



**CROOK COUNTY COURT MEETING**  
**Crook County Annex | 320 NE Court St. | Prineville OR**  
**WEDNESDAY, March 17, 2021 at 9:00 A.M.**

Members of the public and media are welcome to attend in person with social distancing  
or via WebEx 1-408-418-9388; Access Code: 126 538 6281; Meeting Password: jEnpYBsq933

**CONSENT AGENDA**

*(Routine matters which are not expected to generate discussion and are approved in a single vote. Any member of the Court may request removal of an item for separate discussion or vote.)*

1. Approve Minutes of March 2, 2021 and March 9, 2021 Work Session and March 3, 2021 Regular Court Meeting
2. Approve Order 2021-16 Appointments to Compensation Committee for Elected Officials
3. Approve Order 2021-17 Extending the State of Emergency Related to Covid-19
4. Approve Order 2021-18 Appointment to Community Health Advisory Council
5. Approve High Desert Aviation FBO Extension
6. Approve Prineville Aviation FBO Extension
7. Approve Erickson Inc. Airport Ground Lease Extension
8. Approve Robbins Family Trust Airport Ground Lease
9. Approve District Medical Examiner Ground Lease
10. Approve Contract with Wheelhouse NW for Justice Center Research
11. Approve Order 2021-19 Budget Appropriations for County Funds for Fiscal Year 2020-2021

**SCHEDULED APPEARANCES**

12. Request to Waive Carey Foster Hall Utility Fee for the Holiday Partnership Program  
Requester: Brandi Ebner (10 Minutes)
13. Review and Approve Partition Plat #217-200-00825  
Requester: Peggy Combs (10 Minutes)

**DISCUSSION**

14. Announce Successful Bidder of County Chip Seal Oil Purchase and Application 2021 Project  
Requester: Bob O'Neal (5 Minutes)
15. Discussion of Changes to Previously Approved Purchase of Microsoft Licenses  
Requester: Troy Poncin (5 Minutes)
16. Consider Competitive Quotes (3) for Purchase of Primary and Secondary Cohesity Clusters  
Requester: Troy Poncin (5 Minutes)
17. Assistant Building Official and Fire and Life Safety  
Requestor: Kim Barber (10 Minutes)
18. Discussion on Fiber Services Agreement, Indefeasible Right to Use  
Requestor: Eric Blaine (10 Minutes)
19. *Public Hearing: FIRST READING* of Ordinance 323, Update Crook County's Zoning Code  
Requestor: Ann Beier (10 Minutes)

**EXECUTIVE SESSION – None Scheduled**

*\*The Court may add additional items arising too late to be part of this Agenda. Agenda items may be rearranged to make the best use of time.*

*\*The meeting location is accessible to persons with disabilities. If additional accommodations are required, please submit your request 48 hours prior to the meeting by contacting County Administration at 541-447-6555.*

## **NOTICE AND DISCLAIMER**

The Crook County Court is the governing body of Crook County and holds public meetings (generally on the first and third Wednesday of each month) to deliberate upon matters of County concern. As part of its efforts to keep the public apprised of its activities, the Crook County Court has published this PDF file. This file contains the material to be presented before the County Court for its next scheduled regular meeting.

Please note that while County staff members make a dedicated effort to keep this file up to date, documents and content maybe added, removed or changed between when this file is posted online and when the County Court meeting is held. The material contained herein maybe changed at any time, with or without notice.

**CROOK COUNTY MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY WARRENTY OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE OR FOR ANY OTHER MATTER. THE COUNTY IS NOT RESPONSIBLE FOR POSSIBLE ERRORS, OMMISSIONS, MISUSE OR MISINTERPERTATION.**

Please also note that this file does not contain any materials scheduled to be discussed at an executive session or material the access to which maybe restricted under the terms of Oregon law.

If you are interested in obtaining additional copies of any of the documents contained herein, they maybe obtained by completing a Crook County Public Records Request form. Request forms are available on the County's website.

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**CROOK COUNTY COURT MINUTES  
OF MARCH 2, 2021 WORK SESSION  
Open Portion**

**Be It Remembered** that the Crook County Court met in a regularly scheduled Work Session on March 2, 2021, at 9:00 a.m. in the Administration Conference room located at 203 NE Court Street, Prineville, Oregon 97754.

Court Members Present: Judge Seth Crawford, Commissioner Jerry Brummer and Commissioner Brian Barney

Absentees: None

Others Present in Person or Via WebEx: Legal Counsels Eric Blaine and John Eisler; Administration Executive Assistant Amy Albert; Paralegal Regina Paul; Sheriff John Gautney; Clerk Cheryl Seely; District Attorney Wade Whiting; Human Resource Director Kim Barber and Treasurer Galen Carter.

**WORK SESSION**

The meeting was **called to order at 9:00 a.m.**

ADDITIONS/REMOVALS: None

Agenda Item #1, Covid-19 Update: Judge Crawford gave a brief Covid-19 update, stating that cases are on the decline in Crook County.

Agenda Item #2, Consider Approval of Professional Services Contract with Fourth Mobility for Grant Management Services: Eric Blaine presented the Court with a Professional Services Contract with Fourth Mobility for Grant Management Services. Crook County partnered with Fourth Mobility to receive a two-hundred-thousand-dollar Pacific Power grant which purchased the electric tractor and charging stations at the fairgrounds. Under the contract one-hundred-eighty-thousand-dollars will go to Fourth Mobility and twenty-thousand dollars will remain with the County for the purchase of the charging stations.

**MOTION** to approve the professional services contract with Fourth Mobility. Motion seconded. No further discussion. Motion carried 3-0.

At 9:11 a.m. the Court read into Executive Session under the following statute(s): ORS 192.660(2)(e) For the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions.

At the conclusion of the Executive Session, the County Court convened back into Open Session, inviting members of the public into the meeting room.

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**MOTION** to direct staff as discussed in Executive Session. Motion seconded. No further discussion. Motion carried 3-0. There being no further business before the Court, the meeting was **adjourned at 9:26 a.m.**

Respectfully submitted,

**Amy Albert**

**CROOK COUNTY COURT MINUTES  
OF MARCH 3, 2021 REGULAR MEETING  
Open Portion**

**Be It Remembered** that the Crook County Court met in a Regular Court meeting on March 3, 2021, at 9:00 a.m. in the County meeting room located at 320 NE Court Street, Prineville, Oregon 97754.

Court Members Present: Judge Seth Crawford, Commissioner Jerry Brummer and Commissioner Brian Barney

Absentees: None

Others Present in Person or Via WebEx: Legal Counsels Eric Blaine and John Eisler; Administration Executive Assistant Amy Albert; Paralegal Regina Paul; Road Master Bob O'Neal; Senior Accountant Christine Kurtz; Human Resources Director Kim Barber; IT Director Troy Poncin; Natural Resources Coordinator Tim Deboodt; District Attorney Wade Whiting; Tim Wilson and Accounting Manager Janet Pritiskutch.

**REGULAR SESSION**

The meeting was **called to order at 9:00 a.m.**

ADDITIONS/REMOVALS: None

**MOTION** to approve the Consent Agenda as presented. Motion seconded. No discussion. Motion carried 3-0.

Discussion item #9: The Court reviewed and approved the Plat of Stone Ridge Terrace as requested by the City of Prineville.

**MOTION** to approve the plat for Stone Ridge Terrace. Motion seconded. No further discussion. Motion carried 3-0.

There being no further business before the Court, the meeting was **continued at 9:14 a.m.**

Respectfully submitted,

**Amy Albert**

**CROOK COUNTY COURT MINUTES  
OF MARCH 9, 2021 WORK SESSION  
Open Portion**

**Be It Remembered** that the Crook County Court met in a regularly scheduled Work Session on March 9, 2021, at 9:00 a.m. in the Administration Conference room located at 203 NE Court Street, Prineville, Oregon 97754.

Court Members Present: Judge Seth Crawford, Commissioner Jerry Brummer and Commissioner Brian Barney

Absentees: None

Others Present in Person or Via WebEx: Legal Counsels Eric Blaine and John Eisler; Administration Executive Assistant Amy Albert; Paralegal Regina Paul; Deputy Director Katie Plumb; Facilities Manager Jeremy Thamert; Road Master Bob O'Neal; Community Development Director Ann Beier; Program Lead Heather Stuart; Health Educator II Nadia LeMay; Administrative Executive Assistant Stephanie Wilson; Under Sheriff James Savage; IT Director Troy Poncin; Clerk Cheryl Seely; Library Aide Cindy York; Manager Kim Herber; Human Resource Director Kim Barber; District Attorney Wade Whiting; Treasurer Galen Carter; Natural Resources Tim Deboodt; Permit Technician Jennifer Orozco; Library Director April Witteveen; Eric Klann; Marvin Sumner; Carolee Kirkelie; Kevin Spencer; Christine Kurtz; Casey Kaiser; Kathy Nathan; Larry Nathan; Matt Smith and Dennis Teitzle.

**WORK SESSION**

The meeting was **called to order at 9:00 a.m.**

Agenda Item #1, Covid-19 Update: Katie Plumb, Deputy Director of the Health Department presented the Court with the County's Covid-19 update. Beginning Friday, Crook County will be moving into the low-risk category. The Health Department will be issuing a press release today informing the community of the regulations associated with low-risk category and providing an update on Covid-19 vaccinations within the County.

Agenda Item #2, Oregon Tobacco and Alcohol Legislative Update: Program Lead Heather Stuart and Health Educator II Nadia LeMay spoke of upcoming Oregon tobacco and alcohol legislature and the potential affects this legislature could have on the State.

Agenda Item #3, Ochoco Creek Park Basketball Court Upgrade Proposal: Marvin Sumner discussed remodeling the Ochoco Creek basketball courts into a sports court. Mr. Sumner has spoken to Parks and Rec and the City Counsel about cost and expected longevity of the court. Mr. Sumner has meet with contractors and received estimates for the basketball court and required equipment, such as basketball hoops. Mr. Sumner asked to Court to contribute \$2,500.00 to the basketball court renovation, the Court felt this is a worthwhile cause and will be contributing to the upgrade.

Agenda Item #4, BLM Road Accessing Powell Butte: Kevin Spencer addressed the Court regarding finding a solution for accessing property by way of a Bureau of Land Management (BLM) road. Mr. Spencer currently submits applications to the BLM to access the road whenever a tower needs to be accessed. Mr. Spencer, Community Development Director Ann Beier and Dennis Teitzle from the BLM will meet to discuss options for Mr. Spencer to gain use of the road without the need to submit an application and await approval from the BLM.

Agenda Item #5, Majestic Road Variance: Carolee Kirkelie, Kathy Nathan and Larry Nathan appeared before the Court regarding a road variance. The parties are asking the Court to grant a twenty-foot road variance as opposed to the standard twenty-four-foot variance. Community Development Director Ann Beier and County Counsel will work together in determining if an exception should be made and for what reason. This matter will be revisited at a future Work Session.

Agenda Item #6, Janitorial Services: This matter was pulled from the agenda.

Agenda Item #7, Facilities – Vehicle Purchas: Facilities Manager Jeremy Thamert presented the Court with three vehicle price quotes. The best quote being from Gary Gruner for a 2021 Chevrolet Silverado at a price of \$26,016.40. The Facilities Department has the budget for a new vehicle.

**MOTION** to accept the Gary Gruner vehicle quote as reflecting the best value to the County. Motion seconded. No further discussion. Motion carried 3-0.

Addition: Under Sheriff James Savage and Executive Administrative Assistant Stephanie Wilson asked for the Court's input regarding how the County would like to proceed when deputies retire but continue to work for the Sheriff's Department due to Senate Bill 1049. Senate Bill 1049 now requires the County to pay twenty-four and a half percent of a deputy's wages to the State if the deputy continues to be employed through the Sheriff's Office. The County will need to either contribute twenty-four and a half percent along with paying the retired deputies wages for their continued employment or invest the time and money to employ a new deputy. The County will revisit this matter at a later date.

Addition: Judge Crawford informed the Court he has been in contact with Wheelhouse Services, LLC, a marketing consultant firm regarding the Justice Center Bond. A contract from Wheelhouse Services, LLC will be sent to County Counsel and after their review and approval the matter will be added to a regular County Court meeting.

At 11:20 a.m. the Court read into Executive Session under the following statute(s): ORS 192.660(2)(e) For the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions.

At the conclusion of the Executive Session, the County Court convened back into Open Session, inviting members of the public into the meeting room.



**MOTION** to direct staff to correspond with counter party as discussed in Executive Session. Motion seconded. No further discussion. Motion carried 3-0. There being no further business before the Court, the meeting was **adjourned at 11:31 a.m.**

Respectfully submitted,

**Amy Albert**



**IN THE COUNTY COURT OF THE STATE OF OREGON**  
**FOR THE COUNTY OF CROOK**

**IN THE MATTER OF APPOINTMENT  
TO THE CROOK COUNTY  
COMPENSATION COMMITTEE FOR  
ELECTED OFFICIALS**

**ORDER 2021-16**

**WHEREAS**, volunteers are essential to the operation of the County government; and

**WHEREAS**, the Crook County Court has carefully considered the skills and talents of the applicants and the needs of the committee-required appointments; and

**IT IS HEREBY ORDERED** that the Crook County Court make the following appointments to the Crook County Compensation Committee.

<b>APPOINTEE</b>	<b>TERM</b>	<b>OATH</b>
<u>Tobias Joyce</u> Appointed by Judge Crawford	Expires 12.31.2021	No
<u>Eric Klann</u> Appointed by Commissioner Brummer	Expires 12.31.2021	No
<u>Liz Schuette</u> Appointed by Commissioner Barney	Expires 12.31.2021	No

DATED this 17th day of March 2021.

CROOK COUNTY COURT

\_\_\_\_\_  
Seth Crawford  
County Judge

\_\_\_\_\_  
Jerry Brummer  
County Commissioner

\_\_\_\_\_  
Brian Barney  
County Commissioner

**IN THE COUNTY COURT OF THE STATE OF OREGON**  
**FOR THE COUNTY OF CROOK**

**IN THE MATTER OF EXTENDING THE  
DURATION OF THE DECLARATION  
OF PUBLIC HEALTH EMERGENCY IN  
CROOK COUNTY IN RESPONSE TO  
THE OUTBREAK OF COVID-19**

**RESOLUTION AND  
ORDER 2021-17**

**WHEREAS**, ORS 401.309 empowers a county to declare a state of emergency “by ordinance or resolution;” and

**WHEREAS**, on March 13, 2020, the Crook County Court declared a public health emergency in response to the global pandemic of the COVID-19 coronavirus. That declaration was memorialized in Order and Resolution 2020-21, which was later modified by Order and Resolution 2020-22; and

**WHEREAS**, in light of the persisting emergency conditions, which present dangers to the health, safety, and welfare of County residents, the County Court has previously extended the duration of the emergency; and

**WHEREAS**, based upon the advice of public health officials at the local, state, and federal levels, the present emergency conditions are expected to continue for the foreseeable future, necessitating the extension of the declared state of emergency.

**NOW, THEREFORE**, based upon the foregoing, it is hereby **ORDERED and RESOLVED** that:

Section One: The state of emergency declared on March 13, 2020 will continue until June 30, 2021, unless sooner terminated or extended by the County Court.

Section Two: In furtherance of any emergency procurements made necessary or prudent to respond to the public health emergency, and pursuant to Crook County Code 3.12.100, a single member of the County Court is authorized to execute contracts in the County’s name regardless of the dollar value limits established by Crook County Code 3.12.040.

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Section Three: All other provisions of the Declaration of Public Health Emergency contained in Order and Resolution 2020-21, as modified by Order and Resolution 2020-22, continue in full force and effect.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Seth Crawford  
County Judge

\_\_\_\_\_  
Jerry Brummer  
County Commissioner

\_\_\_\_\_  
Brian Barney  
County Commissioner

<u>Vote:</u>	Aye	Nay	Abstain	Excused
Seth Crawford	___	___	___	___
Jerry Brummer	___	___	___	___
Brian Barney	___	___	___	___

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**IN THE COUNTY COURT OF THE STATE OF OREGON**  
**FOR THE COUNTY OF CROOK**

**IN THE MATTER OF THE  
APPOINTMENT TO COMMUNITY  
HEALTH ADVISORY COUNCIL**

**ORDER 2021-18**

**WHEREAS**, volunteers are essential to the operation of the county government; and

**WHEREAS**, the Court has carefully considered the skills and talents of the applicants and the needs of the boards which has a vacancy requiring appointments, and based upon recommendation of Boards and Committees:

**NOW, THEREFORE**, it is hereby **ORDERED** that that the Crook County Court makes the following appointment to the Crook County Boards and Committees:

Board	Appointee	Term	Oath required
Community Health Advisory Position #11	Shannon Edgar	2 – Year Term Expiring 12-31-2022	No

DATED this 17th day of March 2021.

\_\_\_\_\_  
Seth Crawford  
County Judge

\_\_\_\_\_  
Jerry Brummer  
County Commissioner

\_\_\_\_\_  
Brian Barney  
County Commissioner

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# Crook County Counsel's Office

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Physical: 267 NE 2<sup>nd</sup> St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



## MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: March 5, 2021

RE: High Desert Aviation FBO Extension  
Our File No.: Airport 43

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Enclosed is Crook County/Prineville Airport 39 Amendment to FBO Operator Agreement and License. "FBO" stands for "Fixed Base Operator," which is simply an entity licensed by the Airport to provide non-exclusive, non-discriminatory services to Airport users. The Airport currently has two such FBOs.

High Desert Aviation's FBO agreement began in 2011 and was effective for ten years. The agreement had a provision which gave High Desert Aviation the option to extend the agreement an additional ten years, which this extension provides.

Kelly Coffelt recommends approval of the extension. Please let me know if you have any questions.

**Please place this memo and the attached document(s) on the Wednesday, 17, 2021 County Court Agenda as a CONSENT ITEM, for approval and signatures.**

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## **CROOK COUNTY/PRINEVILLE AIRPORT S39 AMENDMENT TO FBO OPERATOR AGREEMENT AND LICENSE**

This Crook County Prineville Airport S39 Amendment to FBO Operator Agreement and License (the "Amendment") is effective as of January 12, 2021, by and between Crook County, a political subdivision of the State of Oregon ("County") and High Desert Aviation, LLC, a domestic limited liability company (the "FBO Operator"). County and FBO Operator may hereinafter be referred to as the "Parties" or individually as a "Party."

### **RECITALS**

WHEREAS, FBO Operator entered into a FBO Operator Agreement and License (the "Agreement") at the Crook County Prineville Airport 39 on January 11, 2011;

WHEREAS, Section 5 of the Agreement gives FBO Operator the right to extend the Term of the Agreement for an additional ten years;

WHEREAS, the Parties desire to extend the Term;

WHEREAS, the Agreement was executed on behalf of the Prineville-Crook County Airport Commission, whose authority was repealed pursuant to Crook County Ordinance 249;

WHEREAS, Crook County Prineville Airport 39 is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager;

WHEREAS, Crook County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport) and the Airport Sponsor.

### **AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

1. **Term.** Pursuant to the rights granted under Section Five, FBO Operator hereby exercises its right to extend the Agreement for an additional ten years.
2. **The Commission.** Any and all references in the Agreement to the Commission are hereby deleted and replaced with the "County."
3. **Reaffirmation.** Except as modified by this Amendment, all terms and conditions of the Agreement are reaffirmed and remain unmodified and in full force and effect.
4. **Counterparts.** This Amendment may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the





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## MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: March 5, 2021

RE: Prineville Aviation FBO Extension  
Our File No.: Airport 43

---

Enclosed is Crook County/Prineville Airport 39 Amendment to FBO Operator Agreement and License. "FBO" stands for "Fixed Base Operator," which is simply an entity licensed by the Airport to provide non-exclusive, non-discriminatory services to Airport users. The Airport currently has two such FBOs.

Prineville Aviation's FBO agreement began in 2010 and was effective for ten years. The agreement had a provision which gave Prineville Aviation the option to extend the agreement an additional ten years, which this extension provides.

Kelly Coffelt recommends approval of the extension. Please let me know if you have any questions.

**Please place this memo and the attached document(s) on the Wednesday, 17, 2021 County Court Agenda as a CONSENT ITEM, for approval and signatures.**

A large handwritten number "6" is visible in the bottom right corner of the page.

## **CROOK COUNTY/PRINEVILLE AIRPORT S39 AMENDMENT TO FBO OPERATOR AGREEMENT AND LICENSE**

This Crook County Prineville Airport S39 Amendment to FBO Operator Agreement and License (the "Amendment") is effective as of June 1, 2020, by and between Crook County, a political subdivision of the State of Oregon ("County") and Prineville Aviation, LLC, a domestic limited liability company (the "FBO Operator"). County and FBO Operator may hereinafter be referred to as the "Parties" or individually as a "Party."

### **RECITALS**

WHEREAS, FBO Operator entered into a FBO Operator Agreement and License (the "Agreement") at the Crook County Prineville Airport 39 on June 1, 2010;

WHEREAS, section 5 of the Agreement gives FBO Operator the right to extend the Term of the Agreement for an additional ten years;

WHEREAS, the Parties desire to extend the Term;

WHEREAS, the Agreement was executed on behalf of the Prineville-Crook County Airport Commission, whose authority was repealed pursuant to Crook County Ordinance 249;

WHEREAS, Crook County Prineville Airport 39 is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager;

WHEREAS, Crook County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport) and the Airport Sponsor.

### **AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

1. **Term.** Pursuant to the rights granted under Section Five, FBO Operator hereby exercises its right to extend the Agreement for an additional ten years.
2. **The Commission.** Any and all references in the Agreement to the Commission are hereby deleted and replaced with the "County."
3. **Reaffirmation.** Except as modified by this Amendment, all terms and conditions of the Agreement are reaffirmed and remain unmodified and in full force and effect.
4. **Counterparts.** This Amendment may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the

same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such document.

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective the date first set forth above.

**For FBO Operator**

Prineville Aviation, LLC

By:

Eldon Nimmo

Signature

Eldon Nimmo

Printed Name

Title: OWNER

Date: 02-24-2021

**For Crook County**

CROOK COUNTY COURT

\_\_\_\_\_  
Seth Crawford, County Judge

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

\_\_\_\_\_  
Jerry Brummer, County Commissioner

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

\_\_\_\_\_  
Brian Barney, County Commissioner

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

# Crook County Counsel's Office

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## MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: March 5, 2021

RE: Erickson Inc. Airport Ground Lease Extension  
Our File No.: Airport 43

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Enclosed is Crook County/Prineville Airport 39 Amendment Three to Lease (Amendment) with Erickson Inc. for approximately two acres of ground space and a 50'x50' helicopter pad. Erickson began leasing the space at the Airport in January of 2016. The lease has been amended two times prior.

This Amendment simply extends the term of the lease to January 14, 2023 and provides an option for two additional terms of one year. The Amendment is effective January 15, 2021. There is no hangar associated with this lease, as the space is west of the runways and used for training.

Kelly Coffelt has advised that Erickson is a great tenant and he recommends approval of the Amendment. Please let me know if you have any questions.

**Please place this memo and the attached document(s) on the Wednesday, 17, 2021 County Court Agenda as a CONSENT ITEM, for approval and signatures.**

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## **CROOK COUNTY/PRINEVILLE AIRPORT S39 AMENDMENT THREE TO LEASE**

This Crook County Prineville Airport S39 Amendment Three to Lease ("Amendment Three") is effective as of January 15, 2021, by and between Crook County, a political subdivision of the State of Oregon ("County" or "Lessor") and Erickson Incorporated, a Delaware corporation, d/b/a Erickson Air-Crane of PO Box 3247, Central Point, Oregon 97502 ("Lessee"). Lessor and Lessee may hereinafter be referred to as the "Parties" or individually as a "Party."

### **RECITALS**

WHEREAS, Lessee entered into a Lease Agreement at the Crook County Prineville Airport 39 on January 15, 2016 for approximately two acres of ground space and a 50-foot-by-50-foot helicopter pad collectively defined as the "Premises";

WHEREAS, the Term of the Lease Agreement has been extended by two prior amendments;

WHEREAS, the Parties desire to extend the Term a third time;

WHEREAS, Crook County Prineville Airport 39 is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager;

WHEREAS, notwithstanding the reference in the Lease Agreement and prior amendments to the City of Prineville as Lessor, Crook County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport) and the true Lessor.

### **AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

1. **Term.** Paragraph 2 of the Lease Agreement as amended is hereby further amended by deleting the reference to "January 14, 2021" and replacing it with "January 14, 2023." Further, the reference to Lessee's right to renew the Lease Agreement for two terms of one year each is deleted and replaced by the right to renew the Lease Agreement for three terms of one year each.
2. **Reaffirmation.** Except as modified by this Amendment Three, all terms and conditions of the Lease Agreement are reaffirmed and remain unmodified and in full force and effect.
3. **Counterparts.** This Amendment Three may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such document.

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective the date first set forth above.

**For Lessee**

Erickson Incorporated

By: 

Signature

Allen Wanamaker

Printed Name

Title: Senior Director of Aerial Programs

Date: 16 feb. 2021

**For Crook County**

CROOK COUNTY COURT

\_\_\_\_\_  
Seth Crawford, County Judge

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

\_\_\_\_\_  
Jerry Brummer, County Commissioner

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

\_\_\_\_\_  
Brian Barney, County Commissioner

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

# Crook County Counsel's Office

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Physical: 267 NE 2<sup>nd</sup> St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



## MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: March 5, 2021

RE: Robbins Family Trust Airport Ground Lease  
Our File No.: Airport 43

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Enclosed is Crook County/Prineville Airport 39 Ground Lease and Use Agreement. This lease is for ground space at the airport on which the tenant will construct a new 60'x60' hangar.

This was the first opportunity for the County to use the new Airport lease template for a ground lease with no hangar. This is a 30-year lease with the option to extend for an additional ten years. The lease obligates the tenant to construct the new hangar within one year of the commencement date, requiring communication with and approval from the Airport Manager through the process. The lease provides for an Initial Rent payment of \$25,740, which pursuant to the County/City IGA, will go the County. The standard lease payments will go to the Airport Fund.

Kelly Coffelt recommends approval of the agreement. Please let me know if you have any questions.

**Please place this memo and the attached document(s) on the Wednesday, 17, 2021 County Court Agenda as a CONSENT ITEM, for approval and signatures.**



## **CROOK COUNTY/PRINEVILLE AIRPORT S39 GROUND LEASE AND USE AGREEMENT**

This Crook County Prineville Airport S39 Ground Lease and Use Agreement (“Agreement” or “Lease”) is made and entered into this 17th day of March, 2021 (the “Commencement Date”), by and between Crook County, a political subdivision of the State of Oregon (“County,” or “Lessor”) and Lesley Linn Robbins and Carolyn Sue Robbins, Trustees of the Lesley and Carolyn Robbins Family Trust, dated June 9, 2000 (“Lessee”). Lessor and Lessee may hereinafter be referred to as the “Parties” or individually as a “Party.”

### **RECITALS**

WHEREAS, County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport);

WHEREAS, the Airport is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager (the Airport Manager and any persons or entities hereafter responsible for the management of the Airport shall be referred to as the “Manager”);

WHEREAS, the Airport is the recipient of certain Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants, with County as sponsor, and is thus subject to ongoing compliance with all FAA regulations and guidance;

WHEREAS, Lessee desires to lease from Lessor and use certain Airport land and engage in certain non-commercial aeronautical activities at the Airport; and

WHEREAS, Lessor desires to lease to Lessee certain Airport land.

### **AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

#### **1. PREMISES.**

##### **A. Leased Premises.**

Lessor hereby leases to Lessee, pursuant to the rents, conditions, and provisions herein, 3,600 square feet of ground space (the “Leased Premises”) at the Airport in Crook County, Oregon, identified and generally described on Exhibit A, attached and incorporated herein.

##### **B. Condition of Leased Premises.**

Lessee warrants and represents that Lessee has carefully and completely examined and inspected the Leased Premises and Lessee fully understands its responsibilities and obligations with respect to the Leased Premises and this Agreement. Lessee accepts the Leased Premises in an “AS IS”, “WHERE IS” condition without representation or warranties from Lessor as to the condition, suitability, or sufficiency of the Leased Premises for engaging in the non-commercial aeronautical activity described or contemplated by this Agreement. To the best of Lessor’s knowledge, the Leased Premises complies with all applicable federal, state, and local

environmental regulations and standards. Lessee agrees that it has inspected the Leased Premises and is fully advised of its own rights without reliance upon any representation made by Lessor concerning the environmental condition of the Leased Premises. Lessee, at its sole cost and expense, agrees that it shall be fully responsible for the remediation of any violation of any applicable federal, state, or local environmental regulations or standards that is caused by Lessee, its officers, agents, servants, employees, contractors, subcontractors, or invitees.

## **2. LEASE TERM.**

### **A. Initial Term.**

Starting on the Commencement Date, the Leased Premises will be leased for a term of 30 years (the "Initial Term"), unless earlier terminated pursuant to the terms of this Lease.

### **B. Extended Term.**

If Lessee is not in default under the Lease, Lessee has the option to extend the term for one additional period(s) of 10 years (the "Extended Term") by providing written notice thereof to Lessor not more than 180 days or less than 90 days before the expiration of the Initial Term or the current Extended Term (for purposes of this Agreement, both the Initial Term and Extended Term may hereafter be referred to simply as the "Term"), on the condition that said written notice includes as an exhibit a professional, independent commercial inspection of the hangar and improvements, performed no more than six months before the date of the written notice, showing an expected useful life of the hangar of greater than 1.5 times the requested Extended Term.

### **C. Holdover.**

There shall be no holdover period. Should Lessee remain in possession after the expiration of the Term, Lessee will be considered a tenant at sufferance, which Lessor may consider as triggering the termination, remedy, and surrender provisions of sections 16 – 18 below at any time without notice and Lessee will be liable for any and all damages resulting from such unauthorized holdover (including but not limited to any and all damages that Lessor is required to pay a new tenant for failing to timely deliver any portion of the Leased Premises or the improvements).

## **3. RENT.**

### **A. Initial Rent.**

Lessee shall pay Initial Rent of \$25,740.00 plus Rent, as defined in paragraph B, below, prorated for the current year ending December 31. Rent for the first year is due and payable upon the signing of this Lease.

### **B. Rent for Term.**

Subject to paragraph C below, Lessee shall pay annual Rent at the rate of \$0.254 per square foot for the Leased Premises space for a total of \$914.40 per year of this lease term. Rent for each subsequent year of the Term is due each January 1. Any payments not received by January 1 will trigger the default provisions of 16.B.i below. All payments shall be made to the Manager. Manager hereby reserves the right to institute additional rent, in his sole discretion and not to exceed one-half of the base rent, calculated to cover documented common-area maintenance expenses and applicable to all Airport tenants.

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### **C. Adjustment of Rent.**

Rent will be adjusted annually effective on January 1<sup>st</sup> (the "Adjustment Date"). Manager will deliver notice to Lessee of the amount of the adjustment and the new Rent not less than 30 days before Rent is due each year, calculated pursuant to the provisions below.

#### **i. Annual Adjustment.**

For the duration of the Term, before each annual due date for Rent except for those years subject to an Appraisal Adjustment in subsection ii below, County will adjust the rent in the same percentage as the increase, if any, in the Consumer Price Index (the "Index") published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled "U.S. City Average, All Items, All Urban Consumers, 1982-84=100" for the year of the Commencement Date or the prior year's Rent, as applicable, and the latest figures preceding the current Adjustment Date. All comparisons will be made using Index figures derived from the same base period and in no event will this provision operate to decrease Rent. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it by BOMA Oregon will be used.

#### **ii. Appraisal Adjustment.**

At five-year intervals, beginning for the year 2020, Lessor will procure an Appraisal Report, consistent with Title XI of the Financial Institutions Reform, Recover, and Enforcement Act of 1989 (FIRREA) and the Uniform Standards of Professional Appraisal Practice (USPAP) to ascertain Fair Market Rent for all leased space at the Airport.

## **4. CONSTRUCTION AND IMPROVEMENTS.**

### **A. Mandatory Improvements.**

Lessee covenants and agrees that it shall construct a hangar and related improvements (collectively the "Project") on the Leased Premises. The Project and any future alterations, additions, replacements, or modifications to the Project are referred to as the "Improvements." Completion of the Project in a good and workmanlike manner is required as a condition of this Lease within twelve months of the Commencement Date. Lessee shall construct the Project in accordance with final plans and specification approved by the City in writing. Lessee is solely responsible for the required building permits. Construction of the outside of the hangar building above the concrete slab shall be completely finished 90 days following commencement of framing the hangar. Notice for the Project and any Improvements shall be submitted through the Manager to the FAA as required by FAA rules.

### **B. Survey.**

Lessee, at Lessee's sole expense, shall have a legal survey of the Leased Premises completed by a licensed surveyor. Lessee must provide copies of the survey to Manager and a certificate indicating that the footprint of the building is in the correct location according to the master plan prior to the start of framing.

### **C. Authorization for Discretionary Improvements.**

Following completion of the Project, Lessee may, at its sole discretion, perform modifications, renovations, improvements, or other construction work on or to the Leased Premises so long as it first submits all plans, specifications and estimates for the costs of the proposed work in writing and also requests and receives in writing approval from the Manager. Manager agrees to respond in writing to Lessee's requests for approval

within 30 calendar days of receipt of such requests. Lessee covenants and agrees that it shall fully comply with all provisions of this section 4 in the undertaking of any such Improvements.

**D. Process for Approval of Plans.**

Lessee's plans for the Project and any Improvements shall conform to the Airport's architectural standards. Lessee must also receive written approval, where required by law, from the FAA and local planning and building authorities. All plans, specifications, and work shall conform to all federal, state, and local laws, ordinances, rules, and regulations in force at the time the plans are presented for review.

**E. Documents.**

Lessee shall supply the Manager with comprehensive sets of documentation relative to the Project and any Improvements, including at a minimum, as-built drawings of each project in computer format, if possible.

**F. Title to Improvements.**

Title to the Project and all Improvements constructed by Lessee during the Term will be and will remain in the Lessee during the Term of the Lease. During the Term, Lessee is entitled, for all taxation purposes, to claim cost-recovery deductions and the like on all Improvements constructed by Lessee. Following the expiration of the Term or earlier termination of this Lease, title to the Improvements will pass pursuant to sections 13 and 16 below.

**G. Lessor Cooperation.**

Lessor, through the Manager, agrees to cooperate with Lessee in all respects in connection with Lessee's construction of the Project and any Improvements, provided that Lessor will not be required to pay any application fees or incur any other costs or liabilities in connection with the Improvements. Manager will appear as a witness in any legal or administrative proceedings to the extent reasonably necessary to construct the Project and Improvements.

**5. USE OF LEASED PREMISES.**

**A. Permitted Uses.**

The primary purpose of this Agreement is for Lessee to store aircraft in a hangar on the Leased Premises. As such, the following non-commercial aeronautical uses are permitted:

- Storage of aircraft;
- Shelter for maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft;
- Storage of aircraft handling equipment, e.g., tow bar, glider tow equipment, workbenches, and tools and materials used to service, maintain, repair or outfit aircraft; items related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of materials related to an aeronautical activity, e.g., balloon and skydiving equipment, office equipment, teaching tools, and materials related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of non-aeronautical items that do not interfere with the primary aeronautical purpose of the hangar, e.g., furniture or televisions;
- Construction of amateur-built or kit-built aircraft, provided that activities are conducted safely; and
- Storage of a vehicle parked at the hangar while the aircraft usually stored in that hangar is flying, subject to Airport rules and regulations as currently in effect or may hereinafter be implemented.

### **B. Prohibited Uses.**

Prohibited uses include, but are not limited to the following:

- Use as a residence;
- Operation of a non-aeronautical business, e.g., limo service, car and motorcycle storage, storage of inventory, non-aeronautical business office;
- Activities which impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar;
- Activities which displace the aeronautical contents of the hangar or impede access to aircraft or other aeronautical contents of the hangar;
- Storage of household items that could be stored in commercial storage facilities;
- Long-term storage of derelict aircraft and parts;
- Storage of items or activities prohibited by local or state law;
- Fuel, and other dangerous and Hazmat materials; and
- Storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

### **C. Commercial Activity.**

Lessee may not conduct any commercial activity on or near the Leased Premises without Manager's prior written consent. Lessee may use the Leased Premises and hangar to store the aircraft, even if the aircraft is used to support a commercial activity, but only if no commercial activity aside from mere storage of the aircraft takes place in or near the hangar. Duly registered non-profit flight clubs and subletting the Leased Premises are not considered a commercial activity under this section.

### **D. Hazardous Materials.**

Hazardous materials stored in the hangar must be stored in Department of Transportation and OSHA approved containers and disposed of per hazardous waste requirements, as required by law. The total volume of stored hazardous materials may not exceed 5 US gallons. The storage of engine oil, in the manufacturer's original containers, will not be included in the calculation of the total allowable storage volume. To minimize fire hazard and hazardous waste contamination issues, the following actions are prohibited in the hangar: using combustible chemicals or cleaning solvents, fuel system draining, fuel system repair (except where the fuel system has been drained), chemical stripping, chemical washing, and painting (except as described elsewhere in this Agreement). Any hot work (i.e., cutting, welding, brazing, soldering, and grinding) may not be performed inside the hangar; any such work performed in the hangar itself must be done by a person properly licensed to perform such work. Lessee, and all persons performing work on Lessee's behalf, must at all times comply with all applicable current state and local laws, ordinances, regulations, and fire prevention codes.

## **6. COMPLIANCE WITH ALL LAWS.**

Lessee hereby agrees to comply with all local, state, and federal laws, ordinances, guidance, rules and regulations as they may exist or be enacted in the future. Moreover, Lessee makes the following covenants.

### **A. Non-Discrimination.**

The Lessee and all heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed,

maintained, or otherwise operated on the said property described in this lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The Lessee and all heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that:

- (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities;
- (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and
- (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

If Lessee provides any services at the Airport in relation to this Lease, Lessee hereby covenants that it will furnish said services on a reasonable basis to all users thereof, charge reasonable prices for each unit or service, and not unjustly discriminate in any manner thereof.

**B. Federal Requirements.**

Lessor is bound to comply with the following federal laws, executive orders, and regulations; Lessee will take no action to interfere with Lessor's compliance and will not take any act in violation itself:

**i. Federal Laws.**

- a. Title 49, U.S.C., subtitle VII, as amended;
- b. Davis-Bacon Act - 40 U.S.C. 276(a), *et seq.*;
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, *et seq.*;
- d. Hatch Act – 5 U.S.C. 1501, *et seq.*;
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, *et seq.*;
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f);
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c;
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, *et seq.*;
- i. Clean Air Act, P.L. 90-148, as amended;
- j. Coastal Zone Management Act, P.L. 93-205, as amended;
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a;
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f));
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794;

- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), (prohibits discrimination on the basis of disability);
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, *et seq.*;
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended;
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, *et seq.*;
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373;
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, *et seq.*;
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1;
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, *et seq.*;
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended;
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, *et seq.*;
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706; and
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252);

## **ii. Federal Regulations.**

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement);
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- c. 2 CFR Part 1200 – Non-procurement Suspension and Debarment;
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice for Federally Assisted Airport Enforcement Proceedings;
- e. 14 CFR Part 150 - Airport noise compatibility planning;
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services;
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964;
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates;
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States;
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act);
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements);
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments; and



m. 49 CFR Part 20 - New restrictions on lobbying.

**iii. Executive Orders.**

- a. Executive Order 11246 - Equal Employment Opportunity;
- b. Executive Order 11990 - Protection of Wetlands;
- c. Executive Order 11998 –Flood Plain Management;
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs;
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction;
- f. Executive Order 12898 - Environmental Justice;
- g. Executive Order 13788 - Buy American and Hire American; and
- h. Executive Order 13858 – Strengthening Buy-American Preferences for Infrastructure Projects.

**7. RIGHTS AND RESERVATIONS OF LESSOR.**

**A. Hazards.**

Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, including, but not limited to, the right to prevent Lessee from erecting or permitting to be erected any building or other structure which, in the opinion of Lessor, would limit the usefulness of the Airport, constitute a hazard to aircraft or diminish the capability of existing or future avigational or navigational aids used at the Airport.

**B. Development.**

Lessor reserves the right to develop and improve the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance by or on behalf of Lessee. Accordingly, nothing contained in this Lease shall be construed to obligate Lessor to relocate Lessee as a result of any such Airport developments or improvements.

**C. Subordination.**

This Lease shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States Government, which relates to the operation or maintenance of the Airport and is required as a condition for the expenditure of federal funds for the development, maintenance or repair of Airport infrastructure. In the event that any such existing or future agreement directly causes a material restriction, impairment or interference with Lessee's primary operations on the Premises (Limitation) for a period of less than seven calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation.

If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period:

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and

(iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon 30 days' written notice to Lessor.

#### **D. National Emergencies.**

During any war or national emergency, Lessor shall have the right to lease any part of the Airport, including its landing area, to the United States Government. In this event, any provisions of this instrument which are inconsistent with the provisions of the lease to the Government shall be suspended. Lessor shall not be liable for any loss or damages alleged by Lessee as a result of this action. However, nothing in this Lease shall prevent Lessee from pursuing any rights it may have for reimbursement from the United States Government. If any lease between Lessor and the United States Government executed pursuant to this section D directly causes a Limitation for a period of less than seven (7) calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven (7) calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation. If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and
- (iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then:

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon 30 days' written notice to Lessor.

#### **E. Sponsor Assurances.**

Lessor covenants and agrees that during the term of this Lease it will operate and maintain the Airport and its facilities as a public airport consistent with and pursuant to the Sponsor's Assurances given by Lessor to the United States Government through the Federal Airport Act; and Lessee agrees that this Lease and Lessee's rights and privileges hereunder shall be subordinate to the Sponsor's Assurances.

#### **F. Easements.**

Lessee's rights hereunder shall be subject to all existing and future utility and drainage easements and rights-of-way granted by Lessor for the installation, maintenance, inspection, repair or removal of facilities owned or operated by electric, gas, water, sewer, communication or other utility companies. Lessee's rights shall additionally be subject to all rights granted by any ordinance or statute which allows utility companies to use publicly owned property for the provision of utility services.

#### **G. Rights of Ingress and Egress.**

Lessor agrees Lessee shall have the right of ingress and egress to and from the Leased Premises by means of roadways for automobiles and taxiways for aircraft including access during the construction phase of airport improvements, unless otherwise agreed to in writing by both parties. Such rights shall be consistent with the rules and regulations with respect to the occupancy and use of airport premises as adopted from time to time by the County and by the Federal Aviation Administration or any other state, federal, or local authority.

#### **H. Relocation of Hangar and Leased Premises.**

The precise location of the Premises where the Hangar is located is subject to County's discretion and modification. County may compel relocation of the Hangar at any time, in which case County will be responsible for all reasonable relocation costs. Lessee will be responsible for all Hangar relocation/reassembly costs when the relocation/reconstruction is at the request and sole benefit of the lessee, or if relocation is due to termination of this Agreement.

#### **8. TAXES AND ASSESSMENTS.**

Lessee agrees to timely pay any and all federal, state, or local taxes or assessments which may lawfully be levied against Lessee due to Lessee's use or occupancy of the Leased Premises or any improvements or property placed on the premises by Lessee as a result of its occupancy. Lessee shall furnish to the Manager a receipt showing said taxes or assessments are paid within thirty days of payment.

#### **9. INSURANCE.**

Lessee shall be responsible for any and all property damage insurance for Lessee's hangar, aircraft, and other property on the Leased Premises. Additionally, Lessee, at its sole cost and expense, shall procure and maintain at all times, in full force and effect during the Term of this Lease, a policy or policies of insurance, naming Crook County and the employer of Manager (currently, City of Prineville) as additional insureds and covering all risks arising directly or indirectly out of Lessee's activities at the Leased Premises, including but not limited to (1) coverage for hangar premises liability of others; (2) aircraft liability; and (3) if Lessee or any occupant of the Leased Premises has property of others, including aircraft, in their care, custody, or control then they shall maintain hangar keeper's liability coverage with limits adequate to cover the potential damage. The limits for all such policies shall be the current statutory limit of liability for Lessor under the Oregon Tort Claims Act or \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whichever is higher. Evidence of the required insurance coverages issued by an insurance company satisfactory to Lessor shall be provided to Manager by way of a Lessor-approved certificate of insurance upon commencement of this Agreement and each time Rent is due. The certificate of insurance shall contain a requirement that the insurance company notify Manager 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30-day notice, Lessee shall provide written notice to Manager within two calendar days after Lessee becomes aware that its coverage has been cancelled or has been materially changed. Regardless of what circumstances caused Lessee's insurance coverage to cease or be modified, it is Lessee's responsibility to notify Manager.

#### **10. UTILITIES.**

Lessee, at Lessee's sole cost and expense, shall be responsible for the installation and use of all utility services to all portions of the Leased Premises and for all other related utility expenses, including but not limited to deposits and expenses required for the installation of meters, if necessary. Lessee further covenants and agrees to pay all costs and expenses for any extension, maintenance, or repair of any and all utilities serving the Leased Premises. In addition, Lessee agrees that all utilities, air conditioning and heating equipment, and

other electrically operated equipment which may be used on the Leased Premises shall fully comply with all applicable Mechanical, Electrical, Plumbing, Building, and Fire Codes, as they exist or may hereafter be amended. Lessee expressly waives any and all claims, including a claim of Lessor's default of this Agreement, against County for compensation for any and all loss or damage sustained by reason of any defect, deficiency, interruption, or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, electrical supply system, or electrical apparatus or wires serving the Leased Premises.

## **11. MAINTENANCE AND SAFETY ISSUES.**

### **A. Maintenance and Repairs by Lessee.**

Lessee understands that this is a term lease and agrees to keep and maintain the Leased Premises in a good, clean and sanitary condition at all times, reasonable wear and tear excepted. Lessee covenants and agrees that it will not make or suffer any waste of the Leased Premises. Lessee, at Lessee's sole cost and expense, will make all repairs or replacements necessary to prevent the deterioration in condition or value of the Premises, including, but not limited to, the maintenance of and repairs to all hangars and other structures, doors, windows and roofs, and all fixtures, equipment, utilities, hangar modifications and surrounding pavement on the Premises. Lessee must paint the exterior of the hangar, as needed and reasonably directed by Lessor, with specifications and color to be approved in writing by the Manager. Lessee shall be responsible for all damages caused by Lessee, its agents, servants, employees, contractors, subcontractors, licensees or invitees, and Lessee agrees to fully repair or otherwise cure all such damages at Lessee's sole cost and expense.

Lessee agrees that all improvements, trade fixtures, furnishings, equipment and other personal property of every kind or description which may at any time be on the Leased Premises shall be at Lessee's sole risk or at the sole risk of those claiming under Lessee. Lessor shall not be liable for any damage to such property or loss suffered by Lessee's business or business operations which may be caused by the bursting, overflowing or leaking of sewer or steam pipes, from water from any source whatsoever, or from any heating fixtures, plumbing fixtures, electric wires, noise, gas or odors, or from causes of any other matter.

### **B. Access.**

Lessor/Manager shall have the right and privilege, through its officers, agents, servants or employees, to inspect the Leased Premises. Except in the event of an emergency, Lessor shall conduct such inspections during Lessee's ordinary business hours and shall use its best efforts to provide Lessee at least twenty-four hours' notice prior to any inspection. Lessee will permit the Crook County Fire and Rescue (CCFR) Fire Marshal or his or her authorized agents to inspect the Leased Premises, and Lessee will comply with all requirements of the Fire Marshal or his or her authorized agents that are necessary to bring the Leased Premises into compliance with all applicable fire and building code requirements regarding fire safety, as such provisions exist or may hereafter be amended. Lessee shall maintain in proper condition accessible fire extinguishers of a number and type approved by the Fire Marshal or his or her authorized agents for the particular hazard involved.

### **C. Inspections and Repairs.**

If Lessor/Manager determines during an inspection of the Leased Premises that Lessee is responsible under this Lease for any maintenance or repairs, Lessor shall notify Lessee in writing. Lessee agrees to begin such maintenance or repair work diligently within 30 calendar days following receipt of such notice and to then complete such maintenance or repair work within a reasonable time, considering the nature of the work to be done. If Lessee fails to begin the recommended maintenance or repairs within such time or fails to complete

the maintenance or repairs within a reasonable time, Lessor may, in its discretion, perform such maintenance or repairs on behalf of Lessee. In this event, Lessee will reimburse Lessor for the cost of the maintenance or repairs, and such reimbursement will be due on the date of Lessee's next annual Rent payment following completion of the maintenance or repairs.

**D. Repairs Required of Lessor.**

During any inspection, Lessor may perform any obligations that Lessor is authorized or required to perform under the terms of this Lease or pursuant to its governmental duties under federal, state, or local laws, rules, or regulations.

**12. ASSIGNMENT, SUBLETTING, AND SUBORDINATION.**

**A. Limitations on Transfers.**

Except as permitted under paragraph C below and section 15 below, Lessee must not, voluntarily or by operation of law, sell or transfer this Lease or any interest therein, sublet the Leased Premises or any part thereof, or grant any right to use the Leased Premises, the improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Lessor, which must not be unreasonably withheld. Any attempted Transfer without such prior written consent will be void. Lessor's consent to a Transfer will in no event release Lessee, any assignee, sublessee, or any guarantor from their respective liabilities or obligations under this Lease or any guaranty of this Lease (including any liabilities or obligations arising during the Extended Term), nor relieve Lessee from the requirement of obtaining Lessor's prior written consent to any further Transfer. Lessor's acceptance of Rent from any other person will not be deemed to be a waiver by Lessor of any provision of this Lease or consent to any Transfer. The failure or refusal of Lessor to approve a requested Transfer shall not relieve Lessee of its obligations hereunder, including payment of Rent.

If Lessee is a corporation, partnership, limited liability company, or other entity or unincorporated association, then any Transfer of this Lease by merger, consolidation, liquidation, or change in the ownership of or power to vote the majority of the ownership interest of Lessee, will constitute a Transfer for the purposes of this Article.

**B. Assignments Prohibited.**

Except in the case of an assignment pursuant to a probate proceeding or for estate planning purposes, all assignments of this Agreement are prohibited. An assignment prohibited within the meaning of this section 12 includes, without limitation, one or more sales or transfers, direct or indirect, by operation of law or otherwise, or the creation of new stock or ownership interests, by which ownership or control of an aggregate of more than 50 percent of Lessee's stock or ownership interests must vest in a party or parties who are non-stockholders, partners, or members, as applicable, as of the Commencement Date.

**C. Subletting.**

Lessee has the right to sublet portions of the Leased Premises or the improvements only upon prior written consent from the Manager and only for a term or terms that will expire before the expiration of the Term. Upon written request by Lessor, Lessee will promptly deliver to Lessor complete copies of any and all subleases. Each sublease must contain the following terms and conditions:

- (a) The sublease will incorporate the terms, conditions, and covenants set forth in, and state that it is subject and subordinate to, this Lease and to any extensions, modifications, or amendments of this Lease;

(b) That rents due under the sublease (i) have been assigned to Lessor (and Lessee hereby assigns the rents to Lessor), to support performance of Lessee's covenants under this Lease, which assignment will be effective only on the occurrence of any event of default by Lessee under this Lease; and (ii) will, on receipt of written notification from Lessor that an event of default has occurred under this Lease, be paid by the subtenant directly to Lessor, subject to section 15, until the subtenant receives written notice from Lessor that Lessee has cured the event of default or is in the process of curing the event of default in a manner reasonably satisfactory to Lessor;

(c) If any act or omission of Lessee would give subtenant the right, immediately or after lapse of a period of time, to cancel or terminate the sublease, or to claim a partial or total eviction, subtenant will not exercise that right: (i) until it has given written notice of the act or omission to Lessor; and (ii) until a reasonable period of time for Lessor to cure the condition has passed.

### **13. SALE OF THE HANGAR AND IMPROVEMENTS.**

If at any time during the Term or at the expiration of the Term, Lessee intends to sell the Improvements on the Leased Premises, Lessee hereby grants Lessor a right of first offer to purchase on the terms and conditions at which Lessor proposes to sell the property to a third party. Lessee shall give Manager written notice of its intent to sell and shall indicate the terms and conditions (including the sale price) upon which Lessee intends to sell the Improvements to a third party. Lessor shall thereafter have sixty days to elect in writing to purchase the Improvements. If Lessor declines to elect in writing to purchase the Improvements, Lessee may elect to sell to any third party upon the advance written approval of the Manager, which will not be unreasonably withheld—failure to do so may place the buyer in the untenable position of occupying space on County property without authorization to do so, trigger the termination, remedy, and surrender provisions of sections 16 - 18 below, and may result in legal action. Lessee's notice of intent to sell must include the name and contact information of the prospective buyer and the sale price. Provided, however, if the price at which Lessee intends to sell the Improvements is less than 90% of the price set forth in the notice of right of first offer to purchase, then Lessee shall again offer Lessor the right to acquire the Improvements upon the same terms and conditions available to the third party. In which case Lessor shall have thirty days to elect in writing to purchase the Improvements. If Lessor declines to elect in writing to purchase the Improvements, and the Manager consents to the sale to a third party, Lessee may choose from the following two options.

#### **A. Termination of Lease and Execution of New Lease.**

Manager's consent to the sale of Lessee's hangar and improvements upon the Leased Premises constitutes implied consent to negotiate in good faith with the prospective buyer for a new lease under the Airport's standard ground lease form as it may be amended from time to time.

#### **B. Termination of the Lease and Removal of Property.**

Should Manager consent to the sale of the Improvements and the buyer does not wish to enter into a new Lease, Lessee shall ensure such buyer removes the Improvements within 30 days of the sale and place the Leased Premises in a clean and buildable site leaving all utility hookups in place. This Agreement shall then automatically terminate at the end of the calendar year, provided that Lessee shall remain liable for any damage to the Leased Premises or abandoned property pursuant to section 18 below.

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## **14. LIENS.**

### **A. Lien Granted to Lessor.**

Lessee hereby grants County a lien against the Improvements, aircraft, and all personal property that Lessee stores in the hangar. This lien exists and continues for all unpaid amounts that Lessee may owe County, from time to time, and County's assertion of the lien does not relieve Lessee from the obligation to pay the monthly rent as provided in this Agreement. In the event Lessee does not fully and immediately discharge all unpaid amounts, County is hereby granted and has the right to take and recover possession of the Improvements and satisfy its lien in accordance with Oregon law. The County may also take and recover possession of the stored aircraft and personal property, without notice or other action, exercise its lien against the same, and have and recover all costs and expenses including attorney's fees in connection with the repossession of said hangar, Improvements, aircraft, or personal property and assertion of the lien.

### **B. Liens by Lessee.**

Lessee acknowledges that it has no authority to engage in any act or to make any contract which may create or be the foundation for any lien upon the property or interest in the property of Lessor, subject to section 15. If any such purported lien is created or filed, Lessee, at its sole cost and expense, shall liquidate and discharge the same within 30 days of such creation or filing. Lessee's failure to discharge any such purported lien shall constitute a breach of this Lease and Lessor may terminate this Lease upon 30 days' written notice. However, Lessee's financial obligation to Lessor to liquidate and discharge such lien shall continue in effect following termination of this Lease and until such a time as the lien is discharged.

## **15. LEASEHOLD MORTGAGES**

### **A. Right to Mortgage Leasehold**

Notwithstanding Articles 12 and 14 or any other provision to the contrary, in addition to any other rights granted and without any requirement to obtain Lessor's consent, Lessee has the right to mortgage or grant a security interest in Lessee's interest in this Lease, the Leased Premises, and the Improvements under one or more leasehold mortgages to one or more Lending Institutions (as defined in section 15.B. below), and to assign this Lease as collateral security for those leasehold mortgages, on the condition that all rights acquired under the leasehold mortgages are subject to every covenant, condition, and restriction set forth in this Lease, and to all rights and interests of Lessor, none of which covenants, conditions, restrictions, rights, or interests is or may be waived by Lessor by reason of the right given to mortgage or grant a security interest in Lessee's interest in this Lease and the Premises and the Improvements, except as expressly provided otherwise.

### **B. Defined Terms**

Any mortgage, deed of trust, financing statement, security agreement, or other financing instrument granted by Lessee pursuant to this section 15 is referred to as a "Permitted Leasehold Mortgage," and the holder of or secured party under a Permitted Leasehold Mortgage is referred to as a "Permitted Leasehold Mortgagee." The term "Lending Institution" means any commercial, national, or savings bank, savings and loan association, trust company, pension trust, foundation, or insurance company, and any other entity, person, corporation, partnership, or otherwise making a loan on the security of Lessee's interest in this Lease or any portion of the Leased Premises or the Improvements.

### **C. Lender Protections**

If a Permitted Leasehold Mortgagee sends to Lessor a true copy of its Permitted Leasehold Mortgage, together with written notice specifying the name and address of the Permitted Leasehold Mortgagee, then as

long as the Permitted Leasehold Mortgage remains unsatisfied of record or until written notice of satisfaction is given by the holder to Lessor, the following provisions will apply:

**i. No Modifications or Terminations**

This Lease may not be (a) amended or modified, or (b) terminated or canceled by reason of the exercise of any option or election by Lessee, or by the giving of any notice by Lessee, unless such amendment, modification, termination, or cancellation by Lessee is assented to in writing by the Permitted Leasehold Mortgagee. Any such attempted amendment or modification, termination, or cancellation by Lessee without the Permitted Leasehold Mortgagee's assent is void.

**ii. Notice to Permitted Leasehold Mortgagees**

Upon serving Lessee with any notice under this Lease, whether of default or any other matter, Lessor will simultaneously serve a copy of the notice on the Permitted Leasehold Mortgagee, and no notice to Lessee will be deemed given unless a copy is so served on the Permitted Leasehold Mortgagee in the manner provided in this Lease for giving notices.

**iii. Right to Cure**

In the event of any default by Lessee under this Lease, each Permitted Leasehold Mortgagee has the same period as Lessee has, plus 30 days, after service of notice on it of the default, to remedy or cause to be remedied or commence to remedy and complete the remedy of the default complained of, and Lessor must accept that performance by or at the instigation of the Permitted Leasehold Mortgagee as if the same had been done by Lessee. Each notice of default given by Lessor must state the amount of any Rent that is then claimed to be in default.

**iv. The Right to Postpone**

If Lessor elects to terminate this Lease because of any default of Lessee, the Permitted Leasehold Mortgagee will have, in addition to the rights granted under the preceding section, the right to postpone and extend the specified date for the termination of this Lease as fixed by Lessor in its notice of termination, for a period of 12 months, as long as the Permitted Leasehold Mortgagee (a) cures or causes to be cured any then-existing defaults in payment of Rent and meanwhile pays the Rent, and (b) forthwith takes steps to acquire or sell Lessee's interest in this Lease by foreclosure of the Permitted Leasehold Mortgage or otherwise and prosecutes the same to completion with reasonable diligence and continuity.

**v. The Right to a New Lease**

Lessor agrees that if this Lease is terminated by reason of any default by Lessee, other than for nonpayment of the Rent and other payments herein provided for, Lessor will enter into a new lease for the Premises and the Improvements with the holder of the then First Leasehold Mortgage on this Lease, or with its nominee or designee, for the remainder of the Term, effective as of the date of the termination, at the Rent and on the other terms and provisions as herein contained and subject only to the same conditions of title as this Lease was subject on the date of the execution hereof, and to the rights, if any, of any parties then in possession of the Leased Premises or any portion thereof, provided as follows:

- a. The holder will request the new lease within 30 days after the date of termination of the Lease;



- b. The holder will pay to Lessor at the time of execution and delivery of the new lease all sums as to which the First Leasehold Mortgagee will have been provided with prior notice and which would at the time of execution and delivery thereof be due under this Lease had it not terminated, together with any expenses, including reasonable attorney fees, to which Lessor will have been subjected by reason of the default;
- c. Lessor will not warrant possession of the Premises to the Lessee under the new lease;
- d. The new lease will be expressly made subject to the rights, if any, of Lessee under this terminated Lease;
- e. Tenant under the new lease will have the same right, title, and interest in and to the Premises as Lessee had under this Lease (except as otherwise provided herein); and
- f. The holder will not be obligated to perform any obligations of Lessee hereunder until the holder actually acquires possession of the Premises.

**vi. Bankruptcy of Lessee**

Nothing herein contained will require any holder of a Permitted Leasehold Mortgage or its nominee or designee to cure any default of Lessee arising out of its bankruptcy, insolvency, reorganization, or other proceeding under the bankruptcy or insolvency laws of the United States or the State of Oregon or otherwise.

**vii. Insurance Policies**

Lessor agrees that the name of the Permitted Leasehold Mortgagee may be added to the “loss payable endorsement” of any or all insurance policies required to be carried by Lessee.

**16. TERMINATION AND DEFAULT.**

**A. Termination**

This Lease shall terminate automatically at the expiration of the Term.

**B. Default.**

In addition to the expiration of the Term and other termination rights contained elsewhere in this Lease, the occurrence of any one or more of the following constitutes an event of default under this Lease:

- i. If Lessee fails to pay any rent, fees, or other charges due under this Lease, Lessor shall deliver to Lessee a written invoice and notice to pay the invoice within ten calendar days. If Lessee fails to pay the balance outstanding within such time, Lessor shall have the right to terminate this Lease immediately;
- ii. Failure by Lessee to complete construction of the Project within the time allotted in section 4;
- iii. Failure by Lessee to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within 10 days after notice thereof is given to Lessee;
- iv. Failure by Lessee, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than i and iii above) and such failure continues and is not remedied within 30 days after written notice thereof is given to Lessee; provided, however, that if the failure is of such a nature that it cannot be cured within said 30-day period, then this provision is satisfied if Lessee begins the cure within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within 90 days after Lessor’s notice is given to Lessee;

- v. Lessee becomes insolvent; Lessee makes an assignment for the benefit of creditors other than a Leasehold Mortgagee under section 15; Lessee files a voluntary petition in bankruptcy; Lessee is adjudged bankrupt or a receiver is appointed for Lessee's properties; the filing of an involuntary bankruptcy petition and Lessee's failure to secure a dismissal of the petition within 75 days after filing; or the attachment of or the levying of execution on the leasehold interest and Lessee's failure to secure discharge of the attachment or release of the levy of execution within 30 days; or
- vi. Lessee is in default after the lapse of any applicable notice and cure period under any mortgage, deed of trust, or contract of sale secured by the improvements on the Leased Premises.

## **17. REMEDIES.**

### **A. Remedies.**

Upon the occurrence of an event of default, Lessor may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

- i. Lessor may terminate this Lease by written notice to Lessee;
- ii. Lessor or Lessor's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Leased Premises and the improvements either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Leased Premises and the Improvements, to the end that Lessor may have, hold, and enjoy the Leased Premises and the Improvements. RE-ENTRY OR TAKING POSSESSION OF THE LEASED PREMISES OR THE IMPROVEMENTS BY LESSOR WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO LESSEE.
- iii. Lessor may, without terminating the Lease, relet the whole or any part of the Premises and the improvements from time to time, either in the name of Lessor or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Lessor determines to be appropriate. To the extent allowed under Oregon and Federal law, Lessor will have no obligation to relet all or any part of the Leased Premises or the improvements and will not be liable for refusing to relet the Leased Premises or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Lessor will not operate to relieve Lessee of any liability under this Lease or otherwise affect such liability. Lessor at its option may make any physical change to the Leased Premises or the improvements that Lessor, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Lessee of any liability under this Lease or otherwise affecting Lessee's liability.
- iv. Whether or not Lessor retakes possession of or relets the Leased Premises and the improvements, Lessor has the right to recover its damages, including without limitation all lost rentals, all legal expenses, all costs incurred by Lessor in restoring the Leased Premises or otherwise preparing the Leased Premises and the improvements for reletting, and all costs incurred by Lessor in reletting the Leased Premises and the improvements.
- v. To the extent permitted under Oregon law, Lessor may sue periodically for damages as they accrue without barring a later action for further damages. Lessor may in one action recover

accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Leased Premises and the improvements for the same period, discounted at the time of award at a reasonable rate not to exceed 10 percent per annum. If Lessor relets the Leased Premises and the improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

**B. Lessor's Self-Help Right.**

If Lessee at any time (a) fails to pay any tax or assessment in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 days' written notice to Lessee (or without notice in the event of an emergency) and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease or from any default by Lessee and without waiving Lessor's right to take any action that is permissible under this Lease as a result of the default, Lessor may, but is under no obligation to, (i) pay any tax, assessment, or make any other payment required of Lessee under this Lease, and (ii) perform any other act on Lessee's part to be made or performed as provided in this Lease, and may enter the Premises and the improvements for any such purpose, and take any action that may be necessary. All payments so made by Lessor and all costs and expenses incurred by Lessor, including reasonable attorney fees, in connection with the performance of any such act will constitute additional rent payable by Lessee under this Lease and must be paid to Lessor on demand.

**C. No Waiver.**

No failure by Lessor to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Lessee, and no breach by Lessee, may be waived, altered, or modified except by a written instrument executed by Lessor. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

**D. Remedies Cumulative and Nonexclusive.**

Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Lessor's or Lessee's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

**18. SURRENDER.**

Lessor is not responsible for any loss or damages occurring to any property owned by Lessee or any sub-lessee. The provisions of this section 18 survive any termination of this Agreement.

**A. No Delay.**

Except as otherwise provided herein, on the last day of the Term or the last day Lessee is entitled to possession of the Leased Premises under this Lease, if the Parties are not then negotiating a new lease, Lessee shall surrender and deliver up the premises to Lessor without delay.

**B. Removal of Property.**

If Lessee is still entitled to possession, Lessee may remove the hangar, other improvements, and personal property of Lessee, a sublessee, or any other guest/invitee (collectively, "Lessee's Property") on the Leased Premises so long as said improvements are removed on or before the last day that the Lessee is entitled to possession of the Leased Premises. After removal of said improvements, Lessee shall place the premises in a clean and buildable site leaving all utility hookups in place. Any of Lessee's Property that remains on the Leased Premises after the termination of this lease may, at the option of Lessor (1) be deemed to have been abandoned by Lessee or such sub-lessee and may either be retained by Lessor as its property and all rights of Tenant with respect to it will cease or be disposed of, without accountability, in such manner as Lessor sees fit, or (2) if Lessor gives written notice to Lessee to such effect, such property shall be removed by Lessee at Lessee's sole cost and expense. If Lessor elects to hold Lessee to Lessee's obligation to remove, Lessor may effect a removal and place the cost of removal, transportation to storage, and storage on Lessee.

**19. RELEASE AND INDEMNIFICATION.**

Lessee hereby assumes all liability and responsibility for property loss, property damage, and/or personal injury of any kind, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with its use of the Airport under this Lease or with the leasing, maintenance, use, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee covenants and agrees to, and does to the extent allowed by law, without waiving any defenses provided by law, hereby indemnify, hold harmless, and defend Lessor and Manager, its officers, agents, servants, and employees from and against any and all claims or lawsuits for either property damage or loss (including alleged damage or loss to Lessee's business and any resulting lost profits) and/or personal injury, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with Lessee's use of the Airport under this Lease or with the use, leasing, maintenance, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee assumes all responsibility and agrees to pay Lessor and Manager for any and all injuries or damages to Lessor's property which arise out of or in connection with any and all acts or omissions of Lessee, its officers, agents, employees, contractors, subcontractors, licensees or invitees, except to the extent caused by the gross negligence or willful misconduct of Lessor, its officers, agents, servants, or employees.

Lessor and Manager do not guarantee police protection to Lessee, and sublessee or their property. Lessor/Manager is obligated only to provide security adequate to maintain Lessor's certification under FAA regulations. Lessee shall comply with all applicable regulations of the FAA relating to airport security. Lessee shall pay all fines imposed by the FAA on Lessor, Manager or Lessee resulting from Lessee's or any sublessees' failure to comply with such FAA regulations or to prevent unauthorized persons or parties from their obtaining access to the air operations area of the Airport from the Leased Premises.

## **20. NOTICES.**

The Parties are required to update the information in this section. Notices required pursuant to the provisions of this Lease shall be conclusively determined to have been delivered (i) when hand-delivered to the other party at such addresses listed below, or at such other addresses as the receiving party may designate by proper notice to the sending party, or (ii) three days after being deposited in the United States Mail, postage prepaid, addressed as follows:

To Lessor:  
Crook County/Prineville Airport S39  
Attn: Kelly Coffelt  
4585 SW Airport Road  
Prineville, OR 97754

To Lessee:  
  
Lesley Robbins, Trustee  
Lesley and Carolyn Robbins Family Trust  
61801 Wickiup Road  
Bend, OR 97702

With a copy to:  
Crook County Counsel  
300 NE 3<sup>rd</sup> Street  
Prineville, OR 97754

## **21. MISCELLANEOUS.**

### **A. Governmental Powers.**

Nothing in this lease should be construed or interpreted to mean that the County waives, surrenders, or sacrifices any of its governmental powers in any way.

### **B. Licenses and Permits.**

Lessee shall, at its sole expense, obtain and keep in effect all licenses and permits necessary or required for its operations at the Airport.

### **C. Relationship of the Parties.**

Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Lessor and Lessee.

### **D. Signs.**

No signs are permitted on the exterior of any hangars without the express written consent of the Manager. Any such approved signs must conform with the size, color, location, and manner of display of other signs at the Airport and be maintained in a safe, neat, and well-kept condition.

### **E. Cooperation between Tenants.**

Lessee must cooperate with all other tenants and users of the Airport and must at all times use the Leased Premises and the Airport in such a manner as to avoid interference with the activities of other Airport users and tenants. Any difference or conflict that may arise between Lessee and other users or tenants will be resolved by the Manager in the Manager's sole discretion and not subject to challenge or appeal. If Lessee's lawful enjoyment of the Leased Premises is impaired because of any act or omission of another tenant, Lessee will have no claim against County or its agents.

**F. Survival.**

All agreements (including but not limited to indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

**G. Severability.**

If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

**H. Non-Waiver.**

The failure of Lessor to insist upon the performance of any term or provision of this Lease or to exercise any right granted herein shall not constitute a waiver of Lessor's right to insist upon appropriate performance or to assert any such right on any future occasion.

**I. Force Majeure.**

If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any legal requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

**J. Condemnation.**

If the whole of the Leased Premises is taken by a public authority under the power of eminent domain, then the Term of this Agreement will cease on the day of possession by said public authority. If only a part of the Leased Premises is taken under eminent domain, Lessee will have the right to either terminate this Agreement or to continue in possession of the remainder of the Leased Premises. If Lessee remains in possession, all of the terms of this Agreement will continue in full force and effect, with Rent reduced proportionately pursuant to the non-condemned and Lessee-occupied square footage.

**K. Nonmerger.**

There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate of the Leased Premises.

**L. Costs and Attorney Fees.**

In the event there should be a breach or default under any provision of this Lease and either party should retain attorneys or incur other expenses for the collection of rent, fees or charges, or the enforcement of performance or observances of any covenant, obligation or agreement, Lessor and Lessee agree that each party shall be responsible for its own attorneys' fees.

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**M. Applicable Law and Venue.**

This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. The Parties agree that any civil action will be brought in the circuit court in Crook County.

**N. Signature Authority.**

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

**O. Binding Effect.**

The covenants and agreements contained in this Lease are binding on and inure to the benefit of Lessor, Lessee, and their respective successors and assigns.

**P. Recordation.**

This Agreement shall not be recorded. Lessee may elect that a memorandum of lease be executed and acknowledged by both parties and recorded in the public records of Crook County, at Lessee's cost.

**Q. Time Is of the Essence.**

Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

**R. Interpretation.**

In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon must be given equal weight, and there must be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Lessor and Lessee acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

**S. Headings, Captions, and References.**

The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term "Herein" refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neuter gender in this Lease includes the masculine, feminine, and neuter genders and the singular form includes the plural when the context so requires.

**T. Entire Agreement.**

This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Lessee and Lessor mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease.

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**U. Counterparts.**

This Agreement may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective the date first set forth above.

**For Lessee**

Lesley Linn Robbins and Carolyn Sue Robbins as  
Trustees of the Lesley and Carolyn Robbins Family  
Trust, dated June 9, 2000

By:

Lesley L. Robbins  
Lesley Linn Robbins, Trustee

Carolyn Sue Robbins  
Carolyn Sue Robbins, Trustee

Date:

3-4-2021

**For Crook County**

CROOK COUNTY COURT

\_\_\_\_\_  
Seth Crawford, County Judge

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

\_\_\_\_\_  
Jerry Brummer, County Commissioner

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

\_\_\_\_\_  
Brian Barney, County Commissioner

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



## Exhibit A



# Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

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## MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: March 1, 2021

RE: District Medical Examiner Contract  
Our File No.: Health 119

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Enclosed is a contract for services with Dr. Jana VanAmburg as Crook County's District Medical Examiner, in compliance with ORS Chapter 146. Also enclosed, as required by statute, is the letter from the Oregon State Medical Examiner's Office officially appointing Dr. VanAmburg for the role.

As discussed previously, this is an unusual position, as Dr. VanAmburg is considered an officer or employee of a public body for purposes Oregon Tort Claims Act but is otherwise an independent contractor. Her office's activities will need to be covered under our insurance. Additionally, notwithstanding the enclosed agreement, the State's Chief Medical Examiner has the authority to discharge Dr. VanAmburg.

The contract obligates Dr. VanAmburg to perform and oversee the investigation and certification of deaths within Crook County. The contract is structured to compensate Dr. VanAmburg a monthly flat fee at the rate of \$1,667 per month. Dr. VanAmburg will be in control of her own office, able to staff and compensate as she feels is appropriate. The agreement is perpetual, with a 90-day termination-for-convenience clause.

District Attorney Wade Whiting has reviewed the agreement and recommends its approval. Please let me know if you have any questions.

**Please place this memo and the attached document(s) on the Wednesday, March 17, 2021 County Court Agenda as a DISCUSSION ITEM, for approval and signatures**

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## **DISTRICT MEDICAL EXAMINER SERVICES CONTRACT**

This District Medical Examiner Services Contract (Agreement) by and between and Jana VanAmburg, M.D. (Contractor) and Crook County, a political subdivision of the State of Oregon (County), authorizes Contractor to carry out and complete the services as described below in consideration of the mutual covenants set forth herein.

### **RECITALS**

**WHEREAS**, ORS Chapter 146 requires each county to have a medical examiner for the purpose investigating and certifying the cause and manner of deaths requiring investigations;

**WHEREAS**, ORS Chapter 146 requires both the appointment by the State's Chief Medical Examiner and approval by the applicable county's board of commissioners;

**WHEREAS**, pursuant to County's request, on February 18, 2021, Oregon's Chief Medical Examiner, Dr. Sean Hurst, formally appointed Dr. VanAmburg as Crook County's District Medical Examiner;

**WHEREAS**, under ORS Chapter 146 all expenses, including personnel compensation and excepting one-half the cost of autopsies under ORS 146.075(4), shall be paid by the respective county; and

**WHEREAS**, County and Contractor wish to memorialize the respective obligations and benefits of the parties herein.

### **AGREEMENT**

1. **PROJECT.** The services as described in paragraph 3 of this Agreement are to be provided by Contractor in connection with the requirements of ORS Chapter 146 as District Medical Examiner (DME).
2. **DURATION.** This Agreement shall be perpetual unless terminated according to the provisions of this Agreement.
3. **SCOPE OF SERVICES.** Contractor, as DME for Crook County, will investigate and certify the cause and manner of all human deaths in Crook County, Oregon as required pursuant to ORS Chapter 146, regulations promulgated thereunder, and the rules and regulations adopted by the State Medical Examiner Advisory Board (SMEAB) or as directed by the State's Chief Medical Examiner (CME) or any Deputy acting on behalf of the CME, including but not limited to the following:
  - 3.1. Serve as the administrator of the County's DME's office, and employ and compensate such other personnel as Contractor deems necessary;
  - 3.2. Establish qualifications for medical-legal death investigators (MDIs) and appoint, subject to

the approval of Crook County's District Attorney (the "DA"), sufficient MDIs to serve under the control and direction of Contractor and the DA;

- 3.3. Maintain copies, available for inspection as provided by ORS 146.035(5), of reports of death investigations, autopsy reports, laboratory analysis reports, and inventories of money or property of the deceased taken into custody during an investigation;
  - 3.4. Forward copies of reports of death investigations and autopsy reports to the Office of the CME as required by ORS 146.075(8);
  - 3.5. Maintain current records of all assistant district medical examiners and medical-legal death investigators appointed by Contractor as well as the name, address and director of each licensed funeral home within Crook County;
  - 3.6. Immediately notify, in writing, the Office of the CME, all appointments and resignations of medical examiners;
  - 3.7. Provide coverage around the clock, every day of the year and investigate and certify the cause and manner of all deaths listed under ORS 146.090;
  - 3.8. For those deaths where an MDI is required on scene as notified by Law Enforcement, to provide an MDI at the site within 60 to 90 minutes from the notification;
  - 3.9. Perform the investigation, certification, report, and training duties required under ORS 146.095;
  - 3.10. Immediately notify the DA of all deaths requiring investigation subject to the exceptions listed, pursuant to ORS 146.100;
  - 3.11. Provide a current on-call list to dispatch and otherwise cooperate with the DA and Sheriff's Office in the performance of duties required under ORS 146.103-125.
4. **FEE FOR SERVICES.** Contractor's fee for the services identified in this Agreement, including compensation of all MDIs and other personnel, shall be One Thousand Six Hundred Sixty-Seven and no/100 Dollars (\$1,667.00) per month.
  5. **EXTRA SERVICES.** Contractor may also perform Extra Services (services not specified in the Scope of Services), provided Contractor and County have agreed in advance and in writing to the scope and fees for such Extra Services.
  6. **EXHIBITS.** The following documents which are attached to this Agreement are incorporated herein and by this reference made part hereof:  
  

Exhibit A:	Required Terms for All Public Contracts
Exhibit B:	Independent Contractor Status
Exhibit C:	Protected Information
Exhibit D:	Business Associate Agreement

**7. RELATIONSHIP OF THE PARTIES.** The relationship between the parties is uncommon and dictated by statute.

**7.1. OREGON CHIEF MEDICAL EXAMINER.** The State's CME has ultimate authority over Contractor's means and manner in performance of its duties required pursuant to ORS Chapter 146, including the authority to discharge Contractor notwithstanding this Agreement.

**7.2. "OFFICER" STATUS FOR TORT CLAIMS.** Notwithstanding any other provision of this Agreement, pursuant to ORS 146.088, Contractor and any assistant district medical examiner (ADME) or MDI working under Contractor's supervision and control are deemed to be officers or agents of Crook County for purposes of ORS 30.260 to 30.300 while acting in their official roles under this Agreement. County agrees to defend and hold harmless Contractor in accordance with ORS 30.260 through 30.300 against any and all lawsuits and liabilities that arise from the services provided by Contractor pursuant to this Agreement. County shall indemnify, defend, and hold Contractor harmless from all loss, liability, costs, or expenses including the cost of claim settlement and attorney fees incurred for any claim asserted against Contractor arising out of this Agreement or relating to services provided pursuant to the Agreement. Coverage by County of any liability arising out of Contractor's performance of their responsibilities pursuant to ORS Chapter 146 and this Agreement shall be primary.

**7.3. INDEPENDENT CONTRACTOR FOR OTHER PURPOSES.** For purposes relating to federal and state income tax liability, tax withholding, social security, medical taxes, unemployment and workers compensation coverage, it is agreed that Contractor, in carrying out the services to be provided under the Agreement, is acting as an "independent contractor" and is not an "employee" of County, and as such accepts full responsibility for such taxes or other obligations associated with the payment for services under this Agreement. Contractor will not receive any benefits normally accruing to County employees unless required by applicable law. Contractor must provide County with a fully completed W-9 form upon execution of the Agreement. Furthermore, Contractor is free to contract with other parties, on other matters, for the duration of this Agreement. Contractor shall comply with ORS 656.017 for all non-public employees performing direct services required by this Agreement who work in the State of Oregon. If Contractor hires employees to perform services required by this Agreement, he or she will provide the County with certification of Worker's Compensation Insurance. Contractor certifies it is a "Contractor" under ORS 670.600 and relevant law as it pertains to this contract and as further described in incorporated Exhibit B.

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**8. CERTIFICATIONS AND WARRANTIES OF CONTRACTOR.**

- 8.1. COMPLIANCE.** Contractor shall comply with all applicable provisions of ORS 146, regulations and guidelines promulgated thereunder by the SMEAB, and the direction the CME or a Deputy State Medical Examiner, and the DA. Contractor shall be entitled to rely on such information or directions. Contractor is hereby given notice that County will be relying on the accuracy, competency, and completeness of Contractor's services in utilizing the results of such services. Contractor warrants that the recommendations, guidance and performance of Contractor shall be in accordance with the requirements of this Agreement.
- 8.2. COUNTY PRIORITIES.** Contractor shall comply promptly with any requests by the DA and the CME or a Deputy of the CME relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to said work. All such requests shall be in compliance with ORS Chapter 146 and the direction provided by the CME or a Deputy of the CME.
- 8.3. OWNERSHIP AND USE OF DOCUMENTS.** All documents, or other material submitted to County by Contractor shall become the sole and exclusive property of County. All material prepared by Contractor under this Agreement may be subject to Oregon's Public Records laws.
- 8.4. TAX COMPLIANCE CERTIFICATION.** Contractor hereby certifies, under penalty of perjury, as provided in ORS 305.385(6), that to the best of Contractor's knowledge, Contractor is not in violation of any of the tax laws described in ORS 305.380(4).
- 8.5. CONFORMANCE WITH OREGON PUBLIC CONTRACTING LAWS.** Contractor shall fully comply with Oregon law for public contracts, as more fully set forth in the Exhibits.
- 8.6. TRAINING.** Contractor and any personnel will stay current with training provided by Oregon State Police Medical Examiners Division.
- 9. TERMINATION.**
- 9.1.** Either party may terminate this Agreement after giving ninety (90) days' prior written notice to the other of intent to terminate without cause. The parties shall deal with each other in good faith during the ninety-day period after notice of intent to terminate without cause has been given.
- 9.2.** With reasonable cause, either party may terminate this Agreement effective immediately after giving written notice of termination for cause. Reasonable cause shall include material violation of this Agreement or any act exposing the other party to liability to others for personal injury or property damage.
- 9.3.** Upon notification from the Chief Medical Examiner that Contractor has been discharged under ORS 146.065. Termination under this provision may be immediate.

- 9.4. Notwithstanding any other provision of this Agreement, County shall not be obligated for Contractor's performance hereunder or by any provision of this Agreement during any of County's future fiscal years unless and until the Crook County Court appropriates funds for this Agreement in County's budget for such future fiscal year. In the event that funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated.

## **10. GENERAL PROVISIONS.**

- 10.1. **ENTIRE AGREEMENT.** This Agreement signed by both parties is the final and entire agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents, and representatives
- 10.2. **AMENDMENTS.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of County. No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties.
- 10.3. **ASSIGNMENT/SUBCONTRACT.** Contractor shall not assign, sell, transfer, this agreement, in whole or in part, without the prior written approval of County and the CME. No such written approval shall relieve Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.
- 10.4. **SUB-AGREEMENTS.** If this project is funded in whole or in part with grant funds received by County, Contractor, as a sub-recipient of those funds, shall fully comply with all applicable terms, conditions, and requirements of the Grant Agreement, including but not limited to procurement regulations, property and equipment management and records, indemnity, and insurance provisions.
- 10.5. **SUCCESSORS IN INTEREST.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.
- 10.6. **NO AUTHORITY TO BIND CROOK COUNTY.** Contractor has no authority to enter into contracts on behalf of County outside of the authority granted to Contractor under ORS Chapter 146. This Agreement does not create a partnership between the parties.
- 10.7. **HOW NOTICES SHALL BE GIVEN.** Any notice given in connection with this Agreement must be in writing and be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address as stated below or to Crook County at 300 NE 3<sup>rd</sup> Street, Prineville, OR 97754, attention "Legal Department."
- 10.8. **GOVERNING LAW AND VENUE.** Any dispute under this Agreement shall be governed by Oregon law, with venue in Crook County, Oregon.

- 10.9. SEVERABILITY.** If any provision of this Agreement is declared by a court 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 provision held to be invalid.
- 10.10. ACCESS TO RECORDS.** County and its duly authorized representatives shall have access to books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- 10.11. CONFIDENTIALITY.** During the course of performance of work under this Agreement, Contractor may receive information regarding organizations and County's business practices, employees, clients, etc. Contractor agrees to maintain the confidentiality of such information and to safeguard such information against loss, theft or other inadvertent disclosure
- 10.12. FEDERAL EMPLOYMENT STATUS.** In the event payment made pursuant to this Agreement is to be charged against federal funds, Contractor hereby certifies that it is not currently employed by the Federal Government and the amount charged does not exceed Contractor's normal charge for the type of services provided.
- 10.13. COMPLIANCE WITH ALL GOVERNMENT REGULATIONS.** Contractor shall comply with all Federal, State and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement.
- 10.14. FORCE MAJEURE.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control.
- 10.15. ATTORNEY FEES.** In the event an action, lawsuit, or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Agreement, each party shall bear its own attorney fees, expenses, costs, and disbursements for said action, lawsuit, proceeding, or appeal.
- 10.16. WAIVER.** The failure of either party at any time or from time to time to enforce any of the terms of this Agreement shall not be construed to be a waiver of such term or of such party's right to thereafter enforce each and every provision of the Agreement.
- 10.17. NONDISCRIMINATION.** No person shall be subjected to discrimination in the receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, marital status, age, or national origin. Any violation of this provision shall be considered a material violation of this Agreement and shall be grounds for cancellation, termination, or suspension in whole or in part by County.
- 10.18. COUNTERPARTS.** This Agreement may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute




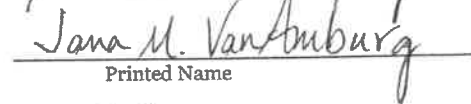
one in the same instrument. Electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective the date last signed below.

**For Contractor**

Jana VanAmburg, MD

By:

  
Signature  
  
Printed Name

Date: 3/1/2021

Address: 1900 NE 3rd St Ste 106  
Bend, OR 97701 #317

Email: deschutesme@gmail.com

Phone: 541-749-8751

**For Crook County**

CROOK COUNTY COURT

Seth Crawford, County Judge

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

Jerry Brummer, County Commissioner

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

Brian Barney, County Commissioner

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

## **EXHIBIT A**

### **REQUIRED TERMS FOR ALL PUBLIC CONTRACTS**

#### **1. PAYMENTS AND DEBTS:**

- 1.1. Contractor shall promptly, as due, make payment to:
  - 1.1.1. Any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services;
  - 1.1.2. All persons supplying to Contractor labor or material for the performance of the work provided for in the Agreement;
  - 1.1.3. All contributions or amounts due the Industrial Accident Fund from Contractor or subcontractor incurred in the performance of this Agreement; and
  - 1.1.4. The Department of Revenue all sums withheld from employees under ORS 316.167.
- 1.2. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished under this Agreement.

#### **2. EMPLOYEES:**

- 2.1. Contractor and subcontractors shall either be employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- 2.2. Contractor shall comply with the prohibition on wage discrimination of ORS 652.220; failure to do so is a material element of the contract and a breach that entitles County to terminate this Agreement for cause.
- 2.3. For all work under this Agreement, Contractor may not employ an employee for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or when the public policy absolutely requires otherwise, and in such cases, Contractor shall pay the employee at least time-and-a-half pay for:
  - (a) All overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday; or all overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and
  - (b) All work the employee performs on Saturday and on any legal holiday specified in ORS 279B.020;
- 2.3.1. If this Agreement is for services, Contractor shall pay employees at least time-and-a-half pay for work the employees perform under this Agreement on the legal holidays specified in a collective bargaining agreement or in 279B.020 (1)(b)(B) to (G) and for all time the employees work in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater;
- 2.3.2. If this Agreement is for personal services, as described in ORS 279A.055, Contractor shall pay its employees who work under this Agreement at least time-and-a-half for all overtime the employees work in excess of 40 hours in any one week, unless said employees are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime;
- 2.3.3. If this Agreement is for services at a county fair, or for another event that Crook County Fair Board authorizes, Contractor shall pay employees who work under this Agreement at least time-and-a-half for work in excess of 10 hours in any one day or 40 hours in any one week.
- 2.4. Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
- 2.5. Contractor shall give notice in writing to employees who work under this Agreement, either at the time of hire or before work begins on the Agreement, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that Contractor may require the employees to work.

#### **3. OTHER PROVISIONS:**

- 3.1. By executing this Agreement, Contractor represents and warrants that it has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318; Contractor further covenants to continue with said compliance during the term of this Agreement. Noncompliance with this provision is a default for which County may terminate the Agreement, in whole or part, and seek damages under the terms of this Agreement or applicable law.

- 3.2. If this Agreement involves lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

## **EXHIBIT B**

### **INDEPENDENT CONTRACTOR STATUS**

Contractor states and represents that contractor is an Independent Contractor as that term is defined in Oregon Revised Statute 670.600 and more specifically represents, states and agrees that in providing the services and scope of work specified in this Agreement:

1. Contractor provides services for remuneration; and
2. Contractor is free from direction and control over the means and manner of providing the services and scope of work subject only to the right of County to specify the desired results; and
3. Contractor is customarily engaged in an independently established business; and
4. Contractor is licensed within the state of Oregon to provide any services for which a license is required under ORS Chapter 671 or 701 and is responsible for obtaining other licenses or certificates necessary to provide the service or scope of work; and
5. Contractor complies with at least three of the following requirements:
  - (a) A business location is maintained that is separate from the business or work location of County; or is in a portion of the Contractor's residence and that portion is used primarily for the business.
  - (b) The Contractor bears the risk of loss related to the provision of services or scope of work such as entering into a fixed price contract, defective work is required to be corrected, the services provided are warranted or indemnification agreements, liability insurance and performance bonds and errors and omissions insurance are provided.
  - (c) Contracted services for two or more different persons or entities within a twelve month period have been obtained, or routinely engaged in business advertising, solicitation, or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
  - (d) Significant investment in the business has been made such as purchasing tools or equipment, paying for premises or facilities where services are provided, paying for licenses, certificates or specialized training.
  - (e) Possesses authority to hire other persons to assist in providing their services and has the authority to fire those persons.
6. Contractor will immediately inform County in the event that it fails to conduct its services in one or more particulars as represented in 1 through 5 above.

## EXHIBIT C

### PROTECTED INFORMATION

If Contractor obtains any personal information as defined in ORS 646A.602(11) related to this Agreement or concerning any County employee, Contractor agrees to provide appropriate safeguards to protect the security of this information. Contractor shall have provided appropriate safeguards by meeting or exceeding the requirements stated in ORS 646A.622. Furthermore:

1. **“Protected Information”** shall be defined as *data or information* that has been designated as private or confidential by law or by the County. Protected Information includes, but is not limited to, employment records, medical records, personal financial records (or other personally identifiable information), trade secrets, and classified government information. To the extent there is any uncertainty as to whether any data constitutes Protected Information, the data in question shall be treated as Protected Information until a determination is made by the County or proper legal authority.
2. **Data Confidentiality.** Contractor shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information, protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and prevent any other action of unauthorized disclosure that could result in substantial harm to the County or an individual identified with the data or information in Contractor’s custody or access.

To the extent that Contractor may have access to County protected health information (as the same is defined in the privacy regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and the implementing regulations known and referred to as Privacy Rule, Security Rule, Enforcement Rule and Breach Notification Rule, referred to herein collectively as “HIPAA”), Contractor agrees to protect such information in compliance with HIPAA and represents that it has the processes, systems and training to assure compliance with the same.

3. **Data and Network Security.** Contractor agrees at all times to maintain commercially reasonable network security that, at a minimum, includes: network firewall provisioning, intrusion detection/prevention and periodic third party penetration testing. Likewise Contractor agrees to maintain network security that at a minimum conforms to current standards set forth and maintained by the National Institute of Standards and Technology, including those at: <http://checklists.nist.gov/repository>. Contractor agrees to protect and maintain the security of data with protection security measures that include maintaining secure environments that are patched and up to date with all appropriate security updates as designated by a relevant authority.
4. **Security Breach.** In the unlikely event of a security breach or issue, Contractor will notify the appropriate County contact no later than one hour after they are aware of the breach. Contractor will be responsible for all remedial action necessary to correct the breach; provided however, that Contractor will not undertake litigation on behalf of the County without prior written consent.
5. **Data Storage and Backup.** Contractor agrees that any and all County data will be stored, processed, and maintained solely on designated servers and that no County data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of the Contractor's designated backup and recovery processes. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by a County officer with designated data, security, or signature authority. An appropriate officer with the necessary authority can be identified by the County Information Security Officer for any general or specific case.

Contractor agrees to store all County backup data stored as part of its backup and recovery processes in encrypted form, using no less than AES 256.

6. **Data Re-Use.** Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. Contractor further agrees that no County data of any kind shall be revealed, transmitted, exchanged or otherwise passed to other Contractor or interested parties except on a case-by-case basis as specifically agreed to in writing by a County officer with designated data, security, or signature authority.
7. **PCI Compliance.** Contractor agrees to comply with PCI DSS (Payment Card Industry Data Security Standard). As evidence of compliance, Contractor shall provide upon request a current attestation of compliance signed by a PCI QSA (Qualified Security Assessor).
8. **End of Agreement Data Handling.** Contractor agrees that upon termination of this Agreement it shall erase, destroy, and render unreadable all County data in its entirety in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities, and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of an agent of County whichever shall come first.
9. **Mandatory Disclosure of Protected Information.** If Contractor becomes compelled by law or regulation (including securities' laws) to disclose any Protected Information, Contractor will provide County with prompt written notice so that County may seek an appropriate protective order or other remedy. If a remedy acceptable to County is not obtained by the date that Contractor must comply with the request, Contractor will furnish only that portion of the Protected Information that it is legally required to furnish, and the Contractor shall require any recipient of the Protected Information to exercise commercially reasonable efforts to keep the Protected Information confidential.
10. **Remedies for Disclosure of Confidential Information.** Contractor and County acknowledge that unauthorized disclosure or use of the Protected Information may irreparably damage County in such a way that adequate compensation could not be obtained from damages in an action at law. Accordingly, the actual or threatened unauthorized disclosure or use of any Protected Information shall give County the right to seek injunctive relief restraining such unauthorized disclosure or use, in addition to any other remedy otherwise available (including reasonable attorneys' fees). Contractor hereby waives the posting of a bond with respect to any action for injunctive relief. Contractor further grants County the right, but not the obligation, to enforce these provisions in Contractor's name against any of Contractor's employees, officers, board members, owners, representatives, agents, contractors, and subcontractors violating the above provisions.
11. **Non-Disclosure.** Contractor is permitted to disclose Confidential Information to its employees, authorized subcontractors, agents, consultants and auditors on a need-to-know basis only, provided that all such subcontractors, agents, consultants and auditors have written confidentiality obligations to both Contractor and County.
12. **Criminal Background Check.** County shall perform criminal background checks on all talent assigned to this project before a person is allowed to work on any of the County's Criminal Justice Information System (CJIS) protected data, software systems or facilities.
13. **Survival.** The confidentiality obligations shall survive termination of any agreement with Contractor for a period of ten (10) years or for so long as the information remains confidential, whichever is longer and will inure to the benefit of County.

## **EXHIBIT D**

### **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“BA Agreement”) between County of Crook (County) and Contractor is adopted to ensure that Contractor will appropriately safeguard protected health information (“PHI”) that is created, received, maintained, or transmitted on behalf of County in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended (“HIPAA”), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the “HITECH Act”).

#### **A. General Provisions**

1. **Meaning of Terms.** The terms used in this BA Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this BA Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this BA Agreement shall be interpreted to permit compliance with HIPAA.

#### **B. Obligations of Business Associate**

Contractor agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this BA Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with Subpart C of 45 CFR Part 164 to prevent use or disclosure of PHI other than as provided for by this BA Agreement;
3. Report to County any use or disclosure of PHI not provided for by this BA Agreement of which it becomes aware, including any security incident (as defined in 45 CFR 164.304) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to County without unreasonable delay but in no case later than 60 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Contractor agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information;
5. Make available PHI in a designated record set to County as necessary to satisfy County’s obligation under 45 CFR 164.524 in no more than 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by County, or take other measures necessary to satisfy County’s obligations under 45 CFR §164.526 in no more than 30 days of a request;
7. Maintain and make available information required to provide an accounting of disclosures to County or an individual who has a right to an accounting within 60 days and as necessary to satisfy County’s obligations under 45 CFR §164.528;

8. To the extent that Contractor is to carry out any of County's obligations under Subpart E of 45 CFR Part 164, Contractor shall comply with the requirements of Subpart E of 45 CFR Part 164 that apply to County when it carries out that obligation;
9. Make its internal practices, books, and records available to the Secretary of the Department of Health and Human Services for purposes of determining compliance with the HIPAA rules;
10. County shall notify Contractor of any restriction on the use or disclosure of PHI that County has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Contractor's use or disclosure of PHI; and
11. If County is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Contractor agrees to assist County in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of County's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of County agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting County of any red flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to County of any threat of identity theft as a result of the incident.
12. If Contractor is part of a larger organization, Contractor will implement policies and procedures to protect PHI from unauthorized access by the larger organization.

**C. Permitted Uses and Disclosures by Business Associate**

The specific uses and disclosures of PHI that may be made by Contractor on behalf of County are limited to:

1. The review of patient care information in the course of Contractor conducting risk and compliance assessment activities, or providing County with a Control Activity Gap Analysis, or the review of PHI and other information necessary to assist County in developing its HIPAA compliance program; and
2. Other uses or disclosures of PHI as permitted by the HIPAA rules as necessary to perform the services set forth in the Agreement.
3. Uses or disclosures of protected health information as required by law.

**D. Termination**

1. County may terminate this Agreement if County determines that Contractor has violated a material term of the BA Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this BA Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement, if feasible.
3. Upon termination of this Agreement for any reason, Contractor shall return to County or destroy all PHI received from County, or created, maintained, or received by Contractor on behalf of County that Contractor still maintains in any form. Contractor shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this BA Agreement will extend to such PHI.
4. The obligations under section D are perpetual and shall survive termination of this Agreement.





# Oregon

Kate Brown, Governor

**Oregon State Police  
Medical Examiner Division**

13309 S.E. 84<sup>th</sup> Ave, Suite 100

Clackamas, OR 97015

(971) 673-8200

FAX (971) 673-8321

Forensic Pathologists:

Sean Hurst, M.D.  
Chief Medical Examiner

Clifford C. Nelson, M.D.  
Michele T. Stauffenberg, M.D.  
Rebecca A. Millius, M.D.  
Deputy State Medical Examiner

Veronica Vance, Ph.D.  
Forensic Anthropologist

Kelsey L. Evans  
Forensic Administrator

February 18, 2021

Dr. Jana VanAmburg  
c/o Crook County Court  
300 NE 3<sup>rd</sup> Street  
Prineville, OR

Dear Dr. Jana VanAmburg,

This letter is intended to be the final appointment for you as the Crook County Medical Examiner, which has been approved by the Crook County Court.

It is with a great deal of pleasure that I make this appointment. Be assured that the forensic pathologists at the Oregon State Medical Examiner's Office are continually available to provide whatever assistance we can to you and other personnel in your county so that the excellent quality of your program will be maintained.

I appreciate your willingness to assume this responsibility and I hope you will find it to be a satisfying experience.

Sincerely,

Sean Hurst, MD  
Chief Medical Examiner

cc: Crook County Court

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**IN THE COUNTY COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CROOK**

**IN THE MATTER OF**

**ORDER #2021-19**

Accepting revenue, changing related appropriations, line  
item adjustments and changing expenditure budget  
appropriations for County Funds for Fiscal Year 2020-21

WHEREAS, this Order is made in accordance with ORS 294.471(1)(c) which provides that funds that are made available by another unit of federal, state or local government, and the availability of which could not reasonably be foreseen when preparing the original budget or a previous supplemental budget for the current year or current budget period after enactment of an appropriation resolution or ordinance.

BE IT THEREFORE ORDERED that the Crook County Court hereby adopts this Order for the increases/decreases in revenues and expenditures for the purposes shown in the attached "Exhibit A" and makes the changes in appropriation for the fiscal year ending June 30, 2021.

DATED this 17th day of March 2021.

CROOK COUNTY COURT:

\_\_\_\_\_  
SETH CRAWFORD, County Judge

\_\_\_\_\_  
JERRY BRUMMER, County Commissioner

\_\_\_\_\_  
BRIAN BARNEY, County Commissioner

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**Exhibit A for Court Order 2021-19**

<b>Fund</b>	<b>Department</b>	<b>Current Budget</b>	<b>Change</b>	<b>Revised Budget</b>
Health Services	Grant Programs	2,472,771	304,218	2,776,989

*Appropriation of grant resources awarded after the adoption of the FY 2021 budget*

<b>Health Grant Programs</b>			<b>Total</b>	<b>\$ 304,218</b>
	<b>Description</b>	<b>Change</b>	<b>GL Number</b>	<b>Amount</b>
	Federal Grant Revenue	Increase	301-1408-322.00-00	24,997
	State Grant Revenue	Increase	301-1408-324.34-00	24,998
	Materials & Services	Increase	301-1408-520.15-19	20,450
	Materials & Services	Increase	301-1408-520.35.13	25,000
	Materials & Services	Increase	301-1408-520.66-99	4,545
	Federal Grant Revenue	Increase	301-1409-322.00-00	238,923
	Materials & Services	Increase	301-1409-520.15-19	238,923
	Misc Grant Revenue	Increase	301-1423-343.43-16	15,300
	Personnel	Increase	301-1423-510.01-22	15,300

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## Request to place business before the Crook County Court

**Important Note:** The County Court is the legislative, policy-setting body of Crook County. Matters which come before the Court should as a general rule be those of general concern to Crook County residents and Crook County. Administrative matters which are the purview of individual departments will be placed on the agenda at the request of the Department Head. By completing this form, you are asking to be placed on the agenda.

Please return this form to Crook County Administration Office via  
Email: [amy.albert@co.crook.or.us](mailto:amy.albert@co.crook.or.us); Fax: 541-447-6555; or Mail: 300 NE 3<sup>rd</sup> St., Prineville OR 97754

Your name: Brandi Ebner Date of Request: 3-2-21  
Email: info@crookcountyfoundation.org Phone: 541-362-1210  
Address (optional): \_\_\_\_\_

1. What is the date of the Court meeting you would like to appear at? March 17, 2021
2. Describe the matter to be placed before the Court: Request to waive the \$7,475 fee to utilize Carey Foster Hall December 1-23, 2021 for the Holiday Partnership program.
3. What action are you requesting that the Court take? A vote to approve this request
4. What is the cost involved with your request, if applicable? \$7,475
5. Please estimate the time required for your presentation.  
☐ 5 minutes    ☒ 10 minutes    ☐ 15 minutes    ☐ other \_\_\_\_\_ minutes
6. Are you (or will you be) represented by legal counsel?  
 Yes (please name your attorney) \_\_\_\_\_  
☒ No, I am not currently represented. (**Note: it is your obligation to advise the Court if at any time you retain legal counsel to assist you in this matter.**)
7. If you have a physical disability and require an accommodation, please specify your need: \_\_\_\_\_

### Optional Endorsement:

Signature of County Judge/Commissioner endorsing this request and requesting placement of the agenda: *(A request submitted at the request of a sponsoring commissioner, will be placed on an appropriate agenda. All other matters will be considered for appropriateness for consideration by the full Court in view of the above criteria.)*

\_\_\_\_\_  
Court member signature

\_\_\_\_\_  
Date

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## Request to place business before the Crook County Court

**Important Note:** The County Court is the legislative, policy-setting body of Crook County. Matters which come before the Court should as a general rule be those of general concern to Crook County residents and Crook County. Administrative matters which are the purview of individual departments will be placed on the agenda at the request of the Department Head. By completing this form, you are asking to be placed on the agenda.

Please return this form to Crook County Administration Office via  
Email: [amy.albert@co.crook.or.us](mailto:amy.albert@co.crook.or.us); or Mail: 300 NE 3<sup>rd</sup> St., Prineville OR 97754

Your name: **Peggy Combs (for Glenn E Davis)** Date of Request: **3/9/2021**  
Email: **peggyleecombs@gmail.com** Phone: **541-480-7653**  
Address (optional): \_\_\_\_\_

1. What is the date of the Court meeting you would like to appear at? **3/17/2021**
2. Describe the matter to be placed before the Court: **Please, need signatures of the County Commissioners on Partition Plat 217-20-00825.**
3. What action are you requesting that the Court take? **Signatures on the Partition Plat to dedicate that portion of Davis Loop. The commissioners previously signed this plat. However, it had to be re-drawn to make a couple corrections.**
4. What is the cost involved with your request, if applicable? **(not applicable)**
5. Please estimate the time required for your presentation. **(to allow time for the signatures)**  
☐ 5 minutes ☐ 10 minutes ☒ 15 minutes ☐ other \_\_\_\_\_ minutes
6. Are you (or will you be) represented by legal counsel? **(No, the Realtor above will bring the plat for county surveyor).**  
  X   Yes (please name your attorney) \_\_\_\_\_  
No, I am not currently represented. **(Note: it is your obligation to advise the Court if at any time you retain legal counsel to assist you in this matter.)**
7. If you have a physical disability and require an accommodation, please specify your need:  
**(not applicable)**

### Optional Endorsement:

Signature of County Judge/Commissioner endorsing this request and requesting placement of the agenda: *(A request submitted at the request of a sponsoring commissioner, will be placed on an appropriate agenda. All other matters will be considered for appropriateness for consideration by the full Court in view of the above criteria.)*

\_\_\_\_\_  
Court member signature

\_\_\_\_\_  
Date

# Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

• Phone: 541-416-3919

Physical: 267 NE 2nd St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



## MEMO

TO: Crook County Court

FROM: Crook County Counsel's Office

DATE: March 8, 2021

RE: *Datacenter Licenses for New Server*  
Our File No.: GIS 94

---

In February 2021, the County Court considered and approved a purchase from CDWg of Microsoft datacenter licenses for the new server for \$14,000 per year. However, CDWg made an inadvertent error in the price quote and CDWg cannot honor the agreement due to the agreement requiring a 3-year commitment. However, this updated price is competitive to the costs of 3-years of the original price.

Attached is a revised datacenter quote for the next 3 years with the updated amounts to be paid according to the new payment schedule (also attached).

There is no competitive pricing necessary for these quotes as CDWg is our vendor of record for Microsoft, meaning that Microsoft has provided a regional monopoly to CDWg for the distribution of its products. IT Director Troy Poncin has reviewed these documents and recommends approval.

**Please place this memo and the attached document(s) on the Wednesday, March 17, 2021 County Court Agenda as a DISCUSSION ITEM, for approval and signatures**



75 Tri-State International, Lincolnshire, IL 60069

---

## Annual Billing Commitment under Microsoft Agreement

2/23/2021

Re: CROOK COUNTY

CDW ORDER # LXKH279

MICROSOFT AGREEMENT # 4100046226

SOFTWARE ASSURANCE (SA) COVERAGE END DATE 6/30/2023

In connection with the Microsoft Agreement referenced above, this is to confirm our commitment to pay CDW as follows:

TOTAL FEES: \$40,495.86

	AMOUNT	DUE DATE
Year One	5,785.14	3/11/2021
Year Two	17,355.36	7/31/2021
Year Three	17,355.36	7/31/2022

We agree to provide a purchase order covering the Total Fees shown above, which purchase order will remain open through the term of the Microsoft Agreement. We acknowledge that CDW will invoice us annually against that purchase order on or about the Due Dates shown above.

Alternatively, if our payment for Year One is being made by credit card, in lieu of issuing an open purchase order, we authorize CDW to charge the Year Two and Year Three payments to that credit card on or about the Due Dates referenced above.

COMPANY NAME: CROOK COUNTY

SIGNATURE: \_\_\_\_\_

PRINTED NAME: Troy Poncin

TITLE: IT Director

DATE: 2/23/2021

ADDRESS: 422 NW BEAVER ST PRINEVILLE, OR 97754-1838

PURCHASE ORDER NUMBER (IN THE AMOUNT OF THE TOTAL FEES), IF APPLICABLE:

Approved this 17<sup>th</sup> day of March 2021.

CROOK COUNTY COURT

\_\_\_\_\_  
Seth Crawford, Judge

\_\_\_\_\_  
Jerry Brummer, Commissioner

\_\_\_\_\_  
Brian Barney, Commissioner

# QUOTE CONFIRMATION



DEAR TROY PONCIN,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
LXTC135	2/26/2021	ABS TOTAL	1212610	\$40,495.86

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
<a href="#">Microsoft Windows Server Datacenter Edition - license &amp; software assurance</a> Mfg. Part#: AAA-90053-CCJ-3-1 UNSPSC: 43233004 Electronic distribution - NO MEDIA Contract: Standard Pricing	6	4961035	\$964.19	\$5,785.14
<a href="#">Microsoft Windows Server Datacenter Edition - license &amp; software assurance</a> Mfg. Part#: AAA-90053-CCJ-3-1 UNSPSC: 43233004 Electronic distribution - NO MEDIA Contract: Standard Pricing	6	4961035	\$2,892.56	\$17,355.36
<a href="#">Microsoft Windows Server Datacenter Edition - license &amp; software assurance</a> Mfg. Part#: AAA-90053-CCJ-3-1 UNSPSC: 43233004 Electronic distribution - NO MEDIA Contract: Standard Pricing	6	4961035	\$2,892.56	\$17,355.36

<b>PURCHASER BILLING INFO</b>		<b>SUBTOTAL</b>	\$40,495.86
<b>Billing Address:</b> CROOK COUNTY FINANCE DEPT 422 NW BEAVER ST PRINEVILLE, OR 97754-1838 <b>Phone:</b> (541) 447-4160 <b>Payment Terms:</b> NET 30-VERBAL		<b>SHIPPING</b>	\$0.00
		<b>SALES TAX</b>	\$0.00
		<b>GRAND TOTAL</b>	<b>\$40,495.86</b>
<b>DELIVER TO</b> <b>Shipping Address:</b> CROOK COUNTY FINANCE DEPT 422 NW BEAVER ST PRINEVILLE, OR 97754-1838 <b>Phone:</b> (541) 447-4160 <b>Shipping Method:</b> ELECTRONIC DISTRIBUTION		<b>Please remit payments to:</b> CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

## Need Assistance? CDW•G SALES CONTACT INFORMATION



Maurice Dixon

(866) 682-3459

maudixo@cdwg.com



LEASE OPTIONS			
FMV TOTAL	FMV LEASE OPTION	BO TOTAL	BO LEASE OPTION
\$40,495.86	\$1,095.41/Month	\$40,495.86	\$1,262.26/Month

Monthly payment based on 36 month lease. Other terms and options are available. Contact your Account Manager for details. Payment quoted is subject to change.

#### Why finance?

- Lower Upfront Costs. Get the products you need without impacting cash flow. Preserve your working capital and existing credit line.
- Flexible Payment Terms. 100% financing with no money down, payment deferrals and payment schedules that match your company's business cycles.
- Predictable, Low Monthly Payments. Pay over time. Lease payments are fixed and can be tailored to your budget levels or revenue streams.
- Technology Refresh. Keep current technology with minimal financial impact or risk. Add-on or upgrade during the lease term and choose to return or purchase the equipment at end of lease.
- Bundle Costs. You can combine hardware, software, and services into a single transaction and pay for your software licenses over time! We know your challenges and understand the need for flexibility.

#### General Terms and Conditions:

This quote is not legally binding and is for discussion purposes only. The rates are estimate only and are based on a collection of industry data from numerous sources. All rates and financial quotes are subject to final review, approval, and documentation by our leasing partners. Payments above exclude all applicable taxes. Financing is subject to credit approval and review of final equipment and services configuration. Fair Market Value leases are structured with the assumption that the equipment has a residual value at the end of the lease term.

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at [http://www.cdw.com/content/terms-conditions/product\\_sales.aspx](http://www.cdw.com/content/terms-conditions/product_sales.aspx)  
For more information, contact a CDW account manager

© 2021 CDW•G LLC, 200 N. Milwaukee Avenue, Vernon Hills, IL 60061 | 800.808.4239

Approved this 17th day of March 2021.

CROOK COUNTY COURT

Seth Crawford, Judge

Jerry Brummer, Commissioner

Brian Barney, Commissioner

# Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

• Phone: 541-416-3919

Physical: 267 NE 2nd St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



## MEMO

TO: Crook County Court

FROM: County Counsel's Office

DATE: March 8, 2021

RE: *Purchase of Primary and Secondary Cohesity Clusters*  
Our File No.: Misc A

Attached are three competitive quotes received by the IT Department for the purchase of primary and secondary Cohesity Clusters that is necessary to protect servers, selected, hosts, and cloud resources (e.g. Office 365).

The quotes received are as follows:

CDWg	\$128,216.36
Bridge Data	\$94,800.92
SHI	\$89,274.94

The lowest quote received was from SHI, and IT Director Troy Poncin recommends approval of the purchase from SHI as the lowest responsive bidder.

**Please place this memo and the attached document(s) on the Wednesday, March 17, 2021 County Court Agenda as a DISCUSSION ITEM, for approval and signatures**

Approved this 17<sup>th</sup> day of March 2021.

CROOK COUNTY COURT

\_\_\_\_\_  
Seth Crawford  
County Judge

\_\_\_\_\_  
Jerry Brummer  
County Commissioner

\_\_\_\_\_  
Brian Barney  
County Commissioner

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# QUOTE CONFIRMATION



DEAR TROY PONCIN,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
LXVM259	3/1/2021	COHESITY	1212610	\$128,216.36

## QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
<b>NEW ITEM</b> Mfg. Part#: NEW-ITEM SUB-DATAPROTECT-3YR - COHESITY DATAPROTECT ADD-ON SUBSCRIPTION (1 TB). BACKUP SOFTWARE FOR VIRTUAL AND PHYSICAL ENVIRONMENTS. SUBSCRIPTION PER TB OF BACKEND STORAGE USED FOR BACKUP. Contract: MARKET	24	NEW-ITEM	\$660.00	\$15,840.00
<b>COHESITY SITECONTINUITY ADD SUB</b> Mfg. Part#: SUB-SITECONTINUITY-3YR Electronic distribution - NO MEDIA Contract: Oregon IT Hardware VAR Contract (5603)	20	6444832	\$637.18	\$12,743.60
<b>NEW ITEM</b> Mfg. Part#: NEW-ITEM PS-INSTALL-SM-CLUS - INSTALL ONE CLUSTER (3-8 NODES) OR UP TO THREE SINGLE NODE VE INSTANCES OR THREE NODES OF CLOUD EDITION. COHESITY SOFTWARE INSTALLATION ONLY. ENSURE READINESS TO CONFIGURE JOBS. INSTALLS MUST BE SAME SITE. EXPIRES 180 DAYS FROM PO. Contract: MARKET	1	NEW-ITEM	\$4,400.00	\$4,400.00
<b>Cohesity C4300-SFP 34TB Hyperconverged 3-Node Block</b> Mfg. Part#: C4300-SFP-3 Contract: Oregon IT Hardware VAR Contract (5603)	1	5510965	\$15,757.97	\$15,757.97
<b>Cohesity Premium Support - extended service agreement - 1 year - shipment</b> Mfg. Part#: CS-P-C4300-SFP-3 UNSPSC: 81111811 Electronic distribution - NO MEDIA Contract: Oregon IT Hardware VAR Contract (5603)	1	5470380	\$10,100.39	\$10,100.39
<b>Cohesity DataPlatform Standard - subscription license (3 years) - 1 TB capa</b> Mfg. Part#: SUB-DATAPLAT-STD-3YR Electronic distribution - NO MEDIA Contract: Oregon IT Hardware VAR Contract (5603)	24	5357446	\$775.69	\$18,616.56
<b>Cohesity 10GbE direct attach cable - 16.4 ft</b> Mfg. Part#: CBL-10G-SFP-005 UNSPSC: 26121609	6	4847840	\$156.91	\$941.46

# QUOTE DETAILS (CONT.)

Contract: Oregon IT Hardware VAR Contract (5603)

<b>NEW ITEM</b>	1	NEW-ITEM	\$4,400.00	\$4,400.00
Mfg. Part#: NEW-ITEM PS-INSTALL-SM-CLUS - INSTALL ONE CLUSTER (3-8 NODES) OR UP TO THREE SINGLE NODE VE INSTANCES OR THREE NODES OF CLOUD EDITION. COHESITY SOFTWARE INSTALLATION ONLY. ENSURE READINESS TO CONFIGURE JOBS. INSTALLS MUST BE SAME SITE. EXPIRES 180 DAYS FROM PO. Contract: MARKET				
<b>Cohesity C4300-SFP-3610 Hyperconverged 3-Node Block</b>	1	5510965	\$15,757.97	\$15,757.97
Mfg. Part#: C4300-SFP-3 Contract: Oregon IT Hardware VAR Contract (5603)				
<b>Cohesity Premium Support - extended service agreement - 1 year - shipment</b>	1	5470380	\$10,100.39	\$10,100.39
Mfg. Part#: CS-P-C4300-SFP-3 UNSPSC: 81111811 Electronic distribution - NO MEDIA Contract: Oregon IT Hardware VAR Contract (5603)				
<b>Cohesity DataPlatform Standard - subscription license (3 years) - 1 TB capa</b>	24	5357446	\$775.69	\$18,616.56
Mfg. Part#: SUB-DATAPLAT-STD-3YR Electronic distribution - NO MEDIA Contract: Oregon IT Hardware VAR Contract (5603)				
<b>Cohesity 10GBase direct attach cable - 16.4 ft</b>	6	4847840	\$156.91	\$941.46
Mfg. Part#: CBL-10G-SFP-005 UNSPSC: 26121609 Contract: Oregon IT Hardware VAR Contract (5603)				

<b>PURCHASER BILLING INFO</b>		<b>SUBTOTAL</b>	\$128,216.36
<b>Billing Address:</b> CROOK COUNTY FINANCE DEPT 422 NW BEAVER ST PRINEVILLE, OR 97754-1838 <b>Phone:</b> (541) 447-4160 <b>Payment Terms:</b> NET 30-VERBAL		<b>SHIPPING</b>	\$0.00
		<b>SALES TAX</b>	\$0.00
		<b>GRAND TOTAL</b>	<b>\$128,216.36</b>
<b>DELIVER TO</b>		<b>Please remit payments to:</b>	
<b>Shipping Address:</b> CROOK COUNTY FINANCE DEPT 422 NW BEAVER ST PRINEVILLE, OR 97754-1838 <b>Phone:</b> (541) 447-4160 <b>Shipping Method:</b> DROP SHIP-GROUND		CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

Need Assistance? CDW\*G SALES CONTACT INFORMATION



Maurice Dixon

(866) 682-3459

maudix@cdwg.com

## LEASE OPTIONS

FMV TOTAL	FMV LEASE OPTION	BO TOTAL	BO LEASE OPTION
\$128,216.36	\$3,402.86/Month	\$128,216.36	\$3,940.09/Month

Monthly payment based on 36 month lease. Other terms and options are available. Contact your Account Manager for details. Payment quoted is subject to change.

# Bridge Data

#201164" AVE NE, SUITE 200, REDMOND, WA 98052

## PREPARED FOR

Name: Troy Poncin  
Company: Crook County  
Address: 300 NE 3rd St | Prineville, OR 97754-1919

## QUOTATION

Quote Number: BDS210301-1a  
Quote Date: 01-Mar-21  
Valid Until: 31-Mar-21  
Credit Terms: Net 30  
Shipping Terms: Prepay & Add

LINE	PART NUMBER	DESCRIPTION	QTY	UNIT PRICE	EXT PRICE
1.01	SUB-DATAPROTECT-3YR	Cohesity DataProtect Add-On Subscription (1 TB). Backup software for virtual and physical environments. Subscription per TB of backend storage used for backup. - Term - 36 Months	24	\$672.00	\$16,128.00
1.02	SUB-SITECONTINUITY-3YR	Cohesity SiteContinuity Add-On Subscription (1 TB). Disaster Recovery Orchestration Software. Subscription per TB of backend storage. - Term - 36 Months	20	\$618.24	\$12,364.80
1.03	PS-INSTALL-SM-CLUS	Install one cluster (3-8 nodes) OR up to three single node VE instances OR three nodes of Cloud Edition. Cohesity software installation only. Ensure readiness to configure jobs. Installs must be same site. Expires 180 days from PO.	1	\$3,860.00	\$3,860.00
1.04	C4300-SFP-3	C4300-SFP THREE (3) NODE BLOCK WITH 36 TB SECURE ERASE HDD, 4.8 TB PCI-E FLASH, 192 GB RAM, 12X 10GBE SFP+, 3X IPMI; HARDWARE ONLY	1	\$12,371.00	\$12,371.00
1.05	CS-P-C4300-SFP-3	Premium (24x7) Support for C4300 - Term - 36 Months	1	\$4,453.56	\$4,453.56
1.06	SUB-DATAPLAT-STD-3YR	Cohesity DataPlatform Standard Edition Subscription (1TB). Intelligent web-scale software for consolidating secondary data with multi-protocol access (NFS, S3 & SMB), replication, access management, monitoring, Rest API, encryption, snapshots/cones, glo - Term - 36 Months	24	\$504.00	\$12,096.00
1.07	CBL-10G-SFP-005	CABLE, 10G, SFP+, TWINAX, 5M	6	\$62.25	\$373.50
1.08	PS-INSTALL-SM-CLUS	Install one cluster (3-8 nodes) OR up to three single node VE instances OR three nodes of Cloud Edition. Cohesity software installation only. Ensure readiness to configure jobs. Installs must be same site. Expires 180 days from PO.	1	\$3,860.00	\$3,860.00
1.09	C4300-SFP-3	C4300-SFP THREE (3) NODE BLOCK WITH 36 TB SECURE ERASE HDD, 4.8 TB PCI-E FLASH, 192 GB RAM, 12X 10GBE SFP+, 3X IPMI; HARDWARE ONLY	1	\$12,371.00	\$12,371.00
1.10	CS-P-C4300-SFP-3	Premium (24x7) Support for C4300 - Term - 36 Months	1	\$4,453.56	\$4,453.56
1.11	SUB-DATAPLAT-STD-3YR	Cohesity DataPlatform Standard Edition Subscription (1TB). Intelligent web-scale software for consolidating secondary data with multi-protocol access (NFS, S3 & SMB), replication, access management, monitoring, Rest API, encryption, snapshots/cones, glo - Term - 36 Months	24	\$504.00	\$12,096.00
1.12	CBL-10G-SFP-005	CABLE, 10G, SFP+, TWINAX, 5M	6	\$62.25	\$373.50
<ul style="list-style-type: none"> <li>Price excludes shipping &amp; handling and taxes unless otherwise indicated. Estimates for those charges are available upon request.</li> <li>Purchase orders can be emailed to <a href="mailto:orders@bridge-data.com">orders@bridge-data.com</a>.</li> </ul>				<b>TOTAL PRICE:</b>	<b>\$94,800.92</b>



Pricing Proposal  
Quotation #: 20108953  
Created On: 2/24/2021  
Valid Until: 2/28/2021

## County of Crook

### Troy Poncin

OR

United States

Phone: (541) 416-3930 ext. 110

Fax:

Email: Troy.Poncin@co.crook.or.us

## Inside Account Executive - SLE

### Ryan Flynn

290 Davidson Ave.

Somerset, NJ 08873

Phone: 732-564-8505

Fax: 732-564-8224

Email: Ryan\_Flynn@SHI.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
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3 INSTALL ONE CLUSTER (3-8 NODES) OR UP TO THREE SINGLE NODE VE INSTANCES OR THREE NODES OF CLOUD EDITION. COHESITY SOFTWARE INSTALLATION ONLY. ENSURE READINESS TO CONFIGURE JOBS. INSTALLS MUST BE SAME SITE. EXPIRES 180 DAYS FROM PO. Cohesity Inc. - Part#: PS-INSTALL-SM-CLUS Note: INSTALL ONE CLUSTER (3-8 NODES) OR UP TO THREE SINGLE NODE VE INSTANCES OR THREE NODES OF CLOUD EDITION. COHESITY SOFTWARE INSTALLATION ONLY. ENSURE READINESS TO CONFIGURE JOBS. INSTALLS MUST BE SAME SITE. EXPIRES 180 DAYS FROM PO.	1	\$3,705.98	\$3,705.98
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MANAGEMENT, MONITORING, REST API, ENCRYPTION, SNAPSHOTS/CONES, GLO  
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7	CABLE, 10G, SFP+, TWINAX, 5M Cohesity Inc. - Part#: CBL-10G-SFP-005	6	\$58.07	\$348.42
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			<b>Total</b>	<b>\$89,274.94</b>

#### Additional Comments

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Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

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IN THE COUNTY COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CROOK

AN ORDINANCE AMENDING CROOK  
COUNTY CODE CHAPTERS 18.12, 18.124,  
18.164, 18.170 AND 18.172 REGARDING EDITING  
CODE LANGUAGE FOR CONSISTENCY WITH  
STATE LAW AND REMOVING INCORRECT  
CITATIONS

ORDINANCE 323

WHEREAS, Crook County land use code contains several sections that require amendments to bring the code into compliance with State law and to remove references to outdated or removed State statutes or Crook County Code language; and

WHEREAS, other sections of Crook County's land use code require amendments to clarify language and intent; and

WHEREAS, the Crook County Planning Commission held a public hearing on the proposed language on February 24, 2021 and recommends adoption of the proposed amendments.

NOW THEREFORE, the Crook County Court ordains as follows:

Section One: The above recitals are adopted into and made a part of this Ordinance 323 as the County's findings of fact.

Section Two: Chapter 18.12, Establishment of zones, is amended to read as depicted in Attachment A, incorporated herein by reference, with deletions ~~struck through~~ in blue and additions underlined in red to remove references to County code sections that have been removed;

Section Three: Chapter 18.124 is amended to read as depicted in Attachment A, incorporated herein by reference, with deletions ~~struck through~~ in blue and additions underlined in red to clarify that the provisions for temporary hardship dwellings apply in conjunction with an approved dwelling in any zone;

Section Four: Chapter 18.164 is amended to read as depicted in Attachment A, incorporated herein by reference, with deletions ~~struck through~~ in blue and additions underlined

in red to clarify that either the planning commission or the Community Development Department may authorize variances in specific situation;

Section Five: Chapter 18.170 is amended to read as depicted in Attachment A, incorporated herein by reference, with deletions ~~struck through~~ in blue and additions underlined in red to remove an incorrect reference;

Section Six: Chapter 18.172 is amended to read as depicted in Attachment A, incorporated herein by reference, with deletions ~~struck through~~ in blue and additions underlined in red to remove an incorrect reference and to clarify the provisions related to revocation or modification of a permit.

Section Seven: The revisions adopted by this Ordinance 323 do not supersede or override the covenants, conditions, and restrictions or homeowners' association rules as they may apply to an individual lot or parcel.

Section Eight: If any portion of this Ordinance 323 is found by a court of competent jurisdiction to be invalid, all other portions of this Ordinance will remain in full force and effect.

First Reading: \_\_\_\_\_, 2021

Second Reading: \_\_\_\_\_, 2021

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021

## ATTACHMENT A

### 1. 18.12.010 Establishment of zones

The Planning Department proposes modifying the list of zones in 18.12 to reflect adoption of the State's Model Exclusive Farm Use Code in 2019. The proposal would delete old chapters 18.16, 18.20 and 18.24; and replace with new chapter 18.16 to reflect the model code section. No substantive changes result from this amendment. Amendments as follows:

Chapter Zones	Abbreviated
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<del>18.16</del> <del>Exclusive Farm Use-1</del>	<del>EFU-1</del>
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<del>18.20</del> <del>Exclusive Farm Use-2</del>	<del>EFU-2</del>
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<del>18.24</del> <del>Exclusive Farm Use-3</del>	<del>EFU-3</del>
--	------------------

18.16 Exclusive Farm Use Zones – EFU-1 (Post-Paulina Area), EFU-2 (Prineville Valley-Lone Pine Areas) and EFU-3 (Powell Butte Area)

### 2. 18.124 Supplementary Provisions

18.124.150 established criteria for temporary hardship dwellings. A reference to Chapter 18.16 is added to the clarify that the use table that is referenced applies in the County's Exclusive Farm Use zones. This language replaced text in 18.132 regarding temporary hardship manufactured dwellings to allow other structures to be used for temporary hardships. This change was made by the Planning Commission and adopted by Crook County Court in 2020. Amendments as follows:

#### 18.124.150 Temporary Hardship Dwellings.

A temporary hardship dwelling is subject to the following:

(1) One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an approved existing dwelling in any zone, as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

(a) The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required;

(b) The county shall review the permit authorizing such manufactured homes every two

years; and

(c) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished, or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed nonresidential use.

(2) A temporary residence approved under this section is not eligible for replacement under Use 2.7 in Table 1 **of Chapter 18.16**. Department of Environmental Quality review and removal requirements also apply.

(3) As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.

### **3. 18.164 Variances**

The intent of the amendment is to allow the Community Development Department to approve property line variances administratively, subject to notice and an opportunity for hearing, rather than automatically requiring a public hearing on these issues. Amendments as follows:

#### **18.164.010 Authorization to grant or deny variances.**

The planning commission **or the Community Development Department** may authorize variances from the requirements of this title where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of this title would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the planning commission **or the Community Development Department** may attach conditions, which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this title. Variances may not be authorized in EFU-1, EFU-2, EFU-3 or F-1 zones for minimum lot sizes or land divisions for farm or forest uses.

### **4. 18.170 Quasi-Judicial Amendments**

The proposed change removes an incorrect reference to 215.503(2). The amendment is as follows:

#### **18.170.020 Notice.**

(1) Notice of the hearing to enact any quasi-judicial matter will be given pursuant to the provisions of CCC 18.172.070.

(2) When applicable notice to DLCD shall be provided as required by ORS 197.610 and 197.615.

(3) When applicable notice to affected property owners shall be provided as required by ORS 215.503~~(2)~~.

///

**5. 18.172 Administration Provisions – Public Hearings and Order of Proceedings**

The intent is to correct an improper reference. The amendment to 18.172.081 subsection (16)(a)(ii) is as follows:

**18.172.081- Public hearings and order of proceedings.**

(ii) Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:

(A) Where additional documents or evidence are submitted by any party; or

(B) Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.

For the purposes of subsection (16)(a)(ii)(A) of this section, "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.

**6. 18.172.100 Administrative Provisions - Revocation or modification of permit**

The intent is to clarify that either the commission or the permittee may request a permit modification. It also allows the Commission to apply new code language (e.g., the County's adoption of the model code for EFU-zoned property, new state statutes that authorize additional uses) to modifications requested by a permittee. The amendments to subsection (3) are as follows:

**18.172.100 Revocation or modification of permit.**

(3) The commission shall hold a public hearing on any proposed revocation or modification requested by the commission or the permittee after giving written notice to the permittee and other affected persons as set forth in this title. ~~The hearing on the decision, which is subject to revocation or modification, is subject only to the standards, criteria and conditions that were applicable when the original permit was issued.~~ The commission shall hold a public hearing on any proposed revocation or modification after giving written notice to the permittee and other affected persons as set forth in this title. The hearing on the decision, which is subject to revocation or modification, is subject only to either the standards, criteria and conditions that were applicable when the original permit was issued or in effect at the time of the revocation or modification, whichever is less restrictive. The commission shall render its decision within 45 calendar days after the conclusion of the hearing.