepayment; obtaining a guaranty of performance executed by a creditworthy entity; posting other acceptable collateral; or some other mutually agreeable method of satisfying the creditworthiness standards contained in a Resource Agreement and policies adopted by the NIES Board.

#### **E. Failure to Meet Creditworthiness and Credit Support Obligations**

NIES may include in any Resource Agreement a provision that if any Party should: (i) fail to meet and maintain the creditworthiness standards, requirements and policies adopted by the NIES Board, or (ii) fail to meet its credit support requirements with regard to any NIES-Owned Resource approved by the NIES Board pursuant to this Agreement then within five (5) business days such Party shall post and provide new or additional credit support in an amount required to secure the Party's proportionate share of any existing, new or enhanced credit support requirement. The Participating Members in any Member-Owned Resource may include a comparable provision in any Resource Agreement.

#### **F. Enhanced Credit Support by Member**

NIES may require Member to provide enhanced credit support under the following circumstances, including, but not limited to: Member (or its guarantor if applicable) is failing to perform or defaulting under other contracts; Member has committed an Event of Default as defined in Section VIII; Member experiences a material adverse change in its financial condition; or Substantial changes in market prices occur, which materially and adversely impact Member's ability to perform under this Agreement or cause a NIES counter-party to require NIES or Member to provide additional or enhanced Credit Support.

### **VII. DEFAULTS AND REMEDIES**

#### **A. Events of Default**

Each of the following shall constitute an Event of Default with respect to any Party:

1. Failure to Pay Amounts When Due. The failure of any Party to make when due any payment required to be made pursuant to this Agreement if the failure to pay is not

remedied within five (5) business days after written notice of such failure is given to the non-paying Party.

2. Failure to Provide Credit Support When Due. The failure of a Party to provide and maintain adequate credit support consistent with the requirements established pursuant to this Agreement if such failure is not remedied within five (5) business days after written notice of such failure.

3. Failure to Satisfy Other Material Performance Obligation. The failure of a Party to satisfy any material performance obligation required under this Agreement, a Specific Resource Investigation Agreement or a Resource Agreement. This expressly includes, but is not limited to, the failure by any Party, when required to do so pursuant to the terms of this Agreement, to provide adequate assurances of its ability to perform all of its outstanding material obligations to another Party to this Agreement or other agreement entered into pursuant to this Agreement under which such Party has a material performance obligation. Upon receipt of written notice that a Party has failed to satisfy any material performance obligation, the defaulting Party shall have thirty (30) days in which to cure such default before the non-defaulting Parties may exercise any of the remedies set forth below.

4. Cross-Defaults. A Cross-Default shall be an Event of Default of this Agreement. A Cross Default shall include any default by a Party of any material performance or payment obligation to a third-party pursuant to an agreement other than this Agreement. A Cross-Default shall also include the filing of a voluntary or involuntary bankruptcy petition or the filing of any judicial or administrative action for reorganization, moratorium, liquidation or similar insolvency proceeding or other relief under any federal bankruptcy, state receivership or other insolvency law by a Party or its Credit Support Provider. Each Party shall be obligated under this Agreement to immediately inform the other Parties of any Cross-Default.

#### **B. Time is of the Essence**

The Parties agree that prompt performance of all obligations is essential and that failure of any Party to timely pay financial obligations, to meet creditworthiness standards, or to meet its Credit Support obligations will cause injury to the other.

#### **C. Remedies**

Upon the occurrence of an Event of Default, the non-defaulting Parties shall have the remedies described below. Such remedies shall be cumulative and not exclusive, and are in addition to any other remedies that may be available at law or in equity

1. Recover amounts due. In the event of a payment default, the defaulting Party shall continue to be liable for any payment obligation, plus interest on the delinquent amount, calculated from the date the payment was originally due until paid. In such case, the non-defaulting Party may also set-off against the unpaid amount owed to it by the defaulting Party against any unpaid obligation owed by it to the defaulting Party.

2. Increased Security. Upon the occurrence of any Event of Default, the non-defaulting Parties may require the defaulting Party to provide additional security to the maximum extent allowed under the terms hereof.

3. Call on Security. In the event of a payment default, the Party to which payment is owed may call on any letter of credit or other credit support commitment under which it has the right to call pursuant to this Agreement in order to assure performance of the payment obligation in question.

4. Further Assurances. Upon the occurrence of an Event of Default, the non-defaulting Parties shall have the right to require the defaulting Party to provide adequate assurances of its ability to perform all material obligations arising under this Agreement.

5. Termination. Upon the occurrence of an Event of Default by a Party, the non-defaulting Parties shall have the right to terminate this Agreement as to the defaulting Party.

#### **D. Limitation on Damages**

To the fullest extent permitted by law, no Party shall be liable to any other Party for any indirect, consequential, multiple or punitive damages.

#### **E. Indemnity and Hold Harmless; Attorney Fees and Costs**

A defaulting Party will, on demand, indemnify and hold harmless the non-defaulting Parties for and against all reasonable out-of-pocket expenses, including all legal fees and costs after default incurred by such other Parties by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the defaulting Party is a party, including, but not limited to, costs of collection.

### **VIII. ASSIGNMENTS**

Except as expressly provided below, none of the rights and obligations arising under this Agreement may be assigned by any Party to any third-party without first obtaining the written consent of each other Party to this Agreement. Notwithstanding the forgoing, any Party may assign, transfer, mortgage or pledge its interest in this Agreement as security for any obligation secured by any loan or credit agreement, mortgage or similar lien.

### **IX. RIGHTS OF ACCESS, RECORDS AND ACCOUNTS**

#### **A. NIES Documents**

NIES shall maintain a schedule and supporting documentation that shall identify all NIES-Owned Resources and associated costs, Member's PCR with respect to each NIES-Owned Resource, the Member Payment Amount, and any outstanding credit support obligation of Member. NIES shall make the schedule and supporting documentation available to Member upon request.

**B. NIES Accounting**

NIES shall keep accurate records and accounts in accordance with generally accepted accounting principles. Promptly after the close of each fiscal year, NIES shall cause such records and accounts of all transactions of NIES with respect to such fiscal year to be subject to an annual audit. NIES shall without delay provide a copy of each such annual audit, including all written comments and recommendations to Member.

**C. Access to Books and Records**

Member shall at all times have reasonable access during business hours to examine any and all of the books, records and supporting worksheets and data of NIES as may be appropriate to determine the accuracy of any charges or payments required to be made by Member to NIES. If such books, records and supporting worksheets and data of NIES contain information about one or more other members, NIES shall excise any identification of specific other members or provide such information to an independent certified public accountant or other independent representative of Member under a confidentiality agreement. If, after such examination of NIES' records, there is still a dispute as to the accuracy of any charge and the Member proceeds with mediation, arbitration or litigation, only requirements of confidentiality imposed by a mediator, arbitrator or court shall be applied.

**D. Record Retention**

NIES shall maintain all books and records that it is required to maintain under this Agreement, contracts with third parties, any applicable industry standards, and any applicable state and federal laws. NIES shall maintain a written policy for the retention, maintenance and destruction of records that complies with the foregoing requirements.

**X. MISCELLANEOUS**

**F. Amendments**

This Agreement may be amended only upon the mutual written agreement of all Parties hereto.

**G. Good Faith**

The Parties shall act in good faith towards each other in relation to all activities and dealings contemplated by this Agreement, including: (i) by providing timely and complete data and information that the other Party may need to carry out its responsibilities under this Agreement; and (ii) by attending diligently to the conduct of all of its duties and activities in relation to this Agreement. In addition, the Parties agree to cooperate and work with BPA, other NIES members, and third parties with whom NIES has contracted for services to meet its obligations under this Agreement, including by providing timely responses to requests by any other Party for data and information.

**H. Severability**

If any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced

as if this Agreement did not contain the particular part, term, or provision held to be unenforceable.

#### **I. Governing Law and Venue**

Except to the extent governed by applicable federal law, this Agreement shall be governed by, and construed in accordance with, the laws of the State of Oregon. Notwithstanding the foregoing, with respect to any Member, such Member's authority to enter into this Agreement shall be determined under the laws of the state in which it is organized. Venue for any litigation pursuant to this Agreement shall be in the state or federal courts located in Multnomah County, Oregon.

#### **J. Invoices**

All payments from one Party to another under this Agreement shall be due thirty (30) days after the date the invoice is received. This provision shall not preclude the Parties from mutually agreeing to a due date of less than 30 days on a case by case basis.

In the event that the Party receiving an invoice disputes all or part of the invoiced amount, the receiving Party shall pay the full invoiced amount when due without set-off or deduction of any kind. The Parties shall thereafter resolve the disputed invoice amount pursuant to the mediation and arbitration procedures set forth in Section XI(F) below.

#### **K. Mediation and Arbitration**

If a dispute arises out of or relates to this Agreement, including all attachments hereto, or the breach thereof, the Parties involved in the dispute shall first in good faith seek to resolve the dispute through negotiation. If the disputing Parties do not resolve the dispute within thirty (30) days after a request by either such Party for negotiations, the Parties agree to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association.

If the matter is not resolved by negotiation or mediation, it shall be submitted to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The American Arbitration Association shall administer the arbitration and act as appointing authority of the arbitrator. Each Party to the arbitration shall bear their own costs and expenses of the arbitration, including attorneys and expert witness fees, and shall equally share the fees and costs and expenses of the arbitrator and the administrative expenses of the arbitration. The award of the arbitrator shall be final, and judgment on the award rendered by the arbitrator may be entered by any court having jurisdiction. The arbitration shall be conducted in Portland, Oregon, unless the Parties agree otherwise.

#### **L. Information Requirements**

Subject to any applicable confidentiality agreement, the Parties shall each furnish to the other promptly upon request any and all information about itself, its financial condition, business and properties that may be necessary or desirable to facilitate any transactions or financing undertaken by the requesting Party or any continuing disclosure obligation incurred by the requesting Party in connection with any such financing.

**M. Force Majeure**

In the event that a Party is prevented or delayed, directly or indirectly, from the performance of any of its respective obligations hereunder by a Force Majeure Event, then (i) such Party (the “Affected Party”) shall be excused from the performance of such obligations for so long as, and to the extent that, the Force Majeure Event prevents or delays such performance; (ii) such failure shall not be deemed to be a breach or default of this Agreement; and (iii) the time within which or by which the Affected Party is required to perform any such obligation under this Agreement shall be extended by a period of time equal to the period of delay arising from such Force Majeure Event.

**N. Rules of Construction**

The descriptive headings of the various Sections and subsections of this Agreement and the Exhibits attached hereto have been inserted for convenience of reference only and shall not be construed as to define, expand, or restrict the rights and obligations of the Parties. Wherever the term “including” is used in this Agreement and the Exhibits attached hereto, such term shall not be construed as limiting the generality of any statement, clause, phrase or term.

**O. Notices**

All notices, requests, statements or payments provided for, required or permitted by this Agreement shall be sufficient for any and all purposes under this Agreement when transmitted by facsimile, first class United States Mail, hand delivery, or a private express delivery service to the facsimile numbers or addresses provided below.

**P. No Third Party Beneficiaries**

No provision of this Agreement shall in any way inure to the benefit of any third party, so as to constitute any such person as a third party beneficiary under this Agreement, or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a Party hereto.

**Q. Counterparts**

This Agreement may be executed in multiple counterparts by the Parties but shall be construed as one Agreement.

**R. Relationship of Parties**

This Agreement shall not create any partnership or joint venture among the Members and the Members shall not hereunder be deemed as partners, joint venturers, or associated in any manner which obligates them for the liabilities, obligations, debts, defaults, negligence, or miscarriages of any other Member. Except for obligations of individual Members arising under Resource Agreements or other contracts with NIES related to each Resource, no Member shall be liable for any bond, note, indebtedness or other obligation of NIES or any other Resource; nor shall any Member be liable for the indebtedness of any other Member or for any indebtedness or other obligation of a Specific Resource Investigation or Resource Agreement in which it did not participate.

Joint Resource Planning and Acquisition Agreement 06/27/2014

Dated this \_\_\_\_ day of \_\_\_\_\_, 2014.

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| <p>NORTHWEST ENERGY MANAGEMENT SERVICES</p> <hr/> <p>By: John D. Saven<br/>Its: Chief Executive Officer<br/>Date:</p>  | <p>NORTHWEST INTERGOVERNMENTAL ENERGY SUPPLY</p> <hr/> <p>By: Dwight Langer<br/>Its: President<br/>Date:</p> |
| <p>CITY OF FOREST GROVE<br/>1818 B Street<br/>Forest Grove, OR 97116</p> <p>(503) 992-3254 (503) 992-3149<br/>Phone # Fax #</p> <hr/> <p>(signature)<br/>By: Michael J. Sykes<br/>Its: City Manager<br/>Date: October 27, 2014</p> |  |

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October 27, 2014

**REPORT AND RESOLUTION AUTHORIZING THE EXPENDITURE OF HOMELAND SECURITY GRANT FUNDS FOR THE DEVELOPMENT OF CONTINUITY OF OPERATIONS PLANS AND INCREASING APPROPRIATIONS FOR THE GENERAL FUND FOR FISCAL YEAR 2014-15**

**Project Team:** Paul Downey, Director of Administrative Services  
Michael Kinkade, Fire Chief  
Michael Sykes, City Manager

**ISSUE STATEMENT:** The City has received a Homeland Security Grant from the State Office of Emergency Management to develop continuity of operation plans for the cities of Forest Grove and Cornelius. The expenditure of these grant funds needs to be appropriated before the funds can be spent.

**DISCUSSION:** The grant will pay for a consultant for the development of continuity of operations plans for the cities of Forest Grove and Cornelius. The Fire Department will coordinate the preparation of the plans. The plan will include all departments for each city as the plans are designed to be citywide continuity of operations plans.

Local Budget Law requires that grant funds received for a specific purpose cannot be expended until after enactment of an ordinance or resolution authorizing the expenditure (ORS 294.326(3)). A supplemental budget including a public hearing is not required because the receipt of these types of grant funds is an exception to the supplemental budget process.

**FISCAL IMPACT:** This grant will have a positive impact for both cities as it will develop continuity of operations plans without expenditure of funds for the consultant. Staff time from both cities will be involved in the development of the plans.

**STAFF RECOMMENDATION:** Staff recommends the City Council approve the attached is resolution so the additional funds can be expended in accordance with Local Budget Law.



**RESOLUTION NO. 2014-79**

**RESOLUTION AUTHORIZING THE EXPENDITURE OF HOMELAND SECURITY GRANT FUNDS FOR THE DEVELOPMENT OF CONTINUITY OF OPERATION PLANS AND INCREASING APPROPRIATIONS FOR THE GENERAL FUND FOR FISCAL YEAR 2014-15**

**WHEREAS**, the Local Budget Law (ORS 294.326(3)) allows the expenditure of proceeds from grant or gifts to be made during the current fiscal year after the enactment of a resolution or ordinance; and

**WHEREAS**, the City of Forest Grove (City) has received \$40,300 in Homeland Security Grant funds for the development of continuity of operations plans for the cities of Forest Grove and Cornelius; and

**WHEREAS**, the funds will be used to hire a consultant to develop the plans; and

**WHEREAS**, the General Fund needs appropriation authority to expend the grant funds in FY 2014-15.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:**

**Section 1.** In the General Fund, Fire Department Homeland Security Grant Revenue (revenue line item 100-22-10-430214) will be increased by \$40,300 and Fire Department Professional Services (expenditure line item 100-22-10-521150) will be increased by \$40,300.

**Section 2.** Total Fire Department appropriations for FY 2014-15 will be increased by \$40,300 to \$3,305,702.

**Section 3.** This resolution is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** this 27<sup>th</sup> day of October, 2014.

\_\_\_\_\_  
Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 27<sup>th</sup> day of October, 2014.

\_\_\_\_\_  
Peter B. Truax, Mayor

**Date:** October 27, 2014

**REPORT AND RESOLUTION AUTHORIZING AN AMENDMENT TO THE “LOCAL AGENCY AGREEMENT SAFE ROUTES TO SCHOOL PROGRAM” FOR THE ‘B’ STREET SIDEWALK PROJECT**

**PROJECT TEAM:** Michael J. Sykes, City Manager  
Robert Foster, Director of Public Works  
Nick Kelsay, Project Engineer

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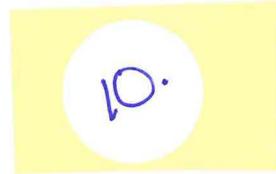
**ISSUE STATEMENT:** Staff seeks Council authorization for Mayor and City Manager to sign amendment to the “Local Agency Agreement Safe Routes To School Program” for the ‘B’ Street Sidewalk Project.

**BACKGROUND:** In 2012, the City entered into an agreement with ODOT for the ‘B’ Street Sidewalk Project as part of the Safe Routes To School (SRTS) Program. Since that time SRTS has authorized an additional \$31,000 for the project. In writing an amendment to reflect this additional funding, ODOT has also addressed some areas of the original contract reflecting changes in funding sources, wording and a new SRTS manager.

**FISCAL IMPACT:** Increased funding from SRTS for project.

**STAFF RECOMMENDATION:** Staff recommends the City Council authorize the Mayor and City Manager to endorse on behalf of the City the Amendment to the “Local Agency Agreement Safe Routes To School Program” for the ‘B’ Street Sidewalk Project as provided in Exhibit A of the attached resolution.

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**RESOLUTION NO. 2014-80**

**RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER TO ENDORSE  
THE AMENDMENT TO THE LOCAL AGENCY AGREEMENT BETWEEN THE CITY  
OF FOREST GROVE AND THE OREGON DEPARTMENT OF TRANSPORTATION  
SAFE ROUTES TO SCHOOL PROGRAM GRANT FUNDING FOR HARVEY CLARKE  
ELEMENTARY ('B' STREET) SIDEWALK PROJECT  
CONTRACT NO. 28167**

**WHEREAS**, The City of Forest Grove entered into a Local Agency Agreement with Oregon Department of Transportation in 2012 for the Safe Routes To School funding of the 'B' Street Sidewalk Project; and

**WHEREAS**, The Safe Routes To School Program manager, Pat Fisher, has provided an additional \$31,000 in funding for the project; and

**WHEREAS**, The Oregon Department of Transportation has written an amendment to the original agreement to reflect this change.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE  
AS FOLLOWS:**

**Section 1:** The City Council of the City of Forest Grove hereby approves the Amendment to the Local Agency Agreement, Contract No. 28167, between the City of Forest Grove and the Oregon Department of Transportation as provided in the Amendment and subject to the conditions of this Amendment (attached as Exhibit A).

**Section 2:** The Mayor and City Manager are hereby authorized to endorse the Amendment to the Local Agency Agreement (attached as Exhibit A) on behalf of the City of Forest Grove.

**Section 3:** This resolution is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** this 27<sup>th</sup> day of October, 2014.

\_\_\_\_\_  
Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 27<sup>th</sup> day of October, 2014.

\_\_\_\_\_  
Peter B. Truax, Mayor

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## **EXHIBIT A**

Misc. Contracts and Agreements  
No. 28167

**AMENDMENT NUMBER 01  
LOCAL AGENCY AGREEMENT  
SAFE ROUTES TO SCHOOL PROGRAM  
INFRASTRUCTURE PROJECT  
B Street: 23<sup>rd</sup> Avenue – Primrose Lane (Forest Grove)  
City of Forest Grove**

The **STATE OF OREGON**, acting by and through its Department of Transportation, hereinafter referred to as "State;" and the **CITY OF FOREST GROVE**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into an Agreement on June 14, 2012. Said Agreement covers the construction of pedestrian safety improvements in the vicinity of Harvey Clarke Elementary School.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to update funding, milestone dates and language. Except as expressly amended below, all other terms and conditions of the Agreement are still in full force and effect.

**Exhibit B, Special Provisions, and Federal Standard Provisions shall be deleted in their entirety and replaced with the attached Revised Exhibit B, Revised Special Provisions and Revised Federal Standard Provisions. All references to "Exhibit B," "Special Provisions," and "Standard Provisions" shall hereinafter be referred to as "Revised Exhibit B," "Revised Special Provisions," and "Revised Standard Provisions."**

**Recitals, Paragraph 2, Page 1, which reads:**

2. The Safe Routes to Schools (SRTS) Program is a federal-aid program of the Federal Highway Administration (FHWA) through funding from the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users Act (SAFETEA-LU). State's SRTS program is administered by State's Transportation Safety Division. The "Infrastructure" portion of the program is managed by the Highway Division, Local Government Section.

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

2. The Safe Routes to Schools (SRTS) Program, now funded through the Transportation Alternatives Program (TAP), is a federal-aid program of the Federal Highway Administration (FHWA) through funding from the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21). State's SRTS program is administered by State's Transportation Safety Division. The "Infrastructure" portion of the program is managed by Active Transportation Section, Transportation Development Division.

**Recitals, Paragraphs 3 and 4 shall be deleted in their entirety.**

**Recitals, Paragraph 5 shall be hereinafter re-numbered as Paragraph 3.**

**Terms of Agreement Paragraphs 1 through 3, Page 2, which read:**

1. Under such authority, Agency and State agree to construct pedestrian safety improvements in the vicinity of Harvey Clarke Elementary School hereinafter referred to as "Project." Agency applied for this Project in January 2011 and was approved funds from the Safe Routes to School program in August 2011. The application for the Project is incorporated by reference. The location of the Project is approximately as shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.
2. The Project shall be conducted as a part of the SRTS Program under Title 23, United States Code. The total Project cost is estimated at \$400,000, which is subject to change. The SRTS Funds are estimated at \$350,000 with Agency providing any funds in excess of the available SRTS funds and any non-participating costs. 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.
3. Agency must obtain approval from State's SRTS Program Manager for any additional SRTS Funds beyond the amount in Paragraph No. 2 above. State's SRTS Program Manager may, depending upon funding availability and other considerations, approve additional SRTS funds up to a total of \$385,000 (10 percent over) the \$350,000 estimated SRTS funding (up to a maximum of \$500,000). For additional SRTS funds above \$385,000 (10 percent over) State's SRTS Program Manager must consult with State's Safe Routes Advisory Committee and an amendment to this Agreement must be executed reflecting any approved increase in funds.

**Shall be deleted in their entirety and replaced with the following:**

1. Under such authority, Agency and State agree to construct sidewalks and crosswalks, and related pedestrian safety improvements in the vicinity of Harvey Clarke Elementary School hereinafter referred to as "Project." Agency applied for this Project in January 2011 and was approved funds from the Safe Routes to School program in August 2011. The location of the Project is approximately as shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.
2. The Project shall be conducted as a part of the SRTS Program under Title 23, United States Code. The total Project cost is estimated at \$431,000, which is subject to change. The SRTS Funds are estimated at \$381,000 and will be covered through a combination of SRTS and Transportation Alternatives Program (TAP) funds. Agency will provide the local match for all TAP funds, plus additional Agency funds for a total of \$50,000, any funds in excess of the available TAP and SRTS funds, and also pay any non-participating costs. 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.
3. Agency must obtain approval from Metro Regional Services and concurrence from State's SRTS Program Manager for any additional SRTS Funds beyond the amount in Paragraph No. 2 above. For additional SRTS funds above \$500,000, State's SRTS Program Manager must consult with State's Transportation Safety Division Administrator and an amendment to this Agreement must be executed reflecting any approved increase in funds.

**Terms of Agreement, Paragraph 15, Page 4, which read:**

15. State's Safe Routes to School Program Manager is David Galati, Active Transportation Section, 555 13<sup>th</sup> Street NE, Suite 2, Salem, Oregon 97301, (503) 986-3441, david.a.galati@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing if any contact information changes during the term of this Agreement.

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

15. State's Safe Routes to School Program Manager is Pat Fisher, Active Transportation Section, 555 13<sup>th</sup> Street NE, Suite 2, Salem, Oregon 97301, (503) 986-3528, Patricia.R.Fisher@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing if any contact information changes during the term of this Agreement.

**Terms of Agreement, Paragraph 18, Page 4, which reads:**

18. This Agreement, Project application, and documents provided by Agency to State prior to the execution of the Agreement, and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and attached Exhibits will control over Project application and documents provided by Agency to State. 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.

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

18. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and attached Exhibits will control over Project application and documents provided by Agency to State. 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.

This Amendment 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 Amendment so executed shall constitute an original.

**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 #16063) that was adopted by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

**CITY OF FOREST GROVE**, by and through its elected officials

By \_\_\_\_\_  
Mayor

Date \_\_\_\_\_

By \_\_\_\_\_  
City Manager

Date \_\_\_\_\_

**APPROVED AS TO SUFFICIENCY**

By \_\_\_\_\_  
City Recorder

Date \_\_\_\_\_

**Agency Contact:**

Nick Kelsay, Project Engineer  
City of Forest Grove, Engineering Dept.  
PO Box 326  
Forest Grove, Oregon 97116  
(503) 992-3230  
[nkelsay@forestgrove-or.gov](mailto:nkelsay@forestgrove-or.gov)

**State Contact:**

Michele Thom, Local Agency Liaison  
ODOT- Region 1  
123 NW Flanders St.  
Portland, Oregon 97209  
(503) 731-8279  
[Michele.r.thom@odot.state.or.us](mailto:Michele.r.thom@odot.state.or.us)

**STATE OF OREGON**, by and through its Department of Transportation

By \_\_\_\_\_  
Region 1 Manager

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Safe Routes to School Program Manager,  
Active Transportation Section

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General

Date: \_\_\_\_\_

**REVISED EXHIBIT B**  
**Progress Reports and Project Change Request Process**

**Agreement No.** 28167

**Key Number:** 16063

**Project Name:** B Street: 23<sup>rd</sup> Avenue – Primrose Lane

**1. Project Description**

Construct approximately 3,200 Lineal Feet (LF) of sidewalks, three (3) crosswalks and curbs with planter strips, along segments of B Street between 23<sup>rd</sup> Avenue and Primrose Lane.

2. This Project is subject to progress reporting and project change process as stated in paragraphs No. 3 through No. 5 below.

3. **Monthly Progress Reports (MPR)** - Agency shall submit monthly progress reports using MPR Form 734-2862, attached by reference and made a part of this Agreement. The Monthly Progress Report is due by the 5<sup>th</sup> day of each month, starting the first month after execution of this Agreement, and continuing through the first month after State issues Project Acceptance (Second Note) for the Project's construction contract.

The fillable MPR form and instructions are available at the following address:

[http://www.oregon.gov/ODOT/TD/AT/Pages/Forms\\_Applications.aspx](http://www.oregon.gov/ODOT/TD/AT/Pages/Forms_Applications.aspx)

4. **Project Milestones** – The Parties agree that the dates shown in Table 1 constitute the intended schedule for advancing and completing the Project. Project Milestones may only be changed through amendment of this Agreement, after obtaining an approved Project Change Request.

**Table 1: Project Milestones**

|   | <b>Milestone Description</b>   | <b>Completion Date</b> |
|---|--|------------------------|
| 1 | Obligation (Federal Authorization) of funds for the Preliminary Engineering phase of Project | 07/01/2012             |
| 2 | Obligation (Federal Authorization) of funds for the Construction phase of Project            | 2/15/2015              |
| 3 | Project Completion based on State issuing Project Acceptance or "Second Note"                | 10/11/2015             |

5. **Project Change Request (PCR) Process** - Agency must obtain approval from State's Contact and State's Transportation Alternatives Program Manager for changes to the Project's scope, schedule, or budget as specified in paragraphs 5a, 5b and 5c, below. Agency shall be fully responsible for all costs that occur outside the established Project scope, schedule or budget and prior to an approved PCR. Amendments to this Agreement are required for all approved PCRs.

a. **Scope** - A PCR is required for any significant change or reduction in the scope of work described in the Project Description (Paragraph 1 of this Exhibit).

**b. Schedule**— A PCR is required if Agency or State's Contact anticipate that any Project Milestone will be delayed by more than ninety (90) days, and also for any change in schedule that will require amendment of the Statewide Transportation Improvement Program (STIP).

**6. PCR Form** - Agency must submit all change requests using PCR Form 734-2863, attached by reference and made a part of this Agreement. The PCR Form is due no later than thirty (30) days after the need for change becomes known to Agency. The PCR shall explain what change is being requested, the reasons for the change, and any efforts to mitigate the change. A Project Change Request may be rejected at the discretion of State's Transportation Alternatives Program Manager.

The fillable PCR form and its instructions are available at the following web site:  
[http://www.oregon.gov/ODOT/TD/AT/Pages/Forms\\_Applications.aspx](http://www.oregon.gov/ODOT/TD/AT/Pages/Forms_Applications.aspx)

**7. Consequence for Non-Performance** - If Agency fails to fulfill its obligations in paragraphs 3 through 6, or does not assist in advancing the Project or perform tasks that the Agency is responsible for under the Project Milestones, State's course of action through the duration of Agency's default may include: (a) restricting Agency consideration for future funds awarded through State's Active Transportation Section, then (b) withdrawing unused Project funds, and then (c) terminating this Agreement as stated in Terms of Agreement, Paragraphs 8a and 8b of this Agreement and recovery of payments pursuant to Special Provisions, Paragraph 1 of this Agreement.

**REVISED ATTACHMENT NO. 1 to Agreement No. 28167  
SPECIAL PROVISIONS**

1. Agency (if qualified through State's "Local Agency Certification" program), or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; purchase all necessary right of way; obtain all required permits; arrange for all utility relocations or reconstruction; perform all construction engineering, including all required materials testing and quality documentation; and prepare necessary documentation to allow State to make all contractor payments. Project plans will conform to the Oregon Highway Design Manual and the current Oregon Bicycle and Pedestrian Design Guide.
2. Agency guarantees the availability of Agency funding in an amount required to fully fund Agency's share of the Project. Prior to award of the contract, Agency shall provide State its share of the Project cost upon receipt of request from State. The Project cost is defined as the Engineer's estimate plus ten (10) percent.
3. State may make available Region 1's On-Call PE, Design and Construction Engineering Services consultant for Local Agency Projects upon written request. If Agency chooses to use said services, they agree to manage the work done by the consultant and make funds available to the State for payment of those services. All eligible work will be a federally participating cost and included as part of the total cost of the Project.
4. Agency shall, at its own expense, maintain and operate the Project upon completion and throughout the useful life of the Project at a minimum level that is consistent with normal depreciation and service demand. State and Agency agree that the useful life of this Project is defined as 20 years. State may conduct periodic inspections during the life of the Project to verify that Project is being properly maintained and continues to serve the purpose for which federal funds were provided.
5. 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.
6. Maintenance responsibilities will survive any termination of this Agreement.

## 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 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 OMB CIRCULAR NO. A-133.
6. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall pay one hundred (100) percent of the cost of any item in which FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds or allocations of State Highway Trust Funds to Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration outside the *Local Agency Guidelines Manual* that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between Agency and State.
7. Agency agrees that costs incurred by State and Agency for services performed in connection with any phase of the Project shall be charged to the Project, unless otherwise mutually agreed upon by the Parties.
8. Agency's estimated share and advance deposit.
  - a) Agency shall, prior to commencement of the preliminary engineering and/or right of way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
  - b) Agency's construction phase deposit shall be one hundred ten (110) percent of Agency's share of the engineer's estimate and shall be received prior to award of the construction contract. Any additional balance of the deposit, based on the actual bid must be received within forty-five (45) days of receipt of written notification by State of the final amount due, unless the contract is cancelled. Any balance of a cash deposit in excess of amount needed, based on the actual bid, will be refunded within forty-five (45) days of receipt by State of the Project sponsor's written request.

- c) Pursuant to Oregon Revised Statutes (ORS) 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool), and an Irrevocable Limited Power of Attorney is sent to State's Active Transportation Section, Funding and Program Services Unit, or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash.
9. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear one hundred (100) percent of all costs incurred as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear one hundred (100) percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all costs, whether incurred by State or Agency, either directly or through contract services, and State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.
  10. Agency shall follow requirements stated in the Single Audit Act. The requirements stated in the Single Audit Act must be followed by those local governments and non-profit organizations receiving five hundred thousand (\$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 the local agency participates. 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 three (3) months 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 three (3) months from date that costs are incurred. Final invoices submitted after the three (3) months shall not be eligible for reimbursement. 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 (Title 49 CFR part 18 subpart 42).

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*.
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, Title 49 CFR part 18, 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](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 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 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, 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 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 (\$100,000), and that all such subrecipients shall certify and disclose accordingly.
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31, USC Section 1352.
- e) Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

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