



CROOK COUNTY WORK SESSION AGENDA

Wednesday, September 25, 2024 at 9:00 am

**Crook County Administration Conference Room I 203 NE Court St. I
Prineville OR**

Members of the public and media are welcome to attend in person or via Zoom: Phone: 1-253-215-8782; Meeting ID: 962 4214 4333; Passcode: 970900

PUBLIC COMMENT

DISCUSSION

1. Requesting a letter of support from the Board of Commissioners

Requester: Mandi Puckett

High Desert Christian Academy Community Relations Director

2. Signature for the HB 4002 BHD grant

Requester: Aaron Boyce

Sheriff's Office

3. Franchise Agreement with Republic

Requester: John Eisler

Presenters: Jacquie Davis / John Eisler

4. Kirby Nagelhout Changer Order #250

Requester: John Eisler

Assistant County Counsel

5. Airport - Services during construction contract / Precision Approach Engineering Inc. Phase II Runway reconstruction project

Requester: Kelly Coffelt

Airport Manager

6. Consideration of County process for prosecution of dog-as-a-public nuisance violations; options and disadvantages.

Requester: Eric Blaine

County Counsel

7. Review 2024-2026 update to County's equal employment opportunity plan (EEO), for

consideration of adoption at future meeting.

Requester: Eric Blaine

County Counsel

8. Letter to Oregon State University regarding OSU Extension in Crook County

Requester: Will Van Vactor

Interim County Manager

9. Community Development Monthly Update

Requester: Katrina Weitman

Presenter: Randy Davis

INTERIM MANAGER REPORT

COMMISSIONER UPDATES

10. Letter on National Old Growth Amendment

Requester: Susan Hermreck

County Commissioner

EXECUTIVE SESSION

The Crook County Board of Commissioners will now meet in executive session under ORS 192.660(2)(d) To conduct deliberations with persons designated by the governing body to carry on labor negotiations; and ORS 192.660(2)(a) To consider the employment of a public officer, employee, staff member or individual agent.

Representative of the news media and designated staff shall be allowed to attend the executive session.* All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

11. ORS 192.660(2)(d) To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

12. ORS 192.660(2)(a) To consider the employment of a public officer, employee, staff member or individual agent.

NOTICE AND DISCLAIMER

The Crook County Board of Commissioners is the governing body of Crook County, Oregon, and holds work sessions to deliberate upon matters of County concern. As part of its efforts to keep the public apprised of its activities, the Crook County Board of Commissioners has published this PDF file. This file contains the material to be presented before the County Board of Commissioners for its next scheduled work session.

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

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

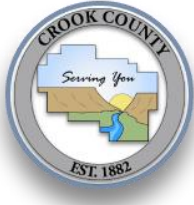
If you are interested in obtaining additional copies of any of the documents contained herein, they may be obtained by completing a Crook County Public Records Request form. Request forms are available on the County's website or at the County Administration office at 203 NE Court Street, in Prineville.

Additional Items

Additional items may be discussed that arise too late to be included as a part of this notice. For information about adding agenda items, please contact the County Administration office at 447-6555. Assistance to handicapped individuals is provided with advance notice.

Contact: Seth Crawford (seth.crawford@co.crook.or.us (541) 447-6555) | Agenda published on 09/24/2024 at 8:31 AM

AGENDA ITEM REQUEST



Date:

Meeting date desired:

Subject:

Background and policy implications:

Budget/fiscal impacts:

Requested by:

Presenters:

Legal review (only if requested):

Elected official sponsor (if applicable):

LETTER OF COMMUNITY SUPPORT

Goal	To empower our workforce to thrive by enhancing access to education and family support services in Crook County.
Vision	To build capacity that addresses the educational and family support needs of our community, from the very youngest to the very oldest in Crook County.
Mission	To revitalize and transform the High Desert Christian Academy (HDCA) property located at 1201 NE Elm Street Prineville Oregon from a hospital into a central educational hub for childcare, preschool, K-12 education, trade schools, extra-curricular activities, gymnasium, and family support services for Crook County.
Contact	High Desert Christian Academy, Coordinator Mandi Puckett, 541-416-0114

HDCA is a 501(c)(3) non-profit organization with over 30 years of service to the Crook County community. HDCA's property, located at 1201 NE Elm Street in Prineville Oregon, was formerly the Pioneer Memorial Hospital. The nearly 13 acres of property neighbors Prineville Police Department, a residential neighborhood and includes approximately 92,000 square feet of usable building space. Additional partners will be added to this letter of support on an ongoing basis.

We, the Prineville and Crook County community partners, hereby commit to collaborating in support of this mission.

Signed by:

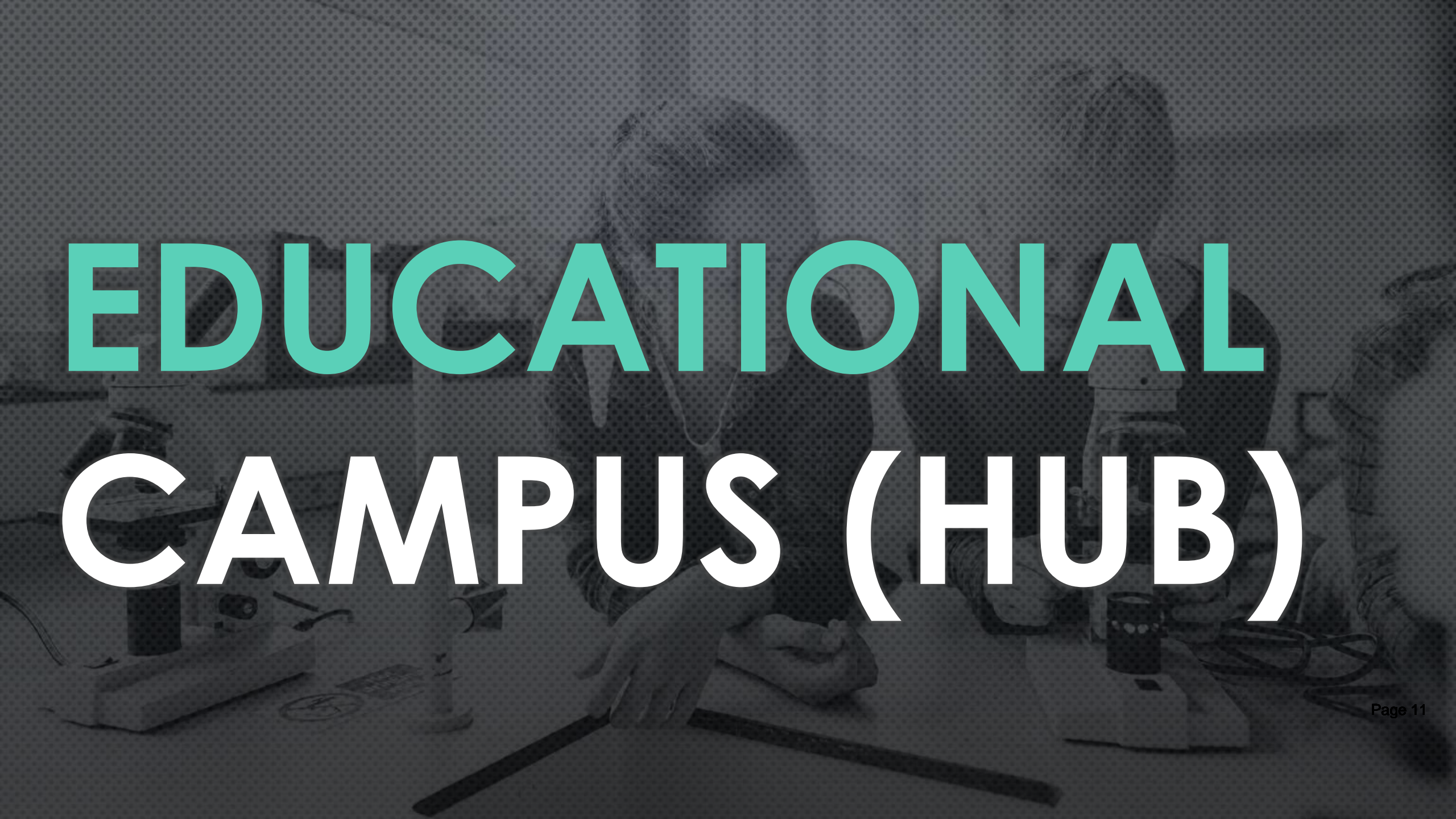
Print Name	Title	Signature (handwritten or electronic)
Jeremy Puckett	Parent	<i>Jeremy Puckett</i>
Julie Barnes	Parent	<i>Julie Barnes</i>
Ashley Goering	Parent	<i>Ashley Goering</i>
Ryan Goering	Parent	<i>Ryan Goering</i>
Mandi Puckett	Parent	<i>Mandi Puckett</i>
Ron Michaels	Citizen	<i>Ron Michaels</i>
Maggie Hale	HDCA Principal	<i>Maggie Hale</i>
Susanne L. Walters-Moore	Citizen	<i>Susanne Walters-Moore</i>

Terry L. Moore	Citizen	<i>Terry L Moore</i>
Dock Kerbow	Grandparent	<i>Dock Kerbow</i>
Barbara View	Grandparent	<i>Barbara View</i>
Marissa Sanchez	Citizen	<i>Marissa Sanchez</i>
Doug Bristow	School Counselor (Ret.)	<i>Doug Bristow</i>
Maureen Fagan Bristow	Teacher	<i>Maureen Fagan Bristow</i>
Alli Hanson	Citizen	<i>Alli Hanson</i>
Jaden Hanson	Citizen	<i>Jaden Hanson</i>
Duane Porter	HDCA Board Member	<i>Duane Porter</i>
Leean Porter	Grandparent	<i>Leean Porter</i>
Kandis Smith	Teacher	<i>Kandis Smith</i>
Chrissie Wise	Grandparent	<i>Chrissie Wise</i>
Don B. Geer	Citizen	<i>Don B Geer</i>
Darrell Duncan	Citizen	<i>Darrell Duncan</i>
Maureen Boothe	Parent	<i>Maureen Boothe</i>
Trent Boothe	Parent	<i>Trent Boothe</i>
Loekie Gilday	Educator	<i>Loekie Gilday</i>
Stephen Gilday	Chaplain	<i>Stephen Gilday</i>
Kimberly Gibson	Citizen	<i>Kimberly Gibson</i>
Amanda Taylor	Parent	<i>Amanda Taylor</i>
Scott Taylor	Parent / Plumber	<i>Scott Taylor</i>

Kevin Whaling	Custodian	<i>Kevin Whaling</i>
Tom Liljeholm	Reverend	<i>Tom Liljeholm</i>
Arlen Wallenius	Citizen	<i>Arlen Wallenius</i>
Dusty Flegel	Pastor, Business Owner	<i>Dusty Flegel</i>
Bill Pickens	Teacher (Ret.)	<i>Bill Pickens</i>
Robert Layne	Realtor	<i>Robert Layne</i>
Linda Wallenius	Retired Administrator	<i>Linda Wallenius</i>
Patricia Carmack	Pastor / Parent	<i>Patricia Carmack</i>
Nathan Carmack	Pastor	<i>Nathan Carmack</i>
Taylor Neahring	Manager	<i>Taylor Neahring</i>
Rosa M Lynch	Esthetician	<i>Rosa M Lynch</i>
Julianne Krebs	Pastor	<i>Julianne Krebs</i>
Angela Raber	Stay at home mom	<i>Angela Raber</i>
Doug Beimdier	Glazier	<i>Doug Beimdier</i>
Tanya Shinn	Parent	<i>Tanya Shinn</i>
Garrett Simpson	Electrician	<i>Garrett Simpson</i>
Isaac Smith	Customer Service	<i>Isaac Smith</i>
Carol DeCamp	Parent	<i>Carol DeCamp</i>
Gilbert Wiersch	Teacher	<i>Gilbert Wiersch</i>
Shea Petroh	Fuel Tech	<i>Shea Petroh</i>
Paul Freeman	Retired Trucking	<i>Paul Freeman</i>

Elizabeth Pifer	Supported Employment	<i>Elizabeth Pifer</i>
Angela Hamblen	Retired Administrator	<i>Angela Hamblen</i>
Scott Kilgore	Law Enforcement (Ret.)	<i>Scott Kilgore</i>
Diane Bartlett	Supervisor (Ret.)	<i>Diane Bartlett</i>
Bradley Bartlett	Excavator (Ret.)	<i>Bradley Bartlett</i>
Heidi Freeman	Accountant (Ret.)	<i>Heidi Freeman</i>
Brian Carmack	Pastor	<i>Brian Carmack</i>
Ron Krebs	Powerhouse	<i>Ronald D Krebs</i>
Nancy C Peters	Retired	<i>Nancy C Peters</i>
Linda Pifer	Composite Tech (Ret.)	<i>Linda Pifer</i>
Faye Strudler	Operations Manager	<i>Faye Strudler</i>
Vern Pifer	Business Owner, Veteran	<i>Vern Pifer</i>
Jeff Samuel	Parent	<i>Jeff Samuel</i>
Karla Samuel	HDCA Admin Secretary	<i>Karla Samuel</i>
Skip Hinton	Grace Baptist Church	<i>Skip Hinton</i>
Travis Hale	Law Enforcement	<i>Travis Hale</i>
Linda Moore	Administrator	<i>Linda Moore</i>
Paula Myers	Teacher	<i>Paula Myers</i>
Kayla Taylor	Parent	<i>Kayla Taylor</i>
Alysa Bennight	Citizen	<i>A Bennight</i>
Pamela Mitchell	Citizen	<i>Pamela Mitchell</i>

Print Name	Title	Signature (handwritten or electronic)
Dan Dozier	HDCA Building Steward	<i>Dan Dozier</i>
Cherylann Dozier	HDCA Curriculum Director	<i>Cherylann Dozier</i>
Bharath Pogula	Chemist	<i>Bharath Pogula</i>
Ashley Pelayo	Sergent Wife	<i>Ashley Pelayo</i>
Mikayla Mills	Citizen	<i>M L Mills</i>
Kim Patterson	HDCA Board Member	<i>Kim Patterson</i>
Daniel Browden	NSROTC Instructor	<i>Daniel Browden</i>
Les Williamson	Retired Electrical Industry	<i>Les Williamson</i>
Lynn Troupe	Warner Bros (Ret)	<i>Lynn Troupe</i>
Norman Shackelford	Inspection Company (Ret)	<i>Norman Shackelford</i>
Jennifer Mays	Banking	<i>Jennifer Mays</i>
Thomas Mays	IT Consultant	<i>Thomas Mays</i>
Olivia Servantes	Teacher, CCHS	<i>Olivia Servantes</i>
James Teage	Disabled Citizen	<i>James Teage</i>
Lori Jo Breedlove	Office Admin at CCSO	<i>Lori Jo Breedlove</i>
Barbara Bayless James	Advocate	<i>Barbara Bayless James</i>
David James	Construction (Ret)	<i>David James</i>
Julie Hedrick	School Employee	<i>Julie Hedrick</i>
Richard Ross	Chaplain	<i>Richard Ross</i>
Chris Hedrick	Cons. Supervisor	<i>Chris Hedrick</i>



EDUCATIONAL CAMPUS (HUB)

INTRODUCTIONS

MANDI PUCKETT, HDCA Community Relations Director

STEVE FORRESTER, City of Prineville Manager

MAGGIE HALE, HDCA Principal

DUANE PORTER, HDCA Board Member

- Background
- Crook County is now 3rd highest annual income of the 36 counties
- Keeping Our Culture & Values
- This is a Unique Opportunity for Prineville & Crook County

**STEVE
FORRESTER**

**CITY OF
PRINEVILLE
MANAGER**



CNBC

a day ago



A shortage of skilled tradespeople is driving up demand and salaries for blue-collar jobs, creating new opportunities for young adults.



CNBC.COM

Meet the Gen Zers skipping college to take blue-collar jobs and launch trade businesses: 'One of the smartest decisions I ever made'



Childcare & Early Education



K-12 Dual Enrollment



Career & Trades



Gym, Ball Fields, Clubs, Activities



Transportation

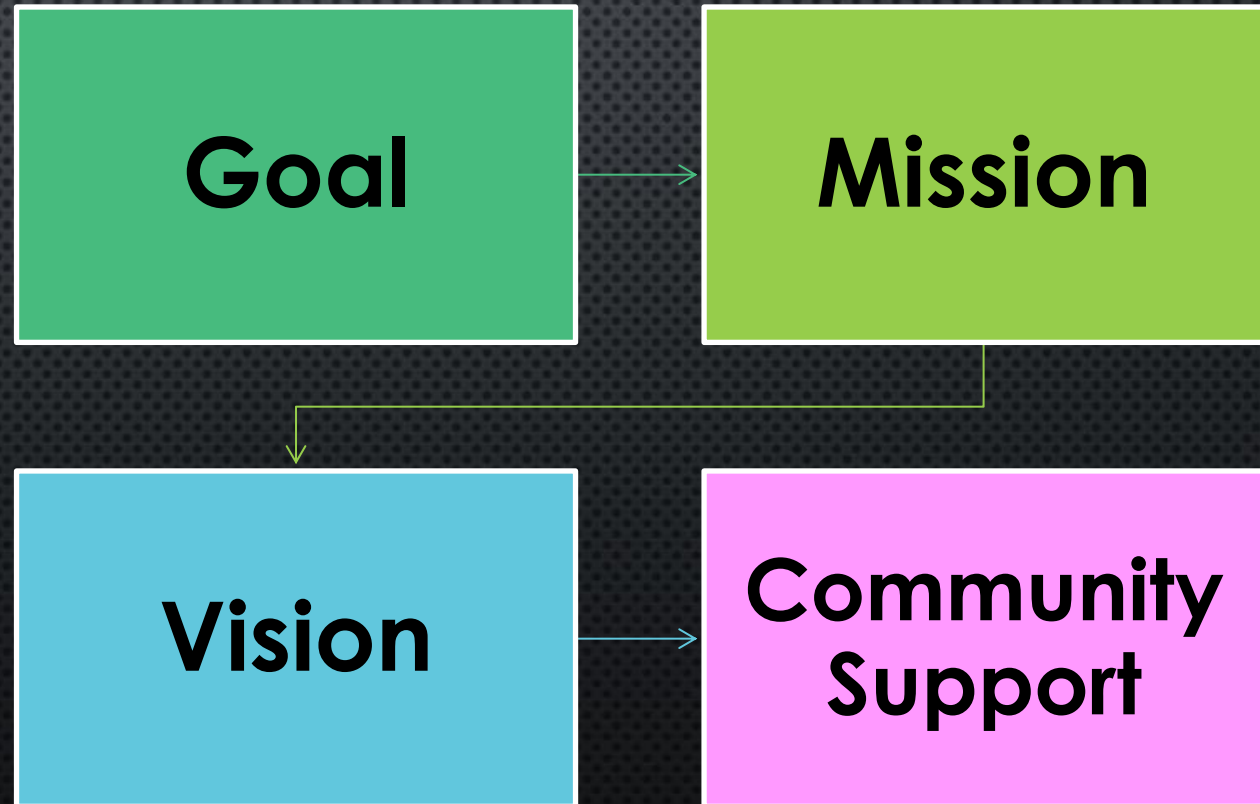


Educational Family Services





EDUCATIONAL CAMPUS (HUB)



PROPERTY

6

2

5

4

3

1

7

COMMUNITY INQUIRIES

4

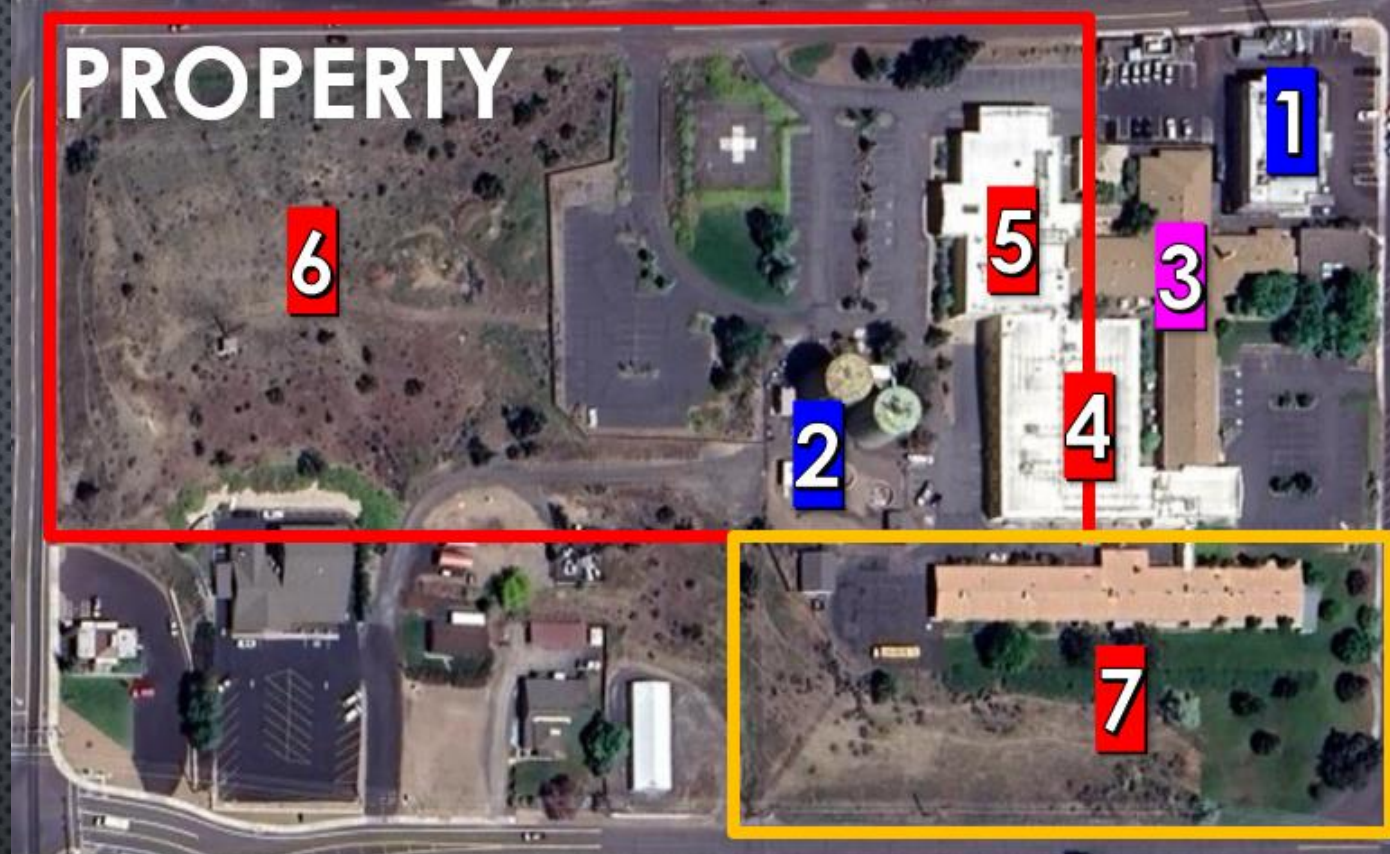
CLASSROOMS
MEETING AREA / KITCHEN
OFFICES & ADMIN

5

INDOOR TRADES
CLASSROOMS
BASEMENT USE
CLUBS, BATTING CAGES

6

BALL FIELDS
GYM & ACTIVITY CENTER
PARKING



7

SCHOOL / TRADES
CLASSROOMS
OFFICES & ADMIN
MEETING AREA / KITCHEN
PARKING

ACTION ITEMS

Community Support

2. Request Agency Support

3. Grant Proposal Funding Support

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Signed by:

Print Name	Title	Signature (handwritten or electronic)
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Mandi Puckett	Parent	<i>Mandi Puckett</i>
Ron Michaels	Citizen	<i>Ron Michaels</i>



A grayscale photograph of students in a science laboratory. They are wearing safety goggles and are focused on their work. One student in the foreground is using a microscope. The background shows other students and lab equipment. The image has a dark, semi-transparent overlay.

THANK

YOU

SIGNATURE SUPPORT: HDCHRISTIANACADEMY.COM

CONTACT: 541-416-0114

AGENDA ITEM REQUEST



Date:

Meeting date desired:

Subject:

Background and policy implications:

Budget/fiscal impacts:

Requested by:

Presenters:

Legal review (only if requested):

Elected official sponsor (if applicable):

BHD-25-06 GRANT AGREEMENT
AMENDMENT #1
CRIMINAL JUSTICE COMMISSION
BEHAVIORAL HEALTH DEFLECTION GRANT PROGRAM

This is Amendment No. 1 to Grant Agreement No. BHD-25-06 (“Agreement”) between the State of Oregon, acting through its Criminal Justice Commission (“CJC” or “State”), and **Crook County** (“Recipient”).

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

2. Amendment to Agreement. The Agreement is hereby amended as follows:

A. The Grant Amount in Section 1 is amended as follows:

Grant Amount: \$150,000.00

B. Section 3.A is amended and restated to include additional disbursements as follows:

A. Disbursement. Upon execution of this Agreement and satisfaction of all conditions precedent, CJC shall disburse Grant funds to Recipient in installments as listed:

(1) \$75,000.00 by May 31, 2024;

(2) \$37,500.00 by October 5, 2024; and

(3) \$37,500.00 by March 31, 2025.

C. The Reporting Requirements Schedule stated in Exhibit A is amended and restated as follows:

Schedule

Recipient must submit to CJC quarterly expenditure reports, beginning October 25, 2024, until the earlier of thirty (30) days after Grant funds are fully expended or thirty (30) days after the Completion Date.

Once Recipient’s program becomes operational, Recipient must submit to CJC’s research partners data reports on a monthly, rolling basis, beginning no earlier than September 1, 2024, until the earlier of thirty (30) days after Grant funds are fully expended or thirty (30) days after the Completion Date.

Recipient must submit to CJC semi-annual reports on January 25 and July 25 of each year of the Project Period.

Recipient must receive prior approval from CJC to submit any required report after its due date.

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

The signatures of the parties follow on the next page.

Recipient, by its signature below, acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON

acting by and through its
Criminal Justice Commission

CROOK COUNTY

By: _____

Ken Sanchagrin, Executive Director

Date: _____

By: _____

Date: _____

Approved as to Legal Sufficiency in accordance with ORS 291.047:

Approved by email dated 8/8/24

Samuel B. Zeigler, Senior Assistant Attorney General

AGENDA ITEM REQUEST



Date:

September 17, 2024

Meeting date desired:

September 25, 2024

Subject:

Franchise Agreement with Republic

Background and policy implications:

The County and City both have franchise agreements with Republic Services, Inc. The County's franchise agreement was established via Ordinance 161 in 2005. The County also has a separate agreement with Republic for the Paulina Transfer Station, which the parties would like to amend. Up for consideration is the negotiation and drafting of a new franchise agreement with Republic that could align with that of other regional local governments.

Budget/fiscal impacts:

TBD

Requested by:

*John Eisler; Asst. County Counsel
John.Eisler@CrookCountyOR.gov
541-416-3919*

Presenters:

*Jacquie Davis
John Eisler*

Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754
Physical: 267 NE 2nd St., Ste 200, Prineville, OR 97754

• Phone: 541-416-3919
• Fax: 541-447-6705



MEMO

TO: Board of Commissioners; Landfill Manager

FROM: John Eisler, Asst. County Counsel

DATE: September 19, 2024

RE: Solid Waste Franchise Amendment
Our File No.: Contracts 109

As discussed at recent County meetings, the agreement with Republic Services for solid waste collection at the Paulina Transfer State requires amending. Discussions between the County and Republic have revealed several other aspects of our agreement that could be changed. Deschutes County is in the midst of negotiations with Republic for a new franchise agreement, and the City of Prineville is also interested in updating their agreement with Republic. Republic itself has said that it would prefer consistency in its obligations across jurisdictions.

A franchise, or exclusive agreement, to collect and transport solid waste for a local government is a complicated matter. The purpose of this memo is to lay out the legal foundation, discuss our specific situation, present some of the pressing issues, and describe the process to change. This is just the beginning.

I. SOLID WASTE FRANCHISE AGREEMENTS

Solid waste disposal is a matter of statewide concern. ORS 459.065. As such, the State authorizes a local government to enter into any agreement which the local government finds desirable, for any period of time, with any other local government or person for a whole host of waste disposal needs, including franchising, licensing, joint solid waste management plans or systems, operation of sites, establishment of landfills, and more. *Id.*

For areas outside of cities, “a board of county commissioners may, by ordinance or by regulation or order adopted pursuant to an ordinance or regulation” prescribe requirements and standards for collection of solid waste; grant franchises and collect fees; detail the procedure for the issuance, renewal, or denial of franchisees; and otherwise regulate solid waste management. ORS 459.085(1).

The only restrictions on local governments with respect to solid waste collection and management is that none of it can conflict with ORS 459, ORS 459A, DEQ rules, the local government’s solid waste management plan, or any ordinances or regulations adopted under an approved solid waste management plan. ORS 459.095.

II. CROOK COUNTY'S AGREEMENT(S) WITH REPUBLIC

Crook County's agreement with Republic is not a typical contract. Instead, the terms of the agreement are listed out in our Code at CCC 8.28—the Crook County solid waste collection service franchise ordinance, adopted via Ordinance 161 in 2005. The chapter covers policy, definitions, exemptions, prohibitions, the grant of franchise to Republic, the term, the franchise fee, the franchisee's responsibilities, ground for revocation, termination, rate determinations, complaints, public responsibility, updates, reports, and more.

The County has a separate agreement with Republic solely for the Paulina Transfer Station (the "Paulina Agreement"). Att. A. The agreement was originally with Holliday Enterprises from 2010 and transferred to Republic via a novation agreement (along with Ordinance 316) in 2020. The Paulina Agreement obligates Republic to repair and maintain the Transfer Station and provide services "at least one day each month." Nothing about the Paulina Agreement is noted in CCC 8.28.

III. CONSIDERING DESCHUTES COUNTY'S AGREEMENT

I have reviewed the draft franchise agreement between Republic and Deschutes County. Att. B. It is very thorough and there is quite a bit to like (especially their franchise fee of 5%). However, the legal framework is different in Deschutes County—their local ordinance only spells out minimum standards and the process by which an entity can establish a franchise in their county. Their ordinance does not name Republic as the franchisee or spell out the particulars of that relationship. What that means is, Deschutes County can simply renegotiate a contract with Republic if and when it desires a change in terms, whereas Crook County must amend CCC 8.28 via an ordinance (two readings at BOC meetings with public hearings). The City of Prineville's solid waste ordinance is structured like ours, so any changes by them would also require a change in their code.

IV. IMMEDIATE ISSUES TO ADDRESS AND LONG-TERM CONSIDERATIONS

There are a few items with the general franchise agreement that need to be addressed in the short term, as well as multiple issues with the Paulina Agreement. For the general franchise, some issues that I'm aware of are:

- Recycling in the UGB;
- The credit-back program;
- The list of roads that Republic wishes to deem unserviceable; and
- Providing rate sheets with each rate adjustment.

Some of the issues with the Paulina Agreement that I am aware of are:

- Payment method: Republic auditors aren't comfortable with their employees accepting cash payments, but the internet is too spotty for other methods. An alternative would be to make the service at Paulina free and to weigh the loads at the landfill.
- Service availability: Currently it's only open one day per month, which is not serving the community sufficiently. Some potential changes would be to staff it more frequently, have a staff member on-call, or just leave the facility open.

- Maintenance and Repair: Not surprisingly, Republic doesn't want to be the party responsible for the facilities at Paulina.
- Signage: Is not there but it's a requirement of the Ops Plan.
- Reporting: Pursuant to CCC 8.28, Republic is to provide quarterly reports that match the annual report and is not currently doing so.

There are likely many other issues that will appear should the County deep-dive into CCC 8.28 and what's best for the County moving forward. I was not involved in any of the prior negotiations; so, for instance, I do not know how the 3% franchise fee was reached compared to a 5% fee in neighboring Deschutes County.

The County should also consider whether it wants to open-up the franchise opportunity to other entities. For instance, SMAF Construction has put the County on notice that it would like to bid on the opportunity. Att. C. I have also fielded calls from small businesses interested in establishing dumpster drop-off and hauling services. Should the County wish to explore this option, without cause, the County must provide effectively a six-year termination notice. CCC 8.28.070(1). *For cause* there are somewhat conflicting provisions to terminate or revoke the franchise agreement in CCC 8.28.070(2) and CCC 8.28.100 (the later requiring 30-day notice and opportunity to cure).

V. THE PATH TO A BENEFICIAL AGREEMENT

Should the County desire only to amend the Paulina Agreement, depending on the changes, that could be done through a simple amendment to the agreement itself with maybe some small modifications to our Code. Should the County desire to negotiate new terms for the general franchise agreement, I would recommend the following:

- Begin by consulting with JRMA, the consultant updating our Solid Waste Management Plan, to identify issues that they spot and assure any changes would be conformance with our plan;
- With an idea of what our goals are, bring the City of Prineville into the discussions and see where our interests align and if there are any differences;
- Both the County and City approach Republic and begin negotiating the terms of new franchise agreements;
- If there's a meeting of the minds, amend CCC 8.28. A wholesale change of our Code to mirror Deschutes County might make sense, whereby only the standards, responsibilities, and process for franchises is spelled out in the Code and the rest in a separate contract. Or, we can keep our current framework and amend the chapter to reflect our new agreement.

Any change to the general franchise agreement should involve multiple departments and will require a great deal of staff time to get right. The purpose of this memo is simply to make the Board aware of the process from a high-level view and gauge interest in beginning down this path.

Let me know if you have any questions.

RECORDING COVER SHEET

Any errors in this cover sheet DO NOT affect the transactions(s) contained in the instrument itself.

AFTER RECORDING RETURN TO:

CLERK'S VAULT

NAME OF TRANSACTION

Agreement between Crook County and Holliday Enterprises, LLC for operation of Paulina Transfer Station

GRANTOR: CROOK COUNTY



STATE OF OREGON } ss 2010027
COUNTY OF CROOK }
I CERTIFY THAT THE WITHIN INSTRUMENT WAS
RECEIVED FOR RECORD ON THE 16th DAY OF
March, 2010 AT 11:10 AM.
AND RECORDED IN CJRL
RECORDS OF SAID COUNTY MF NO. 2010-027
DEANNA E. BERMAN, CROOK COUNTY CLERK
BY Julie Trammell DEPUTY n/c

**AGREEMENT BETWEEN CROOK COUNTY
AND HOLLIDAY ENTERPRISES, LLC FOR OPERATION OF
PAULINA TRANSFER STATION**

RECEIVED

MAR 16 2010

COUNTY ADMINISTRATION

THIS AGREEMENT is made this 3rd day of March, 2010 by and between CROOK COUNTY ("County") and HOLLIDAY ENTERPRISES, LLC ("Holliday Enterprises").

RECITALS

WHEREAS, County owns and operates a licensed sanitary landfill; and

WHEREAS, currently, there is no approved landfill in Paulina; and

WHEREAS, County maintains a collection and Transfer Station for garbage pickup and disposal for the Paulina community and surrounding area;

WHEREAS, Holliday Enterprises transports the drop box in Paulina to the County landfill for a fee; and

WHEREAS, the Department of Environmental Quality ("DEQ") requires County to adopt a management agreement to complete the development of the Paulina Transfer Station Operation Plan; and

WHEREAS, County and Holliday Enterprises desire to ensure disposal of waste in a sanitary and cost-effective manner while meeting all state and federal laws, including execution of the required management agreement.

AGREEMENT

1. Holliday Enterprises is authorized to use approximately three (3) acres of County-owned land for the operation of the Transfer Station site. Said three acres is described as follows:

T17 R23 S4 TL300, Crook County, Oregon

All property, both real and personal located at the site, shall remain on the property of County.

2. Holliday Enterprises will provide equipment and materials as needed for the repair and upkeep of the fence, gate, scales, dumping pad and retaining wall.

3. Holliday Enterprises shall open and staff the Transfer Station at least one day each month. The Transfer Station shall remain open for at least two hours and, at a minimum, be open between the hours of 8:00 a.m. and 10:00 a.m.

4. Except as otherwise provided herein, Holliday Enterprises shall provide all management, supervision, personnel, tools, materials, equipment, services and supplies necessary to operate and maintain the Transfer Station in accordance with the terms and provisions of this Agreement.

5. Cost of Services.

Holliday Enterprises shall retain all revenue from the operation of the Paulina Transfer Station but shall pay to County a fee equivalent to three percent (3%) of the gross operating revenue from the Transfer Station. Gross operating revenue is defined to be the gross revenue before deduction of operating expenses incurred in providing solid waste collection services at the Paulina site. In the event there is an operating loss, Holliday Enterprises may deduct such loss from the franchise fee to County. Such deduction may only be utilized for the year in which the loss is incurred. The fee shall be paid annually, with the payment due at the same time Holliday Enterprises pays the franchise fee payable to County. The fee is in addition to any disposal fees required to be paid to the Crook County Landfill.

6. Term of Agreement.

The term of this Agreement begins on the date of its execution by all parties hereto (the "effective date") and continues until terminated by either party in accordance with paragraph 13 below.

7. Safety of Persons and Property.

Holliday Enterprises will:

(a) Take all reasonable precautions to prevent damage, injury or loss caused by or related to the operation and maintenance of the Transfer Station;

(b) Establish and enforce reasonable safeguards at the site for the safety and protection of persons present at the Transfer Station; and

(c) Comply with all applicable laws, ordinances, rules, regulations and lawful orders relating to the safety of persons or property at the site.

8. Records and Reports.

Holliday Enterprises shall prepare and maintain proper, accurate and complete records and accounts of all transactions related to the Transfer Station. These shall include, but not be limited to, insurance and regulatory inspection records, daily operating log, revenue and expense records, maintenance records, safety and accident reports, and quantities of solid waste and any other materials received.

Holliday Enterprises shall provide County with an annual report, including scheduled operating days, shut-down days, quantities of solid waste and any other materials received, revenues received, expenditures, account balances and a summary of any maintenance activities. Holliday Enterprises shall submit the annual report on or before May 15th of each fiscal year incorporating a summary of the monthly reports for the preceding year.

County shall have the right to inspect all accounts, records and reports maintained by Holliday Enterprises related to the Transfer Station upon twenty-four (24) hours written notice given in advance.

9. Removal and Disposal of Solid Waste.

Holliday Enterprises shall be responsible for the storage, removal and transportation of all solid waste to the Crook County Landfill. Holliday Enterprises shall pay for the cost of transportation and disposal of all solid waste and any other materials received.

10. Weighing Records.

Holliday Enterprises shall maintain the accuracy and calibration of the scales at the Transfer Station in accordance with procedures established by the State of Oregon. Records of all weighing shall be maintained by Holliday Enterprises.

11. Indemnification.

To the extent permitted by Article XI, Sections 7 and 10, of the Oregon Constitution, County and Holliday Enterprises shall each indemnify and hold the other harmless from claims arising from the negligence or wrongful acts or omissions of County and/or Holliday Enterprises.

12. Insurance.

Holliday Enterprises shall maintain liability insurance covering activities and operations of Holliday Enterprises in an amount not less than \$1,000,000 naming

County, its officer, agents and employees as additional insureds. Holliday Enterprises shall provide County with a Certificate of Commercial General Liability insurance naming Crook County as an additional insured.

13. Termination.

Either party may terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to the other. Any such termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

14. Compliance with Laws.

Holliday Enterprises shall comply with all laws and regulations applicable to the operation and maintenance of the Transfer Station, including but not limited to federal and state laws, executive orders, and local regulations and ordinances governing the environment, payment of wages and equal opportunity and fair employment practices and the Paulina Transfer Station Operations Plan. This Agreement is subject to the Standard Provisions attached hereto as Exhibit A.

15. Relationship of the Parties.

Neither party to this Agreement shall have any responsibility to perform services for or to assume contractual obligations which are the obligation of the other party; nothing herein shall render either party a partner, agent or representative of the other party or create any fiduciary relationship between the parties. It is understood and agreed that Holliday Enterprises, while performing services pursuant to this Agreement, is at all times acting and performing as an independent contractor.

16. Amendment.

This document may not be amended except by written agreement signed by the authorized representatives of the parties.

17. Execution of Documents.

This Agreement may be executed in any number of duplicate originals, any of which shall be regarded for all purposes as an original.

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18. Severability.

In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, all other terms of this Agreement shall remain in full force and effect.

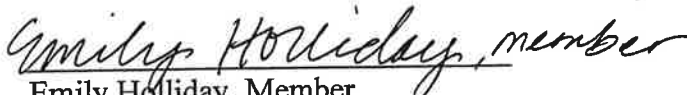
The parties have executed this Agreement on the day and year first above written.

CROOK COUNTY COURT **3-3-2010**

HOLLIDAY ENTERPRISES, LLC



Judge Mike McCabe



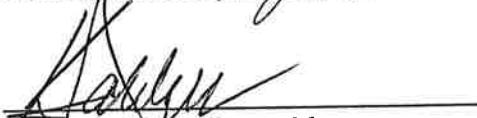
Emily Holliday, Member



Commissioner Lynn Lundquist



Stephen Holliday, Member



Commissioner Ken Fahlgren

SOLID WASTE FRANCHISE AGREEMENT

Document No. 2023-xxx

Deschutes County, a political subdivision of the State of Oregon (“**COUNTY**”), and [**Name of Franchisee**], [**Form of Entity**] (“**FRANCHISEE**”) enter into this Solid Waste Franchise Agreement (“**Agreement**”) effective as of the date that both parties have signed this Agreement.

RECITALS

PURPOSE. To protect the health, safety and welfare of the people of Deschutes County, to provide an integrated safe and sanitary solid waste management program, and to provide the opportunity to recycle.

APPLICABILITY OF DCC. This Agreement is intended to implement applicable requirements and mandates provided in Deschutes County Code (DCC) Chapter 13.

SOLID WASTE FRANCHISE. COUNTY is authorized by ORS 459, ORS 459A, and DCC Chapter 13 to regulate (via franchise) the collection and hauling of solid waste and recyclable material from locations throughout the unincorporated county.

SELF-HAUL OPTION. This Agreement does not require anyone to subscribe to franchise collection or hauling services from FRANCHISEE. Owners and occupants of premises may collect and self-haul their solid waste and recyclables, store solid waste and/or recyclables generated on their premises in their own containers, and collect and transport it in their own vehicles for reuse, recycling, or disposal, all in accordance with Deschutes County Code. The obligation to pay authorized FRANCHISEE service fees does not arise because they own property, but because they generate refuse and do not dispose of it via Self-Hauling.

SECTION 1 – DEFINITIONS

All capitalized terms in this Agreement not defined herein are defined in COUNTY’s Solid Waste Management Ordinance located in Section 13 of COUNTY’s Code.

SECTION 2 – FRANCHISE GRANT

Exclusive Grant and Acceptance. COUNTY grants to FRANCHISEE and FRANCHISEE accepts the exclusive right and privilege (specific to identified service areas within the County) to provide franchise services with respect to solid waste/recycle material discarded in carts, bins and roll-off boxes within the unincorporated COUNTY. COUNTY is not liable to FRANCHISEE for acts of anyone who provides solid waste services without a permit or franchise required by law, and FRANCHISEE releases COUNTY from any liability in connection with any of those acts. Notwithstanding the

foregoing, County shall use reasonable efforts to enforce the exclusive nature of the franchise by COUNTY'S notice of franchise terms to Generators, any person providing Service, or any court adjudicating the provision of Service in FRANCHISEE's Service Area by a party without a Franchise.

A. Exclusions from Franchise. This grant excludes:

1. Recyclables that any person donates or sells to someone other than FRANCHISEE, provided that there is no net payment made by the Generator to such other Person;
2. Recyclables that have a value equal to or more than the cost of Collection;
3. Solid Waste that a Generator disposes of via Self-Hauling, including solid waste generated as an incidental part of services provided by persons providing services to residences or businesses, who collect the solid waste themselves in receptacles other than those provided by FRANCHISEE, and transport the solid waste in that person's own vehicles for disposal or processing;
4. Solid Waste discarded at premises owned or controlled by COUNTY or any other entity governed by the Deschutes County Board of County Commissioners (BOCC);
5. Solid Waste discarded at premises owned or controlled by the State of Oregon or any School District; or,
6. Those exemptions specifically identified in DCC 13.16.020.

B. Definition of Rights.

Upon expiration or termination of this Agreement, FRANCHISEE shall cease providing franchise services. After non-renewal of this Agreement, COUNTY may solicit and secure one or more agreements for Solid Waste management Services with FRANCHISEE or other persons/entities. Those agreements may be exclusive, partially exclusive, or wholly exclusive franchises, contracts, licenses, permits or otherwise, with or without competitive bidding.

C. Franchise Fee.

“Franchise Fee” means the franchise fee established from time to time and paid under DCC Chapter 13 and implementing ordinances, orders or resolutions of the BOCC.

In consideration for this franchise, FRANCHISEE shall be obligated to COUNTY beginning on the effective date of this Agreement, and shall pay the Franchise Fee at the time and in the amount and manner established from time to time by COUNTY ordinance, order or resolution of the BOCC. FRANCHISEE shall not separately identify the Franchise Fee in correspondence with its customers, such as in customer

subscription orders or service bills, unless the language is approved by COUNTY. All communication with customers regarding increased charges, including both written and oral communication, shall be approved by County. If BOCC increases the Franchise Fee or requires changes that increase the cost of operations of the FRANCHISEE (including changing approved disposal or processing destinations for materials), corresponding requests for adjustments to the service rates may be considered.

FRANCHISEE shall pay the franchise fee with respect to its gross receipts from fees that it charges customers, including, without limitation, fees for franchise Services for bins (such as centrally-located green waste bins in a multifamily complex).

D. Transfer. FRANCHISEE may transfer its rights and duties under this Agreement, the franchise granted under it, or any rights or duties of the franchise:

1. in whole or in part, whether voluntarily or involuntarily,
2. directly or indirectly (including through asset purchase, or merger with or acquisition of the FRANCHISEE), subject to the following exception:

FRANCHISEE may *not* make a transfer, and no transfer will be valid or lawful, without the COUNTY's prior written consent exercised in the COUNTY's discretion, which shall not be unreasonably withheld, and in consideration of the criteria identified in DCC 13.24.180.

Upon COUNTY request, FRANCHISEE shall pay COUNTY a reasonable amount requested by COUNTY, to conduct investigations deemed necessary by COUNTY to determine whether or not to grant its consent to the transfer.

"Transfer" means an action (or inaction) which has the direct (or indirect) effect of changing the permittee named on FRANCHISEE's waste collector permit issued in the form of an Order or Resolution by the BOCC.

SECTION 3 – TERM

A. Expiration Date. The term of the franchise is a continuing seven (7) year period. On January 1 of each year, the franchise term shall be renewed for one (1) year, unless the COUNTY notifies the FRANCHISEE at least thirty (30) days in advance of January 1 of its intent not to renew the franchise. Upon notice of intent not to renew, the term of the franchise will be six (6) years from the date of notice of termination.

B. Continuing Obligations. The following provisions survive the expiration or termination of this Agreement:

1. all acknowledgments, representations, warranties, indemnities, defenses, and releases;
2. obligations to pay any due and payable monetary amounts or claims for those

- amounts, including, without limitation, franchise fees;
3. obligations with respect to records and reports;
 4. obligations with respect to customers' privacy; and
 5. any other provision of this Agreement stated to survive the expiration or termination of this Agreement.

C. Undepreciated Assets. FRANCHISEE acknowledges that it has no right to recover an amount equal to the undepreciated value of assets it uses to provide franchise services that might remain at the expiration or termination of this Agreement, from COUNTY or customers.

SECTION 4 - SCOPE OF AGREEMENT SUMMARY SCOPE OF SERVICES

F. Acknowledgments. FRANCHISEE acknowledges the following:

Although this Agreement prescribes the minimum scope of franchise Services, Service specification, and service standards, COUNTY is not responsible for supervising or performing franchise Services.

FRANCHISEE and not COUNTY is arranging for franchise services, and COUNTY does not become a "generator" or an "arranger" as those terms are used in the context of CERCLA Section 107(a)(3).

G. Scope of Activities.

The FRANCHISEE or its approved subcontractors ("Sub-FRANCHISEE(s)") shall be responsible for the following:

- A.** Collecting Solid Waste, Recyclable Materials, Organic Materials, and Construction & Demolition (C&D) Materials generated by and placed for Collection by Customers that are subscribers of FRANCHISEE's services pursuant to requirements of Section 5;
- B.** Transporting Collected materials to the appropriate Approved Facilities pursuant to requirements of Section 4.C;
- C.** Performing all other services required by this Agreement including, but not limited to, Customer billing, public education, Customer service, record keeping, and reporting;
- D.** Furnishing all labor, supervision, vehicles, Containers, other equipment, materials, supplies, and all other items and services necessary to perform its obligations under this Agreement;
- E.** Paying all expenses related to provision of services required by this Agreement

including, but not limited to, taxes, regulatory fees (including COUNTY fees), and utilities;

F. Performing or providing all services necessary to fulfill its obligations in full accordance with this Agreement at all times using industry standard practice for comparable operations; and, complying with all applicable Laws.

G. The enumeration and specification of particular aspects of service, labor, or equipment requirements shall not relieve FRANCHISEE of the duty to perform all other tasks and activities necessary to fulfill its obligations under this Agreement, regardless of whether such requirements are enumerated elsewhere in the Agreement, unless excused in accordance with Section 21.F.

H. Use of Approved Facilities.

The FRANCHISEE, without constraint and as a free-market business decision in accepting this Agreement, agrees to use the Approved Facilities for the purposes of Processing and/or Disposing of all Solid Waste, Recyclable Materials, Organic Materials, C&D, and other materials collected in the COUNTY. Such decision by FRANCHISEE in no way constitutes a restraint of trade notwithstanding any Change in Law regarding flow control limitations or any definition thereof.

Designation. COUNTY can direct FRANCHISEE to haul Solid Waste, Recyclable Materials, Organic Materials, and C&D to facilities approved and designated by COUNTY (Approved Facilities). COUNTY reserves the unconditional right to substitute or add additional Approved Facilities. In the event COUNTY changes the Approved Facility to which FRANCHISEE is to haul Solid Waste, Recyclable Materials, Organic Materials or C&D, and such a change increases costs to the FRANCHISEE, adjustments to the Rate will be considered by the BOCC. FRANCHISEE has the right to propose facilities to be designated by the COUNTY as Approved Facilities. The COUNTY will consider in good faith such proposals, to determine if it is in the COUNTY'S best interest. If the COUNTY approves such a facility, and costs to FRANCHISEE increase as a result, adjustments to the Rate will be considered by the BOCC. Any adjustments to the Rate shall be at the sole discretion of the BOCC.

D. Subcontracting.

FRANCHISEE shall not engage any Sub-FRANCHISEEs for Collection, Transportation, or Processing of Solid Waste, Recyclable Materials, Organic Materials, or C&D services without the prior written consent of COUNTY Director of Solid Waste, which consent shall not be unreasonably withheld, conditioned or delayed. As of the Effective Date of this Agreement, COUNTY has approved FRANCHISEE's use of those Sub-FRANCHISEEs That FRANCHISEE has made COUNTY aware of in writing. If the FRANCHISEE plans to engage other Sub-FRANCHISEES in the provision of Services, FRANCHISEE shall provide COUNTY Director of Solid Waste with thirty (30) days written notification of its plans and provide an explanation of any potential impacts

related to the quality, timeliness, or cost of providing services under this Agreement. Notwithstanding the foregoing, FRANCHISEE may engage sub-FRANCHISEES as FRANCHISEE deems necessary to provide the Services on an emergency basis, and shall notify COUNTY pursuant to this Section D as soon as reasonably possible.

E. Responsibility For Materials.

Once Solid Waste, Recyclable Materials, Organic Materials, and C&D are placed in the FRANCHISEE's Containers and are collected by FRANCHISEE, responsibility for their proper handling shall transfer directly from the Generator to FRANCHISEE, with the exception of Prohibited Waste as defined in Section 8 of this agreement if the FRANCHISEE can identify the Generator pursuant to Section 8. Only FRANCHISEE or Generator may access the contents of FRANCHISEE's Containers at any time. Once Solid Waste, Recyclable Materials, Organic Materials, or C&D are deposited by FRANCHISEE at the appropriate Approved Facility, such materials shall become the responsibility of the Owner or operator of the Approved Facility with the exception of Prohibited Waste pursuant to Section 8. Responsibility for Prohibited Waste that has been inadvertently Collected by the FRANCHISEE shall remain with the FRANCHISEE if it cannot identify the Generator, and FRANCHISEE shall assume all responsibility for its proper Disposal.

F. County-Directed Changes to Scope.

COUNTY may meet and confer with FRANCHISEE to establish the scope of any additional services or modification to existing services (which may include use of Approved Facilities) to be provided under this Agreement. In such case, FRANCHISEE shall present, within thirty (30) calendar days of COUNTY's request, a written proposal to provide such modified or additional services. COUNTY shall review the FRANCHISEE's proposal for the change in scope of services. COUNTY and FRANCHISEE may meet and confer to negotiate FRANCHISEE's proposed revisions and costs and shall amend this Agreement, as appropriate, to reflect the mutually agreed-upon changes in scope, and, if applicable, changes in the rates to accommodate increased costs.

G. Emergency Assistance.

FRANCHISEE shall provide solid waste management services requested by COUNTY in health and safety emergencies (such as an earthquake, storm, riot, or natural disaster or when solid waste is accumulating at Collection sites for more than a week). FRANCHISEE shall charge COUNTY no more than what FRANCHISEE charges its customers for the same frequency and capacity of service unless COUNTY authorizes different charges upon request of and cost substantiation by FRANCHISEE, which shall not be unreasonably withheld.

Upon request of COUNTY, FRANCHISEE shall give COUNTY or State or Federal officials information that is related to cost of providing emergency services (such as

number or amount of vehicles, fuel, employees, tonnage and disposal fees).

SECTION 5 - SCOPE OF SERVICES

FRANCHISEE shall perform the Solid Waste, Recyclable Materials, Organic Materials, Reusable Materials, and C&D services described in this Section 5. This Section 5 describes the general requirements for the services to be provided. Failure to specifically require an act necessary to perform the service does not relieve FRANCHISEE of its obligation to perform such act.

A. Solid Waste.

FRANCHISEE shall offer and provide Solid Waste Collection services as described herein. FRANCHISEE acknowledges that COUNTY is committed to Diverting materials from Disposal through the implementation of Source Reduction, Reuse, Recycling, Composting, and other programs, and that COUNTY may implement new programs in accordance with Section 4.F that may impact the overall quantity or composition of Solid Waste to be Collected by FRANCHISEE, subject to FRANCHISEE's right to petition for a Rate change pursuant to Section 11. FRANCHISEE shall Transport all Solid Waste Collected in COUNTY to the Approved Disposal Facility. FRANCHISEE shall pay all costs associated with Transporting and Disposal of Solid Waste including payment of any gate fees charged at the Approved Disposal Facility. FRANCHISEE shall observe and comply with all regulations and posted rules in effect at the Approved Disposal Facility and cooperate with and take direction from the operator thereof with respect to delivery of Solid Waste.

If FRANCHISEE is unable to use the Approved Disposal Facility due to an emergency or sudden unforeseen closure of the Disposal Facility, or for reasons outside the FRANCHISEE'S reasonable control, FRANCHISEE shall notify the COUNTY Director of Solid Waste, a minimum of twenty-four (24) hours prior to utilizing an alternative disposal facility. Upon either written approval from the COUNTY Director of Solid Waste or the expiration of the twenty-four (24) hour notification period wherein no response was received from the COUNTY Director of Solid Waste, whichever occurs first, FRANCHISEE may use an alternative disposal facility. Within forty-eight (48) hours of emergency or sudden and unforeseen closure, the FRANCHISEE shall provide additional written information surrounding the emergency and unforeseen closure and the period of time FRANCHISEE proposes to use the alternative disposal facility.

FRANCHISEE may permanently change its selection of the Approved Disposal Facility, or select multiple Approved Disposal Facilities, following COUNTY's written approval, which shall be at the sole discretion of the COUNTY. Any change in the FRANCHISEE's Approved Disposal Facility shall not result in an increase in Rates. If FRANCHISEE elects to use a disposal facility that is different than the Approved Disposal Facility, it shall request written approval from the COUNTY Director of Solid Waste sixty (60) calendar days prior to use of the site and obtain COUNTY's written

approval no later than ten (10) calendar days prior to use of the site.

B. Recyclable Materials.

1. **Collection and Delivery.** FRANCHISEE shall provide Recyclable Materials Collection services as described herein. FRANCHISEE agrees to Transport and deliver all Source Separated Recyclable Materials placed by Customers in Recyclable Material Containers in COUNTY to the Approved Recyclable Materials Processing Facility. All tipping fees and other costs associated with Transporting to and Processing of such Recyclable Materials at the Approved Recyclable Materials Processing Facility shall be paid by FRANCHISEE. FRANCHISEE shall observe and comply with all regulations in effect at the Approved Recyclable Materials Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of Recyclable Materials. FRANCHISEE shall actively work with the Approved Recyclable Materials Processing Facility operator throughout the Term of this Agreement to minimize contamination of the Recyclable Materials Collected under this Agreement and delivered to the Processing Facility.

2. **Processing.** FRANCHISEE has guaranteed sufficient capacity at its Approved Recyclable Materials Processing Facility to Process all Source Separated Recyclable Materials Collected by FRANCHISEE under this Agreement throughout the Term of the Agreement. FRANCHISEE shall have no obligation to maintain a guarantee of capacity following a COUNTY-directed change in the Approved Recyclable Materials Processing Facility, pursuant to Section 5.B.3.

FRANCHISEE shall keep all existing permits and approvals necessary for use of the Approved Recyclable Materials Processing Facility in full regulatory compliance. Upon request, FRANCHISEE shall provide copies of facility permits/certifications and/or notices of violations (obtained from its Processing Facility Sub-FRANCHISEE if necessary) to COUNTY Director of Solid Waste.

If FRANCHISEE is unable to use the Approved Recyclable Materials Processing Facility due to an emergency or sudden unforeseen closure of the Processing Facility, FRANCHISEE may use an alternative Processing Facility provided that the FRANCHISEE provides written notice to COUNTY Director of Solid Waste. Within forty-eight (48) hours of emergency or sudden and unforeseen closure, the FRANCHISEE shall provide a written description of the reasons the use of the Approved Recyclable Materials Processing Facility is not feasible and the period of time FRANCHISEE proposes to use the alternative Processing Facility.

If the need to use the alternative Processing Facility is discretionary or for reasons within FRANCHISEE's reasonable control, FRANCHISEE's Compensation shall not be adjusted for any change in Transportation and Processing costs associated with use of the alternative Processing Facility

without County approval.

If the need to use the alternative Processing Site results from reasons beyond FRANCHISEE's reasonable control, and such a change in the Approved Recyclable Materials Processing Facility results in increased costs to the FRANCHISEE, the BOCC shall consider a request from FRANCHISEE to adjust the rates accordingly, which shall be at its sole discretion.

FRANCHISEE may permanently change its selection of the Approved Recyclable Materials Processing Facility, or select multiple Approved Recyclable Materials Processing Facilities, following COUNTY's written approval. If FRANCHISEE elects to use a Recyclable Materials Processing Facility that is different than the Approved Recyclable Materials Processing Facility, it shall request written approval from the COUNTY Director of Solid Waste sixty (60) calendar days prior to use of the site and obtain COUNTY's written approval no later than ten (10) calendar days prior to use of the site.

3. **COUNTY Right to Redirect Recyclable Materials.** The COUNTY may, at any time during the term of this Agreement, require FRANCHISEE to deliver Recyclable Materials Collected under this Agreement to a Processing Facility owned by the COUNTY. FRANCHISEE shall comply with such direction within ten (10) Business Days of the COUNTY's notice or the date specified in such notice, if more than ten (10) Business Days from the date of notice. If COUNTY requiring FRANCHISEE to deliver Recyclable Materials Collected under this Agreement to a Processing Facility owned by the COUNTY causes an increase in FRANCHISEE costs, the BOCC shall consider a request from FRANCHISEE to adjust the rates accordingly, which shall be at its sole discretion.

C. Organic Materials.

FRANCHISEE shall provide Organic Materials Collection services as described. FRANCHISEE shall Transport all Organic Materials Collected under this Agreement to the Approved Organic Materials Processing Facility. FRANCHISEE shall pay all tipping fees and other costs associated with Transporting and Processing Organic Materials. FRANCHISEE shall observe and comply with all regulations in effect at the Approved Organic Materials Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of Organic Materials. FRANCHISEE shall actively work with the Approved Organic Materials Processing Facility operator throughout the Term of this Agreement to minimize contamination of the Organic Materials Collected under this Agreement and delivered to the Processing Facility.

If the need to use an alternative Processing Site arises from circumstances beyond FRANCHISEE's reasonable control, and such a change in the Approved Organics Materials Processing Facility results in increased costs to the FRANCHISEE, the BOCC shall consider a request from FRANCHISEE to adjust the rates accordingly, which shall

be at its sole discretion.

D. Construction and Demolition Debris (C&D).

FRANCHISEE shall offer Source Separated and Mixed C&D Collection services. C&D Collection service shall be a temporary service, provided only at sites where construction, alteration, remodeling, repair, or demolition operations are being performed. C&D Collection services shall be provided to any Customer upon request. FRANCHISEE shall Transport all C&D Collected under this Agreement to the Approved C&D Processing Facility or Approved Disposal Facility as directed by the COUNTY. FRANCHISEE shall pay all tipping fees and other costs associated with Transporting and Processing C&D. FRANCHISEE shall observe and comply with all regulations in effect at the Approved C&D Processing Facility and cooperate with and take direction from the operator thereof with respect to delivery of C&D.

If the need to use an alternative Processing or Disposal Site arises from circumstances beyond FRANCHISEE's reasonable control, and such a change in the Approved C&D Processing Facility or Approved Disposal Facility results in increased costs to the FRANCHISEE, the BOCC shall consider a request from FRANCHISEE to adjust the rates accordingly, which shall be at its sole discretion

E. Public Education and Outreach.

The public education and outreach activities included in the scope of services provided by FRANCHISEE under this Agreement are described as follows:

1. **Program Objectives.** FRANCHISEE's public education and outreach strategy shall focus on improving Customer understanding of the benefits of and opportunities for source reduction, reuse, Recycling, and Composting. In general, FRANCHISEE-provided public education and outreach should: (i) inform Customers about the services that are provided under this Agreement with specific focus on describing the methods and benefits of source reduction, reuse, Recycling, and Composting; (ii) instruct Customers on the proper method for placing materials in Containers for Collection and setting Containers out for Collection with specific focus on minimizing contamination of Recyclable and Organic Materials; and, (iii) clearly define Prohibited Waste and educate Customers about the hazards of such materials and their opportunities for proper handling.
2. **Coordination with COUNTY and COUNTY Contracted Educational Efforts.** FRANCHISEE acknowledges that they are part of a multi-party effort to educate the public about the regional integrated waste management system. FRANCHISEE shall cooperate and coordinate with the COUNTY Director of Solid Waste and the Contracted Educational staff on public education activities to minimize duplicative, inconsistent, or inappropriately timed education campaigns.

FRANCHISEE is aware that the COUNTY may subcontract with other organizations that are responsible for regional public education and outreach for schools, self-hauled waste, and home composting. FRANCHISEE shall not engage in public education and outreach around these subjects without coordination with the COUNTY Director of Solid Waste or the COUNTY's subcontractor. FRANCHISEE shall allow the COUNTY Director of Solid Waste a reasonable opportunity to review, request modifications to, and approve all public education materials including, but not limited to: print, radio, television, social or internet media before publication, distribution, and/or release. FRANCHISEE shall also offer the COUNTY's subcontractor the opportunity to review and provide input on public education materials that include messaging for regional public education and outreach for schools, self-hauled waste, and home Composting upon request by COUNTY or COUNTY's subcontractor. COUNTY shall have the right to request that FRANCHISEE include COUNTY and/or COUNTY's subcontractor identification and contact information on public education materials and approval of such requests shall not be unreasonably withheld.

SECTION 6 - SERVICE STANDARDS

1. Legal Requirements.

FRANCHISEE shall provide franchise services in compliance with applicable law, including, without limitation:

1. ORS 459, ORS 459A, and DCC Chapter 13;
2. Applicable Orders and Resolutions of the BOCC;
3. Applicable Oregon Administrative Rules (OAR)
4. Applicable rules of the Oregon Department of Environmental Quality and the Federal Environmental Protection Agency

“Law” means all statutes, regulations, rules, guidelines, permits, actions determinations, orders or requirements of regulatory authorities that apply to franchise services or this Agreement, including their future amendments, supplements, replacement, restatement or recodification.

Provisions of law are incorporated into this Agreement by reference as FRANCHISEE's contractual obligations. COUNTY may, at its sole discretion, enforce those provisions as either violations of law (subject to fines or penalties), or as breaches of this Agreement (subject to remedies under this Agreement). COUNTY has no general obligation to enforce law.

5. Spills.

FRANCHISEE shall enclose or cover all solid waste that it transports, whether in vehicles, debris boxes, hoppers, compactors, or any other containers. FRANCHISEE shall prevent solid waste from escaping, dropping, spilling, leaking, blowing, sifting,

falling, or scattering from vehicles ("**spills**") during collection and transportation. FRANCHISEE shall immediately clean up any solid waste that it spills onto any alley, street, or public place.

6. Leaking.

FRANCHISEE shall prevent oil, hydraulic fluid, paint, putrescible waste, or other liquid from leaking from its vehicles or containers. FRANCHISEE shall equip each vehicle with petroleum absorbent agents and other appropriate cleaning agents, materials and equipment. FRANCHISEE shall immediately cover, treat, or remove leaked materials from the ground and apply absorbent and/or cleaning agent to minimize their adverse impact, including the removal and appropriate disposal of applied absorbents and cleaning agents.

D. Noise and Traffic.

FRANCHISEE shall collect solid waste in compliance with noise levels prescribed by applicable laws, as quietly as reasonably possible and with the least reasonably possible disruption to the peace and quiet of the service area.

FRANCHISEE shall perform franchise services so as to cause the least reasonably possible obstruction and inconvenience to public traffic.

E. Responsiveness to County.

FRANCHISEE shall:

1. return telephone calls from COUNTY to the individual who made that call during County office hours no later than the next County business day;
2. meet with COUNTY during County office hours within one week of COUNTY oral or written request at the location directed by COUNTY;
3. respond to all e-mails from COUNTY within two County business days of receipt; and
4. respond to written correspondence from COUNTY within one week of its receipt.

***"County office hours"** means 8 a.m. to 5:00 p.m., Monday through Friday, excepting holidays.*

***"County business days"** means any day, Monday through Friday, and excepting holidays, that COUNTY's Solid Waste Department is open to do business with the public.*

SECTION 7 - PRIVACY

1. General.

FRANCHISEE shall strictly observe and protect its customers' privacy and trade secrets, including their rights to privacy under law. In addition, FRANCHISEE shall not:

1. reveal to anyone other than COUNTY any information identifying individual customers or the composition or contents of a customer's solid waste without that customer's permission, *unless* required by law; or
2. market or distribute mailing lists with customers' names, phone numbers, residence addresses, mailing addresses and/or e-mail addresses.

FRANCHISEE shall not assert that any privacy right accorded its customers under law prohibits FRANCHISEE from participating in solid waste characterization studies or waste stream analyses, keeping records, making reports, or assisting COUNTY in meeting any requirements under law.

SECTION 8 - PROHIBITED WASTE SCREENING AND REPORTING

1. Prohibited Waste.

“Prohibited Waste” means materials that are not solid waste, including (but not limited to):

1. *commercially-generated hazardous waste,*
2. *infectious waste,*
3. *radioactive waste or radioactively contaminated material, containers or receptacles, and*
4. *any other waste that is prohibited by law, permit or facility policy from being disposed of in a municipal solid waste landfill.*

5. Prohibition and Protocol.

FRANCHISEE is prohibited from collecting any Prohibited Waste observed or reasonably observable by FRANCHISEE, *unless* FRANCHISEE is authorized by COUNTY to do so. FRANCHISEE shall implement its Prohibited Waste Screening Protocol. FRANCHISEE shall bi-annually give each of its customer's written material describing its customer education program for safe disposal solid waste and Prohibited Waste.

Should the FRANCHISEE inadvertently collect Prohibited Waste in the performance of their services and the Prohibited Waste is observed upon delivery to the Approved Disposal Facility, the FRANCHISEE shall be responsible for the removal of the Prohibited Waste from the Approved Disposal Facility and its proper disposal. FRANCHISEE may subsequently identify the original Generator of Prohibited Waste and charge them for costs incurred by FRANCHISEE in handling the Prohibited Waste plus a fifteen percent (15%) administrative fee.

6. Reports to Director of Solid Waste.

If FRANCHISEE observes that any substance it reasonably believes or suspects to contain Prohibited Waste has been disposed of or released on any property owned, leased or primarily used by COUNTY or any other public entity (including, without limitation, storm drains, streets, or other public rights of way), FRANCHISEE shall use reasonable efforts to report its observation to the COUNTY in addition to reporting it to the appropriate regulatory authority as legally required.

SECTION 9 - CUSTOMER SERVICE

1. Standards.

FRANCHISEE shall respond in a timely manner to its Customers' questions and complaints in accordance with all requirements of law and this Agreement.

2. Service Requests, Compliments, Complaints.

FRANCHISEE shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Customer service requests and complaints. FRANCHISEE shall maintain records in its database, approved as to form by COUNTY Director of Solid Waste, all complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. The FRANCHISEE shall retain this complaint log for the Term of this Agreement. Upon request by the COUNTY Director of Solid Waste, FRANCHISEE shall compile and submit a summary statistical table of the complaint log. FRANCHISEE shall communicate a response to all complaints received within twenty-four (24) hours, weekends and Holidays excluded. If a complaint involves a failure to Collect Solid Waste, Recyclable Materials or Organic Materials from a Premises in the COUNTY, FRANCHISEE shall Collect the material in question within forty-eight (48) hours of receipt of the Complaint, provided that Generator, at the time their services were missed, properly placed materials for Collection, Customer's account with FRANCHISEE was in good standing, Customer was not party to an agreement with FRANCHISEE for alternative service, and no other arrangements have been made which are satisfactory to the customer and FRANCHISEE.

3. COUNTY's Reimbursement Costs.

If any COUNTY employee or other person acting upon direction of the COUNTY spends more than the following amounts of time resolving customer complaints, proven to be the result of FRANCHISEE non-performance or negligence, not including time the COUNTY uses to direct customers to the FRANCHISEE who reach out to the COUNTY first, FRANCHISEE shall reimburse COUNTY costs for more than one hour in the aggregate resolving complaints from any single customer of FRANCHISEE who states he or she has previously made that complaint to FRANCHISEE and the FRANCHISEE did not reasonably attempt to resolve the complaint, or more than one hour in any work week (Monday through Friday) resolving complaints from different customers of

FRANCHISEE proven to be the result of FRANCHISEE non-performance or negligence the FRANCHISEE has not reasonably attempted to resolve within forty-eight (48) hours of being notified of the complaint by either the COUNTY or customer.

D. Repair and Replacement of Containers.

Within two weeks of customer request or COUNTY direction, FRANCHISEE shall repair or replace containers that are damaged or constitute a threat to public health and safety (including, without limitation, keeping out rodents, flies, and other vectors). FRANCHISEE shall provide additional containers upon customer request and payment of FRANCHISEE's COUNTY-approved Rates.

E. Overloaded Containers.

If FRANCHISEE determines that container is filled beyond capacity, FRANCHISEE shall collect the waste subject to charges authorized by the fee scheduled approved by the COUNTY, including charging for additional time needed to service and/or collect materials fallen during the course of collection, unless servicing the overweight/overloaded container would create a safety hazard, or cause damage to FRANCHISEE's equipment, the Customer's account is not in good standing with the FRANCHISEE, or the Customer did not properly place materials for collection. Beyond that, FRANCHISEE may provide a warning that FRANCHISEE will *not* collect the container the next time it is overloaded. Upon request, FRANCHISEE shall provide the COUNTY a copy of all such notices and indicate:

1. the service location, and
2. date of the infraction.

FRANCHISEE shall not refuse to collect from container unless it previously attached a warning notice to the container or other documented notice to Customer, or if servicing the overweight/overloaded container would create a safety hazard, or cause damage to FRANCHISEE's equipment, the Customer's account is not in good standing with the FRANCHISEE, or the Customer did not properly place materials for collection.

FRANCHISEE is not responsible for cleaning or picking up materials around collection equipment that did not fall during the course of collection, or responsible for moving, cleaning, or picking up materials around collection equipment that reasonably obstruct access to collection equipment for servicing.

1. Litter Prevention.

FRANCHISEE shall ensure that all containers used for the transportation of solid waste or recyclables are adequately and securely covered to prevent the loss of solid waste or recyclables during transportation.

FRANCHISEE shall reasonably ensure that all containers used for the transportation of

solid waste or recyclables are completely free of residual materials prior to departing any facility where solid waste or recyclables are delivered to.

2. Litter Cleanup.

FRANCHISEE shall reasonably clean up all litter caused by FRANCHISEE, including during collection and transport. FRANCHISEE shall staff and equip each collection vehicle with a broom and dustpan for this purpose.

3. Graffiti.

FRANCHISEE shall remove graffiti from all containers, cover or paint over graffiti on all containers, or replace containers with graffiti-free containers, within ten (10) business days of:

1. observation by FRANCHISEE's drivers; or
2. COUNTY's request.

3. Customer Service Program Requirements.

1. **Availability of Representatives.** A representative of FRANCHISEE who is knowledgeable of the service area, services, and rates shall be available from 8 a.m. to 4:30 p.m. Monday through Friday to communicate with the public in person and by telephone. FRANCHISEE shall maintain a local or toll-free telephone number which it shall publicize. FRANCHISEE shall also maintain an after-hours telephone number allowing twenty-four (24) hour per day access to FRANCHISEE management by COUNTY Director of Solid Waste in the event of an emergency involving FRANCHISEE's equipment or services including, but not necessarily limited to, fires, blocked access, or property damage.
2. **Telephone.** FRANCHISEE shall maintain a locally staffed (within Deschutes County) telephone system in operation from 8 a.m. to 4:30 p.m. and shall have sufficient equipment in place and staff available to reasonably handle the volume of calls reasonably foreseeable for the day, and such telephone equipment shall be capable of recording the responsiveness to calls. Recording of FRANCHISEE's responsiveness to calls shall include, at a minimum, all items included in the Operating Indicator Report Form(s) in Exhibit A. An answering machine or voicemail service shall record Customer calls and voice messages between 4:30 p.m. and 8:00 a.m.
3. **Web Site.** FRANCHISEE shall maintain a web site that is accessible by the public. FRANCHISEE's web site shall include a description of all services provided by the FRANCHISEE, public education and outreach materials and provide the public the ability to e-mail FRANCHISEE questions, service requests, or Complaints.

4. **Local Office.** Throughout the Term of this Agreement FRANCHISEE shall maintain a local office within Deschutes County where, at a minimum, customers may pay their bills and file service complaints in person. This location will be provided in all regularly delivered written FRANCHISEE communications to customers.

SECTION 10 – OWNERSHIP OF SOLID WASTE, DISCLAIMERS

1. Ownership.

This Agreement does not purport to grant FRANCHISEE or COUNTY ownership over materials that FRANCHISEE's customers discard for pickup by FRANCHISEE or that FRANCHISEE handles under this Agreement. The right to possession or ownership of those materials shall be determined in accordance with law and any agreement between FRANCHISEE and its customers, and not as a result of this Agreement.

2. Disclaimer.

COUNTY makes no representations or warranties with respect to characterization of solid waste within the COUNTY, any solid waste disposal characterization study, or projections by material type with respect to solid waste in the COUNTY. COUNTY expressly disclaims any representations and warranties, either express or implied, as to the merchantability or fitness of solid waste for any particular purpose.

SECTION 11 - FRANCHISE AND OTHER FEES

1. Franchise Fee.

In consideration of the rights provided to FRANCHISEE herein, FRANCHISEE shall pay Franchise Fees to COUNTY each quarter equal to five percent (5%) of Gross Receipts for all services performed under this Agreement. This fee may be adjusted by BOCC resolution, at which time such an adjustment would be immediately reflected in the rates to customers. Revenues from the sale of Recyclable Materials are excluded from the Franchise Fees calculation.

2. Adjustments to Fees.

COUNTY may set other fees or adjust the fees established in this Section from time-to-time during the Term of this Agreement and such adjustments shall be included in the adjustment of Rates as described herein. Should the County change or add fees at any time other than during the annual rate adjustment period, the BOCC shall consider a request from FRANCHISEE to adjust the rates accordingly, which shall be at its sole discretion.

3. Payment Schedule and Late Fees.

Within thirty (30) calendar days of the end of each calendar quarter, during the Term of this Agreement, FRANCHISEE shall remit to COUNTY all fees as described in this Section. Such fees shall be remitted to COUNTY and sent or delivered to the Director of Solid Waste. If such remittance is not paid to COUNTY on or before the thirtieth (30th) calendar day following the end of a calendar quarter, all fees dues shall be subject to a delinquency penalty of one and one half percent (1.5%), which attaches on the first day of delinquency. The delinquency penalty shall be increased an additional one and one half percent (1.5%) for each additional month the payment remains delinquent.

Each quarterly remittance to COUNTY shall be accompanied by a statement listing the amount of each fee paid; calculation of each fee; and, statement of Gross Receipts, by Customer Type for the period collected from all operations conducted or permitted by this Agreement. COUNTY Director of Solid Waste may, at any time during the Term, request a detailed calculation of Gross Receipts.

COUNTY Director of Solid Waste may, at any time during the Term, perform an audit of FRANCHISEE's billings and payment of fees. FRANCHISEE shall cooperate with the Director of Solid Waste in any such audit. Should COUNTY or its agent perform this review and identify billing errors or other errors in payment of fees caused by FRANCHISEE which total more than one (1) percent or more of annual Gross Receipts, FRANCHISEE shall, in addition to compensating COUNTY for lost fees, reimburse the COUNTY's cost of the review.

SECTION 12 - FRANCHISEE's COMPENSATION AND RATE SETTING

1. General.

The FRANCHISEE's compensation for performance of all its obligations under this Agreement shall be Gross Receipts. FRANCHISEE's compensation provided for in this Section shall be the full, entire and complete compensation due to FRANCHISEE pursuant to this Agreement for all labor, equipment, materials and supplies, Processing and Disposal fees, fees due to COUNTY, taxes, insurance, bonds, overhead, operations, profit, and all other things necessary to perform all the services required by this Agreement in the manner and at the times prescribed. Nothing herein shall obligate COUNTY to provide any compensation to FRANCHISEE beyond Gross Receipts. If FRANCHISEE's actual costs, including fees due to COUNTY, are more than Gross Receipts, FRANCHISEE shall not be compensated for the difference in actual costs and actual Gross Receipts. If FRANCHISEE's actual costs are less than the actual Gross Receipts, FRANCHISEE shall retain the difference provided that FRANCHISEE has paid COUNTY fees pursuant to Section 11. Under this Agreement, FRANCHISEE shall have the right and obligation to charge and collect from Customers, Rates in described herein that are approved by the COUNTY for provision of services to Customers.

2. Rates and Annual Adjustments.

1. **General.** The COUNTY shall be responsible for approving Rates as described in this Section. If at any time during the Term of the Agreement, the FRANCHISEE determines the need for a Rate that does not appear on the COUNTY-approved Rate schedule, FRANCHISEE shall notify the COUNTY and request establishment of such Rate.
2. **Rate Structure.** The COUNTY and FRANCHISEE shall meet and confer to change the relationship of individual Rates in comparison with other Rates. Any such changes would occur in conjunction with the annual Rate adjustment, or the extraordinary rate adjustment process described in this Section. Changes to the rates charged under the new structure shall be calculated in such a way that the revised Rate structure generates at least the same amount of total revenue when the number of accounts at each Service Level are multiplied by the Rates charged for each Service Level and the total for all Service Levels are summed.
3. **Rate.** FRANCHISEE is entitled to an Operating Ratio of operating profit, before taxes, above net sales of between 9-12%. Under no circumstances shall the FRANCHISEE be entitled to any rate changes that result in a surplus above 12%. All rate adjustments and CPI increases discussed in this Section are subject to the 12% cap on surplus of gross revenues above gross expenses.

The COUNTY's BOCC shall make a good faith effort to approve Rates by June 30 of each year, and such Rates shall be effective on each subsequent July 1. If Rates are not effective by July 1 due to a delay caused solely by COUNTY, COUNTY shall allow FRANCHISEE to retroactively bill Customers for the amount of the Rate increase for any period of said delay that is solely caused by COUNTY. If Rates are not effective by July 1 as a result of FRANCHISEE's delay in submitting the Rate application in a complete and accurate form, then prior Rates remain in effect until such adjustment is made. In the case of a delayed Rate adjustment, the FRANCHISEE may bill the Customer during the next billing cycle to recoup the deferred Rate increase.

The rates for service shall be automatically adjusted annually, effective July 1st of each year during the term of the franchise, based on the "average 12-month CPI percentage", if any, from the twelve months of the Consumer Price Index for All Urban Consumers (CPI-U), West Region, Size Class B/C cities using each month's CPI 12-month percentage change from February of the preceding year to January of the current year. If as a result FRANCHISEE's gross surplus from the previous calendar exceeds 12%, the CPI increase will be adjusted in order to bring the surplus into the permitted range. Under no circumstances shall the franchisee's rates be decreased below the rates in effect during the immediately preceding year, except if the surplus of operating profit above net sales exceeds 12%. The rate schedule in effect as of the date of this Agreement is included herewith as Exhibit B.

Disposal or service cost increases established by a unit of federal, state or local government having jurisdiction or by the owner or operator of the applicable disposal site may be passed on to customers following a thirty (30) days' notice of such increases to affected customers with approval by the BOCC.

4. **Adjustments.** Subject to the terms herein, the FRANCHISEE shall be entitled to submit requests to the BOCC for adjustment of all Rates, which shall be at the sole discretion of the BOCC.

5. **Extraordinary Rate Adjustments.**

In addition to the adjustment mechanisms set forth above, the FRANCHISEE may request an adjustment to the rates for service, under the following extraordinary circumstances: (i) any changes in existing, or adoption of new, federal, state, local or administrative laws, rules or regulations that result in an increase in the FRANCHISEE's costs, including but not limited to the imposition of new or the increase to existing governmental, regulatory or administrative taxes or fees; and (ii) in the event that unforeseen circumstances arise which materially affect the FRANCHISEE's costs or revenues under this Franchise, including, but not limited to, extraordinary increases in the cost of fuel. Any such request shall be due by no later than April 1 and shall be submitted along with the annual financials so that these requests can be reviewed during the County's annual budget review. The FRANCHISEE's application for an extraordinary rate adjustment shall include a statement of the amount of the requested rate adjustment, the basis there for, and all financial and other records on which the FRANCHISEE relies for its claim that the FRANCHISEE's costs have increased. COUNTY staff shall promptly review the FRANCHISEE's rate application and notify the FRANCHISEE if its application is complete or whether COUNTY staff wishes to review and/or audit any additional documents or information reasonably related to the requested increase before submitting the matter to the BOCC for its consideration. Rate adjustments made under this Section may be requested by the FRANCHISEE at any time during the course of an operating year. The BOCC shall review and consider approval of adjustment requests under this Section in its discretion; provided that such approval shall not be unreasonably withheld, conditioned or delayed. The BOCC shall review and consider such requests within a reasonable period of time after the complete submittal by the FRANCHISEE of its application for an extraordinary rate adjustment and after the COUNTY has had a reasonable period of time to request, review and audit any applicable financial records of the FRANCHISEE. The BOCC, in its sole discretion, may grant the FRANCHISEE's requested rate adjustment or, based on the information presented, increase the rates for service in amounts differing from the FRANCHISEE's request. The adjusted rates, if approved by the BOCC, shall go into effect on July 1st and after customers have received thirty (30) days' notice of such approval, whichever occurs later.

SECTION 13- FRANCHISEE RECORDS AND AUDITS

1. Record Maintenance and Retention.

“Records” means any type of documentation relating to franchise services, including, without limitation:

1. customer subscription orders and invoices;
2. complaint logs and customer correspondence;
3. weight tickets and receipts from solid waste facilities, which FRANCHISEE has been provided;
4. route maps and schedules, in sufficient detail to allocate solid waste collected within County and outside County on the same route; and
5. with respect to roll-off containers:
 1. encroachment permits required by law,
 2. container capacity, and
 3. frequency of container collection.

4. Legal Requirements.

FRANCHISEE shall maintain all records required under law, including records pertaining to solid waste collection and disposal.

5. Disposal Records.

FRANCHISEE acknowledges that COUNTY may need to respond to claims (including, without limitation, superfund claims under CERCLA) with respect to collection, hauling or disposal of materials that FRANCHISEE handles under this Agreement. FRANCHISEE shall maintain records thereof, including:

1. quantity of solid waste collected and/or hauled under this Agreement; and
2. disposal location and its owner or operator.

FRANCHISEE shall retain those records for a period of at least five (5) years after the expiration or termination of this Agreement, unless a longer retention period is required by law or under this Agreement. At the conclusion of the applicable retention period, FRANCHISEE shall notify the COUNTY at least thirty (30) days before destroying those records.

D. Complaint Logs.

FRANCHISEE shall enter, log, and maintain records of all complaints reported by Customers or COUNTY to customer’s office and their resolution in digital format. At COUNTY’s request, FRANCHISEE shall provide COUNTY those records within five (5) business days of request and a complaining customer’s subscription information.

E. County Custody.

If the COUNTY reasonably believes that any records FRANCHISEE is required in this Agreement to provide to COUNTY may be lost, discarded, or destroyed, the COUNTY may direct the FRANCHISEE to provide COUNTY access to and custody of those records. FRANCHISEE shall promptly comply.

F. Inspection and Audit.

COUNTY, its staff and outside auditors may inspect, audit, and copy all pertinent records at FRANCHISEE's office:

1. **Notice:** after advising FRANCHISEE by telephone or in writing five (5) days in advance (or in extraordinary circumstances, less than five (5) days),
2. **Day:** on any weekday (other than a County-recognized holiday), and
3. **Hours:** between the hours of 8 a.m. and 5 p.m. weekdays.

If FRANCHISEE's office is outside the COUNTY, FRANCHISEE shall promptly provide copies of those records to COUNTY at COUNTY's offices.

Within thirty (30) days of COUNTY request, FRANCHISEE shall reimburse COUNTY for COUNTY's reimbursement cost of audit and copying expenses if the audit reveals a discrepancy of three percent or more, due to the negligence or fault of the FRANCHISEE, between the amount contained in the records of the FRANCHISEE or a regulatory authority (such as the tons of solid waste collected and disposed or diverted, or the amount of FRANCHISEE's gross receipts) and:

1. The amount reported or paid by FRANCHISEE to COUNTY; or
2. The amount in any representation that FRANCHISEE made or information that it submitted to COUNTY.

G. Public Records Request.

COUNTY shall notify FRANCHISEE within five (5) business days if:

1. **Request:** COUNTY receives a request to review or copy material that FRANCHISEE has marked "Trade Secret," "Confidential", or "Proprietary" in which event FRANCHISEE may present arguments and facts to COUNTY in support of FRANCHISEE's position that the material is entitled to an exemption from disclosure under the applicable public records/freedom of information regulations;
2. **Non-Exemption:** COUNTY determines that the material is *not* entitled to an exemption from disclosure and that it must be released, in which event FRANCHISEE may seek a court order enjoining that release; and
3. **Exemption and Action:** COUNTY determines that the material is entitled to an exemption from disclosure and the one who requested the material files a legal

action seeking its release. If any legal action is filed, FRANCHISEE shall either file a motion to intervene in the action or shall accept the release of the material by COUNTY. COUNTY has no obligation to defend the action and will release the material sought, without liability to FRANCHISEE, should FRANCHISEE fail to intervene in said action.

SECTION 14 - REPORTS

1. Types and Content.

FRANCHISEE shall give COUNTY reports at COUNTY's address provided for notices under Section 22.C of this Agreement in format (such as electronic) and content required by COUNTY.

2. Annual Report.

On or before each April 1st, FRANCHISEE shall submit a report for the prior calendar year to COUNTY in a format and media, and with content acceptable to the COUNTY, such as vehicle lists, discussion of recycling plan implementation, updated identification of required personnel, and report of financial performance for the previous calendar year.

- i. FRANCHISEE shall submit annual reports no later than forty-five (45) calendar days after the end of each calendar year. Annual reports shall, at a minimum, include all data and information as described in Exhibit B.
- ii. FRANCHISEE may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be approved by the Director of Solid Waste and such approval shall not be unreasonably withheld. Director of Solid Waste may, from time to time during the Term, review and request changes to FRANCHISEE's report formats and content and FRANCHISEE shall not unreasonably deny such requests.
- iii. FRANCHISEE shall submit (via mail and e-mail) all reports to the Director of Solid Waste.
- iv. COUNTY reserves the right to require FRANCHISEE to provide additional reports or documents as Director of Solid Waste reasonably determines to be required for the administration of this Agreement or compliance with Applicable Law.

3. Legally Required Reports. FRANCHISEE shall file all reports required under law.

4. Improper Solicitations. FRANCHISEE shall immediately report any attempt by a COUNTY officer or employee to solicit improper consideration (including in the form of cash, discounts, service, or the provision of travel, entertainment, or tangible gifts), to:

COUNTY manager charged with the supervision of the employee; or

The COUNTY'S Internal Auditor

5. Additional Information.

The COUNTY Solid Waste Director may request, with at least seven (7) days written notice to the FRANCHISEE, that FRANCHISEE track and compile information during the next upcoming month detailed in Exhibit A. FRANCHISEE shall provide completed forms provided in Exhibit A within seven (7) days of the completion of the month data was requested for.

The COUNTY and FRANCHISEE may, by mutual agreement, modify, add, remove or change the Operating Indicators and Acceptable Thresholds with 30 days' notice:

FRANCHISEE shall submit (via mail and/or e-mail) all reports to the Director of Solid Waste, or in the case of audited financial statements of FRANCHISEE, to a third party rate review consultant appointed by the Director of Solid Waste.

COUNTY reserves the right to require FRANCHISEE to provide additional reports or documents as Director of Solid Waste reasonably determines to be required for the administration of this Agreement or compliance with Applicable Law.

6. Statements and Information.

FRANCHISEE represents that the information and documentation submitted by or on behalf of FRANCHISEE to COUNTY in connection with the following was correct and complete in all material respects at the time originally submitted and on the date of this Agreement.

SECTION 15 - INDEMNITY AND HOLD HARMLESS

1. Indemnity.

To the fullest extent authorized by law FRANCHISEE shall defend, save, hold harmless and indemnify the COUNTY and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities costs and expenses of any nature resulting from or arising out of, or relating to the activities of FRANCHISEE or its officers, employees, contractors, or agents under this Agreement, including without limitation any claims that the work, the work product or any other tangible or intangible items delivered to COUNTY by FRANCHISEE that may be the subject of protection under any state or federal intellectual property law or doctrine, or the COUNTY's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work utility design, or other proprietary rights of any third party.

2. Control.

FRANCHISEE shall have control of the defense and settlement of any claim that is subject to subparagraph a of this paragraph; however neither contractor nor any attorney engaged by FRANCHISEE shall defend the claim in the name of COUNTY or any department or agency thereof, nor purport to act as legal representative of COUNTY or any of its departments or agencies without first receiving from COUNTY 's legal counsel, in a form and manner determined appropriate by COUNTY's legal counsel, authority to act as legal counsel for COUNTY, nor shall FRANCHISEE settle any claim on behalf of COUNTY without the approval of COUNTY's legal counsel.

3. **COUNTY Obligations.**

To the extent permitted by Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, COUNTY shall defend, save, hold harmless and indemnify FRANCHISEE and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities costs and expenses of any nature resulting from or arising out of, or relating to the activities of COUNTY or its officers, employees, contractors, or agents under this Agreement.

SECTION 16 - INSURANCE

A. FRANCHISEE's Insurance.

FRANCHISEE shall secure and at all times maintain insurance coverage meeting the following requirements:

1. **General Liability.** For personal injury, bodily injury, advertising injury, property damage, premises, operations, products, completed operations and contractual liability. The insurance coverages provided for herein must be endorsed as primary and non-contributory to any insurance or self-insurance of COUNTY, its officers, employees, or agents. Each such policy obtained by FRANCHISEE shall provide that the insurer shall defend any suit against the named insured and the additional insureds, their officers, agents, or employees, even if such suit is frivolous or fraudulent.

The policy shall be endorsed to name Deschutes County, its officers, agents, employees, and volunteers as an additional insured. The additional insured endorsement shall not include declarations that reduce any per occurrence or aggregate insurance limit. FRANCHISEE shall provide additional coverage based on any outstanding claim(s) made against policy limits to ensure that minimum insurance limits required by COUNTY are maintained. Coverage limits of not less than three (3) times the limits provided for in ORS 30.272 and ORS 30.273.

- b. **Pollution Liability Coverage.** For pollution conditions resulting from transported cargo, with annual limits of not less than \$2 million per occurrence and \$4 million aggregate, covering loss (including cleanup costs) that FRANCHISEE becomes legally obligated to pay as a result of claims for bodily injury, property damage,

death, and/or cleanup costs resulting from pollution conditions caused by transported cargo. For purposes of this coverage, "pollution conditions" includes, without limitation, the dispersal, discharge, release, or escape of any solid, liquid, gaseous or thermal irritant or contaminant (such as smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, and medical waste) into or upon land, any structure on land, the atmosphere, or any watercourse or body of water (including groundwater), provided the conditions are not naturally present in the environment in the amounts or concentrations discovered. The pollution liability coverage must provide contractual liability coverage, by endorsement, if necessary, for FRANCHISEE's indemnification of COUNTY.

- c. **Automobile Liability Coverage.** (Must be occurrence, not claims made.) Coverage limits of not less than three (3) times the limits provided for in ORS 30.272 and ORS 30.273.
- d. **Workers' Compensation and Employers' Liability.** Coverage in compliance with ORS 656.017 for all subject workers to cover claims made under worker's compensation, disability benefit, or any other employee benefit laws, including statutory limits in any state of operation with Coverage B Employer's Liability coverage all at the statutory limits. In the absence of statutory limits the limits of said Employer's Liability coverage shall be not less than \$1,000,000 each accident, disease, and each employee. This insurance must be endorsed with a waiver of subrogation endorsement, waiving the insured's right of subrogation against COUNTY.
- e. **Documents.** All coverage required by this Section shall be evidenced by a certificate of insurance, naming the DESCHUTES COUNTY as the certificate holder. Certificates must note all coverage types, policy limits, endorsements, and effective dates. The name of the insured must match this Agreement. FRANCHISEE shall notify the County in writing at least 30 days in advance of any cancellation, termination, material change, or reduction of limits of the insurance coverage.

The above coverage limits may be met through a combination of primary and umbrella/excess liability coverage.

B. Requirements for Subcontractors.

FRANCHISEE shall ensure that all subcontractors performing franchise services under this Agreement secure and maintain all insurance coverages in this Section.

C. Compensation for County Costs.

If FRANCHISEE fails to comply with any of the insurance requirements in this Section, or indemnification requirements in Section 15, and that failure results in any cost or liability to COUNTY (including, without limitation, COUNTY's payment of any judgment

or settlement), FRANCHISEE shall fully reimburse COUNTY for all amounts COUNTY pays.

SECTION 17 - FINANCIAL ASSURANCE

1. Amount.

FRANCHISEE shall obtain a corporate surety or performance bond (or other financial assurance acceptable to COUNTY in its sole discretion), payable to COUNTY and meeting COUNTY's specifications, in the largest of the following amounts:

1. required by DCC 13.24.020;
2. \$500,000; or
3. other amount reasonably prescribed by COUNTY.

The bond must be conditioned on faithful performance by FRANCHISEE of all the FRANCHISEE's obligations under this Agreement, including, without limitation, payment obligations such as franchise fees.

2. Surety.

The performance bond must be executed by a corporate surety licensed to transact business (admitted) as a surety in the State of Oregon. The corporate surety must have an A.M. Best Rating of not less than "A," unless otherwise approved by COUNTY.

3. No Substitution.

The performance bond may not allow the bond surety to substitute another person or entity to perform franchise services. The performance bond must provide for payment of moneys to COUNTY, including, without limitation, payment of:

1. franchise fees;
2. any liquidated damages, late penalty payments, or COUNTY's reimbursement costs; and
3. any amount that FRANCHISEE paid to COUNTY, but is subsequently recovered from COUNTY in any bankruptcy or similar proceedings relating to FRANCHISEE.

SECTION 18 - BREACHES AND DEFAULTS, SUSPENSION, TERMINATION AND DEBARMENT

1. Notice of Breach; FRANCHISEE Cure.

"Breach" means any failure by FRANCHISEE to meet one or more of its obligations under this Agreement

If the COUNTY determines that FRANCHISEE is in breach, the COUNTY may give notice to FRANCHISEE identifying and describing the breach. FRANCHISEE may request to confer with COUNTY within thirty (30) calendar days of FRANCHISEE’s request. FRANCHISEE shall cure the breach within:

1. 30 calendar days from the receipt of COUNTY’S notice, or
2. a shorter period of time determined by COUNTY if COUNTY determines that the public health and safety so require.

FRANCHISEE may request additional time to correct the breach, but COUNTY may accept or reject that request in its sole discretion.

2. Defaults, Notice, Suspension and Termination.

1. Defaults.

“Default” means any of the defaults described in the table below.

2. Suspension of Agreement.

In addition to any other rights or remedies COUNTY may exercise under this Agreement, the COUNTY may suspend this Agreement, in whole or in part, immediately upon the occurrence of a default, County shall immediately provide notice of such suspension to FRANCHISEE. The suspension shall continue only until FRANCHISEE demonstrates to COUNTY’s satisfaction that FRANCHISEE can once again fully perform its obligations under this Agreement.

3. Termination.

In addition to any other rights or remedies that COUNTY has under this Agreement, the COUNTY may terminate this Agreement in whole or in part, upon the occurrence of any default identified in the following table. Such termination shall be effective on the “Termination Date” set forth in the following table, except that the COUNTY, in its sole discretion and upon notice to FRANCHISEE, may choose any longer or shorter “Termination Date” upon determination that the public health and safety so require:

TERMINATION TABLE

DEFAULT	TERMINATION DAYS (Number of days following COUNTY notice to
---------	--

		FRANCHISEE of default)
(1) Uncured or repeated breach	FRANCHISEE does not reasonably cure any breach of this Agreement other than breaches listed as specific defaults in (2) – (7) of this table, within thirty (30) days of County notice of such breach, <i>unless</i> due to circumstances beyond FRANCHISEE's control; or FRANCHISEE continues to fail to mitigate areas of non-compliance outlined in a Corrective Action Plan as described in Section 21.	30 days
(2) Failure to collect for seven (7) days	<i>Unless</i> due to circumstances beyond FRANCHISEE's control, FRANCHISEE misses 2% or more of regularly scheduled pickups within a period of: Seven (7) consecutive days; or Ten (10) days in the aggregate annually.	30 days
(3) Payments to County	FRANCHISEE does not fully and timely pay COUNTY any amounts under this Agreement (including, without limitation, payment of franchise fees and liquidated damages): within thirty (30) days of dated correspondence from the COUNTY stating that payment is past due; or with respect to payment of a shortfall in franchise fees, within thirty (30) days of dated correspondence from the COUNTY identifying the shortfall.	30 days
(4) Failure to meet insurance or bond obligations	FRANCHISEE does not meet its obligations with respect to insurance and other assurances of its performance under this Agreement.	30 days
(5) Insolvency or bankruptcy	FRANCHISEE becomes insolvent or files a voluntary petition to declare bankruptcy; a receiver or trust is appointed for FRANCHISEE; or FRANCHISEE executes an	Immediately

	<p>assignment for the benefit of creditors.</p> <p>FRANCHISEE is deemed to be <i>"insolvent"</i> if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether or not FRANCHISEE has committed an act of bankruptcy and whether or not FRANCHISEE is insolvent within the meaning of the federal bankruptcy law or not.</p>	
<p>(6) Fraud, misrepresentation, or breach of warranties</p>	<p>During the procurement of this Agreement or after the date of this Agreement, FRANCHISEE does any of the following with respect to this Agreement or the COUNTY:</p> <p>committed (or commits or attempts to commit) any fraud or deceit, made (or makes) any intentional or material misrepresentations to COUNTY; breaches any warranties made, or makes any materially false or misleading statement, representation, or warranty to COUNTY.</p>	<p>30 days</p>

SECTION 19 – ALTERNATIVE DISPUTE RESOLUTION

The parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

For the purposes set forth in the foregoing provision, each party consents and submits to the jurisdiction of any local, state, or federal court located in Deschutes County, Oregon.

SECTION 20 - ENFORCEMENT OF AGREEMENT

1. Either party may avail itself of any remedy or combination of remedies available under this Agreement, in law, or at equity.
2. **COUNTY's Additional Remedies.** Without limiting COUNTY's remedies otherwise available under this Agreement, in law or at equity, at its option COUNTY may

enforce a breach in one or more of the following ways:

1. if that breach is a default, execute alternative agreements to provide franchise services similar to those under this Agreement;
2. seek to obtain injunctive relief, specific performance, and/or damages; or
3. assess damages.

C. Injunctive Relief. FRANCHISEE acknowledges that COUNTY's remedy of damages for a breach may be inadequate for many reasons, including, without limitation, the urgency of providing franchise services to protect the public health and safety. Consequently, COUNTY is entitled to all available equitable remedies, including injunctive relief.

D. COUNTY's Recovery From Surety Damages. COUNTY may draw upon FRANCHISEE's performance bond or any other instrument of performance assurance to satisfy any amounts due and owing from FRANCHISEE to COUNTY or that FRANCHISEE is obligated to pay under this Agreement or by law. Such amounts shall include, without limitation:

1.

Compensatory

1. amounts equal to any franchise fees, liquidated damages or other amounts that FRANCHISEE has paid to COUNTY but that are subsequently recovered from COUNTY by a trustee in bankruptcy as preferential payments or otherwise;
2. the full amount of any judgment or award against FRANCHISEE and in favor of COUNTY.
3. Any amount FRANCHISEE is required to pay pursuant to its defense and/or indemnity obligations under this Agreement.

2. Liquidated

The parties acknowledge:

1. COUNTY incurred considerable time and expense procuring this Agreement in order to secure an improved level and quality of recycling and compliance with solid waste diversion mandates;
2. Consistent and reliable franchise services, including collection of putrescible wastes that attract vermin and vectors are of the utmost importance to the public health, safety, and wellbeing of residents and businesses in COUNTY; and
3. The following liquidated damages represent a reasonable estimate of the amount of damages, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to COUNTY that reasonably could be expected and anticipation that proof of actual damages would be costly or inconvenient: **\$200** per day per violation.

*Reference to "failure" in this Agreement refers to each occurrence of a specified breach (such as for each customer and each customer's bin and roll-off box set out site, record entry, or complaint) and not for aggregate occurrences of those breaches (such as for all customers on a given route or day).

By placing its initials below, each party specifically confirms:

1. the accuracy of the statements made in this Subsection; and
2. that it has had ample opportunity to consult with legal counsel and obtain an explanation of liquidated damage provisions prior to signing this Agreement.

FRANCHISEE
Initial Here: _____

COUNTY
Initial Here: _____

E. County's Reimbursement Costs.

FRANCHISEE shall pay COUNTY promptly upon COUNTY's request for COUNTY's reimbursement costs of:

1. conducting a non-routine investigation of any alleged breach; and
2. incurred as a consequence of breach.

F. Waiver.

COUNTY's waiver of any specific breach is not a waiver of any other breach of that same provision. COUNTY's failure to enforce this Agreement is not a waiver of any breach.

SECTION 21. OPERATING INDICATOR REPORTS AND CORRECTIVE ACTION PLAN

1. General.

The Parties find that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by COUNTY as a result of a breach by FRANCHISEE of its obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that exclusive services might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and, (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the

public whole for past breaches.

1. Service Performance Standards; Liquidated Damages for Failure to Meet Standards.

The Parties further acknowledge that consistent, reliable Collection services are of utmost importance to COUNTY and that COUNTY has considered and relied on FRANCHISEE's representations as to its quality of service commitment in awarding the Agreement to it. The Parties recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if FRANCHISEE fails to achieve the performance standards, or fails to submit required documents in a timely manner, COUNTY and its residents and businesses will suffer damages, and that it is, and will be, impractical and extremely difficult to ascertain and determine the exact amount of damages which COUNTY will suffer. Therefore, without prejudice to COUNTY's right to treat such non-performance as an event of default under this Section, the Parties agree that the Liquidated Damages amounts established in Exhibit A of this Agreement and the Liquidated Damage amounts therein represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the Effective Date of this Agreement, including the relationship of the sums to the range of harm to COUNTY that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical.

FRANCHISEE agrees to pay (as Liquidated Damages and not as a penalty) the amounts set forth in the Performance Standards and Liquidated Damages, Exhibit A. Before assessing Liquidated Damages, COUNTY shall give FRANCHISEE notice of its intention to do so. The notice will include a brief description of the incident(s) and non-performance. COUNTY may review (and make copies at its own expense) all information in the possession of FRANCHISEE relating to incident(s) and/or non-performance. COUNTY may, within ten (10) Business Days after issuing the notice, request a meeting with FRANCHISEE. COUNTY may present evidence of nonperformance in writing and through testimony of its employees and others relevant to the incident(s) and non-performance. COUNTY Director of Solid Waste will provide FRANCHISEE with a written explanation of their determination on each incident(s) and non-performance prior to authorizing the assessment of Liquidated Damages under this Section. The decision of COUNTY Director of Solid Waste shall be final and FRANCHISEE shall not be subject to, or required to exhaust, any further administrative remedies.

2. Two-Phase Performance Management. The Parties desire to minimize the time and cost involved in monitoring FRANCHISEE's performance under this Agreement, particularly with regard to the assessment of Liquidated Damages. Exhibit A to this Agreement identifies each "Performance Area" for which the COUNTY desires to establish performance standards for this Agreement. FRANCHISEE's performance within each "Performance Area" shall be primarily monitored using the "Performance Indicator" described for each. The COUNTY shall not assess Liquidated Damages for the "Specific Performance Measures" identified in Exhibit A unless FRANCHISEE fails to meet the

minimum standard for the "Performance Indicator" within the same "Performance Area".

3. **Amount.** COUNTY may assess Liquidated Damages for each calendar day or event, as appropriate, that FRANCHISEE is determined to be liable in accordance with this Agreement in the amounts specified in Exhibit A subject to annual adjustment described below.

4. **Timing of Payment.** FRANCHISEE shall pay any Liquidated Damages assessed by COUNTY within ten (10) Business Days of the date the Liquidated Damages are assessed. If they are not paid within the ten (10) Business Day period, COUNTY may proceed against the performance bond required by the Agreement, order the termination of the rights or "franchise" granted by this Agreement, or all of the above.

5. Excuse From Performance.

The Parties shall be excused from performing their respective obligations hereunder and from any obligation to pay Liquidated Damages if they are prevented from so performing by reason of floods, earthquakes, other acts of nature, war, civil insurrection, riots, acts of any government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the Party claiming excuse from performance hereunder. In the case of labor unrest or job action directed at a third party over whom FRANCHISEE has no control, the inability of FRANCHISEE to provide services in accordance with this Agreement due to the unwillingness or failure of the third party to: (i) provide reasonable assurance of the safety of FRANCHISEE's employees while providing such services; or, (ii) make reasonable accommodations with respect to Container placement and point of Delivery, time of Collection, or other operating circumstances to minimize any confrontation with pickets or the number of persons necessary to make Collections shall, to that limited extent, excuse performance. The foregoing excuse shall be conditioned on FRANCHISEE's cooperation in performing Collection services at different times and in different locations. Further, in the event of labor unrest, including but not limited to strike, work stoppage or slowdown, sickout, picketing, or other concerted job action conducted by the FRANCHISEE's employees or directed at the FRANCHISEE, or a subsidiary, the FRANCHISEE shall not be excused from performance. In such case, FRANCHISEE shall continue to provide a reasonably satisfactory level of performance during the pendency thereof, but the FRANCHISEE shall not be required to adhere strictly to the specific requirements of this Agreement regarding routes, Collection times or similar matters; provided, however, that in no event shall more than seven (7) calendar days elapse between pickups for Residential and Commercial Customers. The Party claiming excuse from performance shall, within two (2) calendar days after such Party has notice of such cause, give the other Party notice of the facts constituting such cause and asserting its claim to excuse under this Section. If either Party validly exercises its rights under this Section, the Parties hereby waive any claim against each other for any damages sustained thereby. The partial or complete interruption or discontinuance of FRANCHISEE's services caused by one (1) or more of the events described in this Article shall not constitute a default by FRANCHISEE under this Agreement.

Notwithstanding the foregoing, however, if FRANCHISEE is excused from performing its obligations hereunder for any of the causes listed in this Section for a period of thirty (30) calendar days or more, COUNTY shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) Business Days' notice to FRANCHISEE, in which case the provisions of Section 18.B.3. shall apply.

6. Corrective Action Plan.

In lieu of the assessment of Liquidated Damages, the COUNTY Director of Solid Waste may first call for the implementation of a CORRECTIVE ACTION PLAN or may require FRANCHISEE to develop a Corrective Action Plan for COUNTY Solid Waste Director approval; provided, however, a Corrective Action Plan shall not be effective (and neither party shall be bound thereto) unless and until agreed to by both Parties, as determined by each Party in its reasonable discretion. Any approved and adopted Corrective Action Plan shall fully identify the specific performance area(s) requiring correction, and shall specify at a minimum the specific tasks, schedule, milestone steps, and FRANCHISEE responsibilities by function and position in such detail as is necessary to provide for clear and unambiguous resolution of the issue(s). If the COUNTY Solid Waste Director develops a Corrective Action Plan, the FRANCHISEE shall provide any comments to a draft Corrective Action Plan developed by the COUNTY Solid Waste Director within fifteen (15) calendar days of receipt. Should the COUNTY Solid Waste Director require FRANCHISEE to develop a Corrective Action Plan, FRANCHISEE shall submit the draft Plan within thirty (30) calendar days of such notice and shall submit a final Plan within fifteen (15) calendar days of receipt of COUNTY Solid Waste Director comments to the draft Plan.

The COUNTY Solid Waste Director shall inform the BOCC upon notifying FRANCHISEE of its intention to initiate a corrective action process and shall keep the BOCC apprised of progress in resolving the issue(s) identified in the Corrective Action Plan. Failure to meet the mutually agreed upon Plan development or review timelines specified in the previous paragraph, to meet the Corrective Action Plan schedule or to demonstrate good faith effort to do so, or failure to demonstrate achievement of compliance within the specified schedule will result in COUNTY Solid Waste Director assessing a penalty of up to one thousand (\$1,000) per day until compliance is achieved. Continued failure to fully mitigate the area(s) of noncompliance as provided in the Corrective Action Plan shall constitute an event of default as provided in Section 18, subject to the cure provisions of Section 18.

FRANCHISEE is solely responsible for all costs it incurs during the corrective action process described in this Section.

7. Right to Demand Assurances of Performance.

The Parties acknowledge that it is of the utmost importance to COUNTY and the health and safety of all those members of the public residing or doing business within COUNTY

who will be adversely affected by interrupted waste management service, that there be no material interruption in services provided under this Agreement. If FRANCHISEE: (i) is the subject of any labor unrest including work stoppage or slowdown, sick-out, picketing or other concerted job action; (ii) appears in the reasonable judgment of COUNTY to be unable to regularly pay its bills as they become due; or, (iii) is the subject of a civil or criminal judgment or order entered by a Federal, State, regional or local COUNTY for violation of an Applicable Law, and COUNTY believes in good faith that FRANCHISEE's ability to perform under the Agreement has thereby been placed in substantial jeopardy, COUNTY may, at its sole option and in addition to all other remedies it may have, demand from FRANCHISEE reasonable assurances of timely and proper performance of this Agreement, in such form and substance as COUNTY believes in good faith is reasonably necessary in the circumstances to evidence continued ability to perform under the Agreement. If FRANCHISEE fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by COUNTY, such failure or refusal shall be an event of default for purposes of Section 18.

SECTION 22 - GENERAL PROVISIONS

A. Independent Status. FRANCHISEE is an independent entity and not an officer, agent, servant, or employee of COUNTY. To the fullest extent permitted by law, FRANCHISEE is and shall at all times shall be considered an independent contractor of COUNTY. This Agreement is between COUNTY and FRANCHISEE and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association between COUNTY and FRANCHISEE, including for purposes of Workers' Compensation. FRANCHISEE is solely responsible for the acts and omissions of its officers, agents, employees, and any subcontractors.

B. Venue, Service of Process. In the event of litigation between the parties, venue shall lie exclusively as follows with respect to litigation in Oregon courts, trial courts located in the COUNTY, or with respect to litigation in a United States District Court, located in the District of Oregon.

FRANCHISEE shall accept service of process at the address provided for notices from COUNTY under this Agreement.

C. Notices. "Notices" (or other variations thereof, such as "notify") given by either party to the other under this Agreement must be:

1. **Written:** in writing,
2. **Means:** delivered by the following means (which shall be effective at the following times):
 - personal delivery (effective immediately);
 - sent by e-mail with "read" receipt or fax with "transmission" receipt (effective immediately); or
 - registered or certified mail, return receipt requested, (effective

- three (3) days after mailing);
3. **Address:** addressed as follows (or to other address provided by a party, dated and acknowledged by the other party):

- with respect to the COUNTY:

Deschutes County
Attn: County Administrator
1300 NW Wall Street
Bend, OR 97703
Nick.lelack@deschutes.org

- with respect to FRANCHISEE:
[INSERT CONTACT INFORMATION]

SECTION 23 - DEFINITIONS AND INTERPRETATION OF AGREEMENT

A. Definitions. For ease of reading, most words that are defined terms in this Agreement are not capitalized. Words in this Agreement have the meanings given in the References or text of this Agreement, *regardless* of whether or not they are capitalized.

B. Integration. This Agreement, including any exhibits referenced herein, contains the entire agreement between the parties with respect to their rights and responsibilities under this Agreement. This Agreement completely and fully supersedes all prior oral and written understandings and agreements between the parties with respect to those rights and responsibilities. However, the parties acknowledge that the following are incorporated in this Agreement by reference:

1. All applicable provisions of DCC Chapter 13
2. All applicable provisions of ORS 459 and ORS 459A

C. Governing Law. This Agreement is governed by, and construed and enforced in accordance with, the law of the State of Oregon, without giving effect to the State's principles of conflicts of laws.

D. Severability. If any provision of this Agreement is ruled illegal, invalid, nonbinding or unenforceable by any court of competent jurisdiction, it is severed from this Agreement and this Agreement must be construed as if such provision did not exist.

E. Interpretation. This Agreement shall be interpreted and construed neither for nor against either party, regardless of the degree to which either party participated in its drafting. FRANCHISEE acknowledges that it determined to provide franchise services and to enter into this Agreement upon its own choice and initiative. Each party represents and warrants that it and its counsel have reviewed this Agreement. FRANCHISEE shall not make any claim against COUNTY based on any estimates, statements or interpretations made by any officer, employee, agent, or consultant of COUNTY in connection with the procurement of this Agreement, which proves to be wrong in any

respect.

SECTION 24 - EXECUTION OF AGREEMENT

A. Execution in Counterparts. This Agreement may be signed in any number of original counterparts, which constitute but one and the same agreement.

B. Authority to Execute. Each party respectively warrants as follows:

1. It has duly authorized the individual below to sign this Agreement on its behalf, and
2. that individual has the full right, power, and authority to bind its related party to this Agreement.

IN WITNESS WHEREOF, by direction of its Board of Commissioners, COUNTY has caused its County Administrator to sign this Agreement, and FRANCHISEE has caused its duly authorized officers to sign this Agreement, on the respective dates written below their names.

DESCHUTES COUNTY

By _____
County Commissioner

Date _____

By _____
County Commissioner

Date _____

By _____
County Commissioner

Date _____

FRANCHISEE

By _____

(Title)

Type or Print Name

EXHIBIT A
PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES

COUNTY wishes to establish standards of performance under the Agreement in each of the five (5) "Performance Areas" listed below. The COUNTY Director of Solid Waste may monitor FRANCHISEE's performance in each of those areas based on the "Performance Indicator" listed below for each area. In the event that FRANCHISEE fails to meet the performance standard established for any "Performance Indicator", COUNTY Director of Solid Waste may review FRANCHISEE's performance relative to the "Specific Performance Measures" within that performance area. In the event that the COUNTY Director of Solid Waste determines that FRANCHISEE has failed to meet the performance standard established for any "Specific Performance Measure", the COUNTY may assess Liquidated Damages pursuant to Section 21. Liquidated Damages, if assessed, shall only be assessed for the number of events, days, or other measure in excess of the acceptable performance level.

In lieu of the assessment of Liquidated Damages, the COUNTY Director of Solid Waste may first call for the implementation of a CORRECTIVE ACTION PLAN as detailed in Section 21 of this Agreement.

Defined Terms

Certain terms that are specific to this Exhibit are defined below:

"Complaint" shall mean each written or orally communicated statement made by any Person, whether to COUNTY or FRANCHISEE, alleging: (1) non-performance, or deficiencies in FRANCHISEE's performance, of its duties under this Agreement; or, (2) a violation by FRANCHISEE of this Agreement.

"Service Opportunity" shall mean each individual scheduled opportunity the FRANCHISEE has to Collect from a Container at a Customer's location. For example, a Multi-Family or Commercial Customer receiving Solid Waste Collection service three (3) times per week from two (2) Containers and Recyclable Materials Collection service two (2) times per week from two (2) Containers would have a total of ten (10) Service Opportunities each week. Service Opportunities shall be calculated based on the subscription levels presented in FRANCHISEE's most recent Quarterly Report to COUNTY.

"Total Service Opportunities" shall mean the sum of all Service Opportunities in a given time period.

Performance Area: Service Quality and Reliability

Performance Indicator: FRANCHISEE's service quality and reliability shall be considered acceptable by the COUNTY if the total number of calls and emails (including, without limitation: Complaints regarding inaccurate billing questions, missed service requests, and property damage) received by FRANCHISEE from Customers served under this Agreement does not exceed two (2) per one thousand (1,000) Total Service Opportunities in any calendar quarter. If the number exceeds this level, COUNTY may assess liquidated damages for the specific performance measures identified in the following table.

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Missed Collections	Each Service Opportunity where FRANCHISEE fails to collect a Container from a Customer who properly placed said Container for Collection within 24 hours of the scheduled collection day	Less than two (2) per one thousand (1,000) Service Opportunities	\$50/Event
Failure to Correct Missed Collection	Each "Missed Collection" as defined above less than one which is not Collected by the end of the Business Day following the receipt of the Customer complaint about the Missed Collection.	Less than one (1) per one hundred (100) Missed Collections	\$50/Event
Failure to Complete Collection Route	Each failure by FRANCHISEE to complete a Collection route without notifying the COUNTY of failure and providing a Collection plan for the following day.	Less than two (2) per one thousand (1,000) Service Opportunities	\$300/Event
Damage to Property	Each event of damage to either public or private property as a result of Collection activity, including without limitation curbs, sidewalks, landscapes, Container enclosures and gates, signs, light fixtures, and overhead wires and cables.	Less than two (2) per one thousand (1,000) Service Opportunities	\$250/Event
Inaccurate Billing	Each Complaint received where the FRANCHISEE billed a Customer in error. Inaccurate billing may include either over- or under-charging of the Customer relative to the approved Rates for services.	Less than two (2) per one thousand (1,000) Service Opportunities	\$100/Event

Performance Area: Customer Service

Performance Indicator: The level of Customer service provided by FRANCHISEE shall be considered acceptable if the total number of Complaints received by COUNTY regarding FRANCHISEE does not exceed one (1) per one thousand (1,000) Total Service Opportunities in any calendar quarter. If the number exceeds this level, COUNTY may assess liquidated damages for the specific performance measures identified in the following table.

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Failure to Commence Service	Any failure by FRANCHISEE to deliver a Container and to begin providing Collection to a Customer at the level of service requested by said Service Customer, within seven (7) calendar days of Requests receiving such request. This may include a new Customer receiving new service or an existing Customer requesting a change in or addition to existing service levels.	Less than one (1) per one hundred (100) Service Requests	\$50/Event
Failure to Replace Container	Any failure by FRANCHISEE to replace a damaged or defaced Container within seven (7) calendar days of receiving such a request from a Customer.	No acceptable failure level	\$50/Event
Failure to Resolve Complaint	Any failure by FRANCHISEE to resolve or remedy less than one a Complaint within seven (7) calendar days of such Complaint.	Less than one (1) per one hundred (100) Complaints	\$100/Event
Excessive Call Center Hold Time	Each occurrence of a call being placed "on hold" for more than two (2) minutes.	Less than two (2) per one thousand (1,000) calls received under this Service Agreement	\$50/Event

Performance Area: Facilities

Performance Indicator: FRANCHISEE's performance relative to facilities shall be considered acceptable when one hundred percent (100%) of all material types Collected by FRANCHISEE shall be delivered to the appropriate Approved Facility as required under Section 5 of this Agreement. If FRANCHISEE fails to meet this level of performance, COUNTY may assess liquidated damages for the specific performance measures identified in the following table.

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Delivery to Non-Approved Facility	Each individual occurrence of delivering Non-acceptable materials to a facility other than the	No acceptable failure level	\$100/ton

	Approved Facility designated for each material type under Section 5 of this Agreement.		
Disposal of Targeted Diversion	Each individual occurrence of delivering Recyclable Materials, Organic Materials, C&D, or Reusable Materials set out for Collection by the Customer for Disposal rather than Processing.	No acceptable failure level	\$500/ton
Mixing Materials During Collection	Each individual Container that is Collected by FRANCHISEE in a vehicle intended or designated for the purpose of Collecting a different material type (e.g. Recyclable Materials Collected in Solid Waste vehicle, Solid Waste Collected in Organic Materials Vehicle, etc.)	No acceptable failure level	\$100/Container

Performance Area: Reporting

Performance Indicator: FRANCHISEE's reporting shall be considered acceptable if Reports required under Exhibit B and record requests allowed under Section 13 to this Agreement are received, complete, and accurate within seven (7) calendar days after the date due or requested. If FRANCHISEE fails to meet this level of performance, COUNTY may assess liquidated damages for the specific performance measures identified in the following table.

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Late Report	Each occurrence of a Report, as required under Exhibit B to this Agreement, being submitted after the due date. Reports shall be considered late until they are submitted in a complete and accurate format.	Less than seven (7) calendar days after report due date	\$250/Day
Failure to Maintain or Provide Access to Records	Each occurrence of COUNTY Director of Solid Waste requesting information required to be maintained by FRANCHISEE where FRANCHISEE fails to provide such information.	Less than seven (7) calendar days after report due date	\$500/Event
Misleading/ Inaccurate Reporting	Each occurrence of FRANCHISEE providing misleading or otherwise inaccurate information or reporting to COUNTY under or in regard to this Agreement. Typographical, cell reference, mathematical, and/or logic errors shall not be considered legitimate excuses from this requirement, nor shall ignorance.	No acceptable failure level	\$500/Event

EXHIBIT B
REPORTING REQUIREMENTS

Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

- A. Determine and set Rates and evaluate the financial efficacy of operations.
- B. Evaluate past and expected progress towards achieving the FRANCHISEE's Diversion goals and objectives.
- C. Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under the Act.
- D. Determine needs for adjustment to programs.
- E. Evaluate Customer service and complaints.

Quarterly Report Content

Quarterly reports shall be presented by FRANCHISEE to show the following information for each month in the reported quarter and include a quarterly average. In addition, each quarterly report shall show the past four (4) quarters average for data comparison (the first three (3) quarters of the Agreement shall only include the available quarterly information).

A. Tonnage Report

- 1. Tonnage delivered to each Approved Facility by Customer Type, subtotaling and clearly identifying those Tons that are Disposed and those that are Diverted.
- 2. Recyclable Materials Tonnage Marketed (by commodity and including average commodity value for each) and Processing Residue Tonnage Disposed.
- 3. Organic Materials Tonnage Marketed and Processing Residue Tonnage Disposed.

B. Customer Report

- 1. Number of Customers by Customer Type.
- 2. Participation percentage by program and Customer Type where the participation percentage is calculated as the number of Customers who have subscribed to or requested service under the program relative to the number of Customers of that Customer Type subscribing to Solid Waste service. FRANCHISEE shall not be required to submit participant Customer names and addresses as part of the regular reporting; however, such information shall be provided to the COUNTY Director of Solid Waste upon request.

C. COUNTY Facilities Services Diversion Report

1. COUNTY facility Diversion rate report (i.e. volume of service by Service Type received by each COUNTY Facility and the percentage of the total Service Levels that are for Diversion services relative to the total).
2. Summary report on the programs offered to the COUNTY as described focused on when each service was provided and any issues/concerns identified.

D. Customer Service Report

1. Number of Customer calls listed separately by complaints and inquiries (where inquiries include requests for Recycling information, Rate information, etc.). For complaints, list the number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing concerns, damage claims, etc.).
2. Number of new service requests for each Customer Type and program.
3. Number of events of Discarded Materials being tagged for non-Collection summarized by the reason for tagging (e.g., inclusion of non-Recyclable or non-Compostable materials, improper setout, Prohibited Waste, etc.).
4. Number of hits and unique visitors to the FRANCHISEE's website.

E. Education and Outreach Report

1. Provide a status report of FRANCHISEE's actual activities completed compared to the annual public education plan. For each completed item, document the results including what date the activity was performed, how many Customers were targeted or participated, and what methods were used to accomplish the task, if different from the plan.
2. Summarize the Recycling opportunity assessments provided to Customers (reporting Multi-Family separate from Commercial) by identifying the number of Recycling opportunity assessments conducted each month in the most-recently completed quarter, and contact information including address, contact names, telephone number of Persons contacted, number of units (for Multi-Family), and the Solid Waste and Recyclable Materials Service Level for each complex. Include any Service Level changes resulting from such visits.
3. Dates, times, and group names of meetings and events attended.

F. Revenue Report

1. Provide a statement detailing Gross Receipts from all operations conducted or permitted pursuant to this Agreement as required by Section 13.

Annual Report Content

The annual report shall be the fourth quarterly report plus the following additional information.

A. Summary Assessment

Provide a summary assessment of the programs performed under this Agreement from FRANCHISEE's perspective relative to the financial and physical status of the program. The physical status assessment shall reflect how well the program is operating in terms of efficiency, economy, and effectiveness in meeting all the goals and objectives of this Agreement, particularly the FRANCHISEE's Diversion goals. Provide recommendations and plans to improve. Highlight significant accomplishments and problems. Results shall be compared to other similar size communities served by the FRANCHISEE in the State.

B. Cost-Based Rate Adjustment Data

Provide the following information **only if Rates are to be determined for the upcoming Rate Period using a cost-based adjustment.** With the exception of the "Financial Information" listed below, all other items listed may be requested by the COUNTY Director of Solid Waste at any time during the Term of the Agreement and FRANCHISEE shall comply with that request in a timely fashion.

FRANCHISEE understands that although all materials received by the COUNTY in connection with this Agreement are intended for the use of the COUNTY, they are potentially subject to disclosure under the provisions of the Public Records Act. The COUNTY agrees to hold financial information delivered pursuant to the requirements of this Agreement and marked "CONFIDENTIAL" as confidential and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law. In the event such financial information is requested by any party, COUNTY shall notify FRANCHISEE of the request and shall thereafter disclose the requested information unless FRANCHISEE, within five (5) Business Days of receiving notice of the disclosure request: a) requests nondisclosure; b) provides COUNTY a legally sound basis for the nondisclosure; and, c) agrees to indemnify, defend, and hold COUNTY harmless in any/all actions brought to require disclosure. This provision shall not be construed to create any legal right or claim that does not exist under the operation of Applicable Law.

1. **Financial Information.** Within one hundred twenty (120) calendar days after the close of the FRANCHISEE's Fiscal Year (ending December 31), FRANCHISEE shall deliver to the COUNTY one (1) hard copy of the consolidated financial statements of FRANCHISEE for the preceding Fiscal Year. Financial statements shall include a supplemental combining schedule showing FRANCHISEE's results of operations, including the specific revenues and expenses in connection with the operations provided for in this Agreement from others included in such financial statements.

Operational Information Summary

1. **Routes by Customer Type:**
 - a. Number of routes per day
 - b. Types of vehicles
 - c. Crew size per route
 - d. Number of full time equivalent (FTE) routes
 - e. Number of accounts and cubic yards scheduled per route
 - f. Total route hours per Customer Type per year
 - g. Average cost per route
2. **Personnel:**
 - a. Organizational chart
 - b. Job classifications and number of employees (e.g., administrative, Customer service representatives, drivers, supervisors, educational staff)
 - c. Wages by job classification
 - d. Number of FTE positions for each job classification
 - e. Number of hours per job classification per year
3. **Vehicles:**
 - a. List of collection vehicles including year purchased and mileage
 - b. Average age of mobile equipment with oldest and newest
4. **Operational Changes:**
 - a. Number of routes
 - b. Staffing
 - c. Supervision
 - d. Collection services
5. **Projections.** Provide the following projection data:
 1. Provide support for the basis for projected Gross Receipts and line-item expenses, clearly indicate the supporting calculations and assumptions

2. Provide support for the most recent twelve (12) months of Tonnage data for Rate Period ending October. Clearly indicate the supporting calculations and assumptions.



PO Box 672 Prineville, OR 97754
Phone: 541-447-5643 • Fax: 541-447-2190

February 20, 2023

Crook County Court
Attn: Seth Crawford
300 NE Third Street
Prineville, OR 97754

RE: Ordinance No. 161
Franchise for the management and collection of solid waste

Dear Seth,

This letter is to inform the Crook County Court of our intent to bid on Ordinance No. 161 when it comes available to do so. SMAF Construction, LLC or another TBD entity of like or relatively the same ownership will be the competing company.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Scott Porfily', is written over a light blue horizontal line.

Scott Porfily
Member

AGENDA ITEM REQUEST



Date:

September 18, 2024

Meeting date desired:

September 25, 2024

Subject:

Kirby Nagelhout Changer Order #250

Background and policy implications:

Construction of the new Justice Center is nearing completion. During construction, the County acquired two adjacent parcels for conversion into additional parking. The County recently closed on the second of the two parcels and is now ready to begin demolition of the structures and development of the final parking area.

This Change Order #250 includes hazardous material abatement, demolition, site prep, surveying, and construction of the parking lot, curbs, sidewalks, pole lights, and a planter wall.

Budget/fiscal impacts:

\$394,557.00

Requested by:

*John Eisler; Asst. County Counsel
John.Eisler@CrookCountyOR.gov
541-416-3919*

Presenters:

*Commissioner Barney
John Eisler*

Kirby Nagelhout Construction Co.
20635 NE Brinson Blvd
Bend, Oregon 97701
Phone: (541) 389-7119

Project: 1683 - Crook County Justice Center
Beaver and 2nd St
Prineville, Oregon 97754

Potential Change Order #250: CE #248 - PR 13 - West Parking

TO:	Crook County 300 NE 3rd Street Prineville, Oregon 97754	FROM:	Kirby Nagelhout Construction Company 20635 Brinson Blvd Bend , Oregon 97701
PCO NUMBER/REVISION:	250 / 0	CREATED BY:	Austin McGaha (Kirby Nagelhout Construction Company)
REFERENCE:		CREATED DATE:	9/12/2024
SCHEDULE IMPACT:		TOTAL AMOUNT:	\$394,557.00

CHANGE REASON: Client Request

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*

CE #248 - PR 13 - West Parking Lot 2 Addition

PR-13 added in a new parking lot next to the parking lot that was approved in PR -11. This price includes Supervision from our laborer there full time and Roger checking in 2 times a week. We will push to get the asphalt completed prior to the asphalt plants shutting down for winter. The new substantial completion date will be shifted to 11/27/24.

Included in this price is an allowance for the abatement scope (\$25k) and an alternate for Greenbar to over excavate the parking lot (\$40,173.)

Subcontractor scope of work includes:

- **Alpine Abatement**
 - Allowance included to Perform hazardous materials testing and abatement per report.
- **Greenbar Excavation**
 - Demo House
 - Sewer and water demo
 - demo Sidewalks
 - Demo Asphalt
 - Demo Curb
 - Mass Excavation
 - Swales and Concrete Prep
 - Storm Install
 - Catch Basin Install
 - Site Lighting Prep
 - Curb and Gutter Prep
 - Sidewalk Prep
 - Asphalt Prep
 - Bollard Excavation
- **GH Surveying**
 - 5 mobilizations for site survey and staking
- **JS Landscapes**
 - Site prep, irrigation, planting and mulch
- **Tomco Electric**
 - Procure and install 1 single head and 1 dual head pole lights.
- **Tri County Paving**
 - 3" compacted asphalt paving at new parking lot.
- **Van Nevel Concrete**

- Install curb and Gutter.
- Install 4" city sidewalk.
- Install 6" city sidewalk driveway with wire.
- 12" Curb at new parking lot.
- 4" sidewalk at new parking lot.
- Concrete planter wall in new parking lot.
- Bollards

• **Western Painting**

- New striping at parking lot.
- 18 bumper wheel stops.

Price Also includes extended GCs and GRs through the end of November per the attached matrix and schedule. Final completion is now 11/27.

ATTACHMENTS:

[PR 13 CCJC west parking 2 lot w maint 8.28.24.pdf](#) , [_Western Coatings price PR 13.pdf](#) , [_CCJ PR #13.pdf](#) , [_PR 13.pdf](#) , [_CCJC_Tomco CO# 079_PR13 West Parking Lot.pdf](#) , [_KNCC- Crook County Justice Center PR#13 QUOTE.pdf](#) , [_Crook County Justice Center - PR 13.pdf](#)

#	Change Event	Description	Amount
1	CE #248 - PR 13 - West Parking Lot 2 Addition	Demo / Sitework	\$96,465.00
2	CE #248 - PR 13 - West Parking Lot 2 Addition	Over Excavation Alternate	\$40,173.00
3	CE #248 - PR 13 - West Parking Lot 2 Addition	Concrete Sidewalk and Cubs	\$53,050.00
4	CE #248 - PR 13 - West Parking Lot 2 Addition	Asphalt Paving	\$17,506.00
5	CE #248 - PR 13 - West Parking Lot 2 Addition	Electrical - Light Poles	\$6,214.00
6	CE #248 - PR 13 - West Parking Lot 2 Addition	Concrete Bumpers and Striping	\$3,777.00
7	CE #248 - PR 13 - West Parking Lot 2 Addition	Surveying	\$8,750.00
8	CE #248 - PR 13 - West Parking Lot 2 Addition	Abatement Allowance	\$25,000.00
9	CE #248 - PR 13 - West Parking Lot 2 Addition	Landscaping	\$8,520.00
10	CE #248 - PR 13 - West Parking Lot 2 Addition	Building Permit	\$5,000.00
11	CE #248 - PR 13 - West Parking Lot 2 Addition	Misc Tools	\$2,400.00
12	CE #248 - PR 13 - West Parking Lot 2 Addition	Safety Materials	\$800.00
13	CE #248 - PR 13 - West Parking Lot 2 Addition	Safety Labor	\$1,344.00
14	CE #248 - PR 13 - West Parking Lot 2 Addition	Temp Power	\$800.00
15	CE #248 - PR 13 - West Parking Lot 2 Addition	Temp Toilets	\$2,400.00
16	CE #248 - PR 13 - West Parking Lot 2 Addition	Temp Water	\$650.00
17	CE #248 - PR 13 - West Parking Lot 2 Addition	Temp Protection	\$800.00
18	CE #248 - PR 13 - West Parking Lot 2 Addition	Forklift	\$11,400.00
19	CE #248 - PR 13 - West Parking Lot 2 Addition	Dumpsters	\$4,500.00
20	CE #248 - PR 13 - West Parking Lot 2 Addition	Super - Truck and IT	\$1,650.00
21	CE #248 - PR 13 - West Parking Lot 2 Addition	Super - Gas	\$800.00
22	CE #248 - PR 13 - West Parking Lot 2 Addition	Super - Labor	\$11,550.00
23	CE #248 - PR 13 - West Parking Lot 2 Addition	PM - Car and IT	\$300.00
24	CE #248 - PR 13 - West Parking Lot 2 Addition	PM - Labor	\$6,160.00
25	CE #248 - PR 13 - West Parking Lot 2 Addition	PE - Car and IT	\$300.00
26	CE #248 - PR 13 - West Parking Lot 2 Addition	PE - Labor	\$3,740.00
27	CE #248 - PR 13 - West Parking Lot 2 Addition	CA - Labor	\$2,000.00
28	CE #248 - PR 13 - West Parking Lot 2 Addition	Labor Supervision	\$36,960.00
29	CE #248 - PR 13 - West Parking Lot 2 Addition	Gas Meter Excavation	\$2,400.00
30	CE #248 - PR 13 - West Parking Lot 2 Addition	Light Pole bases	\$2,200.00
31	CE #248 - PR 13 - West Parking Lot 2 Addition	Asphalt Patching	\$4,000.00
32	CE #248 - PR 13 - West Parking Lot 2 Addition	Water Backflow Installation	\$1,800.00

#	Change Event	Description	Amount
33	CE #248 - PR 13 - West Parking Lot 2 Addition	Construction Contingency	\$10,902.00
34	CE #248 - PR 13 - West Parking Lot 2 Addition	Bonds	\$3,182.00
35	CE #248 - PR 13 - West Parking Lot 2 Addition	Insurance	\$3,586.00
36	CE #248 - PR 13 - West Parking Lot 2 Addition	CAT Tax	\$2,172.00
37	CE #248 - PR 13 - West Parking Lot 2 Addition	Fee	\$11,306.00
Grand Total:			\$394,557.00

Mark Rossi (Pinnacle Architecture)

Crook County
300 NE 3rd Street
Prineville, Oregon 97754

Kirby Nagelhout Construction Company
20635 Brinson Blvd
Bend , Oregon 97701

SIGNATURE

DATE

SIGNATURE

DATE

SIGNATURE

DATE

PR 13 - Parking Lot Add - GC's and GR's

Staffing	9/16/2024	9/23/2024	9/30/2024	10/7/2024	10/14/2024	10/21/2024	10/28/2024	11/4/2024	11/11/2024	11/18/2024	11/25/2024	Total Hours	Rate	Cost
Roger	10	10	10	10	10	10	10	10	10	10	10	110	105	11550
Amber	4	4	4	4	4	4	4	4	4	4	4	44	85	3740
Austin	8	8	4	4	4	4	4	4	4	4	4	8	56	6160
Justin	40	40	40	40	40	40	40	40	40	40	40	440	84	36960
CA	8		4				4					4	20	2000

60410

	Staffing	60410	
1-010.M	Permits	5000	
1-050.M	Misc Tools	2400	
1-055.M	Safety	800	
1-055.L	Safety	1344	
1-101.M	Temp power	800	
1-103.M	Temp Toilets	2400	
1-104.M	Temp Water	650	
1-123.M	Protection	800	
1-142.E	Forklift	11400	
1.142.L	Forklift	0	Justin Above
1-200.M	Clean Up (Dumpsters)	4500	
1-200.L	Cleanup	0	Justin Above
1-350.E	(Super) Truck and IT	1650	
1-350.M	(Super) Gas	800	
1-351.E	(PM) Car and IT	300	
1-351.M	(PM) Gas	0	
1-354.L	Layout	0	Justin Above
1-356.E	(PE) Car and IT	300	
1-356.M	(PE) Gas	0	
KNCC Cost		93554	
	Asphalt Patching	4000	
	Gas meter Excavation	2400	
	Light Pole Bases	2200	
	Water backflow Installation	1800	
	Sub Numbers	259455	

Total		363409
Contingency	3%	10902
Bonds	0.85%	3182
Insurance	0.95%	3586
CAT Tax	0.57%	2172
Fee	2.95%	11306

Grand Total	394557
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GH SURVEYING, LLC

21575 McGilvray Road, Bend, OR 97702 • Ph 541-280-4047 • Fx 541-728-0716

August 29, 2024

KNCC

**Construction Staking Quote:
CCJ – PR #13**

Scope of Professional Services Provided:

- Project setup; obtain electronic files for calculations and layout.
- Computations for all staking and layout required to construct job.
- Stake saw cut and demo limits.
- Initial site grade stakes.
- Stake offsets for all storm drain improvements and structures.
- Stake offsets for site lighting.
- Stake offsets for finish grade curb, sidewalks, driveways, ada improvements.
- Stake permanent fence as needed.

Note: Estimate is based upon 5 mobilizations to site.

Total Lump Sum = \$8,750.00

GH Surveying will provide the services listed above for the Total Lump Sum Listed. Construction staking shall be performed on a one-time basis. Any staking that is outside of this scope of work, additional mobilizations, or re-staking will be provided on a time and materials basis.

Thank You

Sincerely,

Greg S. Hopper, PLS
GH Surveying, LLC



850 NE 1st
 P.O. Box 6388
 Bend OR 97708

P: 541-389-5424
 F: 541-317-0494
 License: 33844

To: Kirby Nagelhout Construction C
 2063 Brinson Blvd
 Bend OR 97701

Change Order

Order#: 79
 Order Date: 08/06/2024

Project: 6191
 Crook County Justice Center BP1-KNCC
 63049 Lower Meadow Dr
 CC Justice- 260 NW 2nd Street-Prineville
 Bend OR 97754

The contractor agrees to perform and the owner agrees to pay for the following changes to this contract.

Plans Attached

Ordered By:

Customer Order:

Specifications Attached

Description of Work	Amount
Labor	1,321.99
Material	364.36
Pole Lights	4,492.24
Corporate Activity Tax	35.22
Penny Adjustment	0.19

Notes

This Change order is for the changes requested in PR 13.

Electrical SOW:

-Procure and install (1) single head and (1) dual head pole light for the new West Parking lot.

-Excluding excavation and pole bases.

Negative changes will lower the overall contract price requiring no additional payment by owner.

Requested Amount of Change

6,214.00

The original Contract Sum was	106,700.02
Net change by previous Change Orders	6,280,520.94
The Contract Sum prior to this Change Order	6,387,220.96
The Contract Sum will be changed by this Change Order	6,214.00
The new Contract Sum including this Change Order will be	6,393,434.96
The Contract Time will be changed by	0 Days

Owner: _____ Date: _____
 Contractor: _____ Date: _____

Job Number	11179
Bid Date	8/5/2024
Bid Time	10:23:00 AM
Square Footage	0

Material Totals

<u>Division</u>	<u>Total</u>	<u>Factor</u>	<u>Extended</u>
BASE BID	\$4,415.09	0.00 %	\$4,415.09
Total	\$4,415.09		\$4,415.09

Labor Hours

<u>Division</u>	<u>Total</u>	<u>Factor</u>	<u>Extended</u>
BASE BID	13.66	0.00 %	13.66
Total	13.66		13.66

Labor Rates

<u>Category</u>	<u>% of Total</u>	<u>Hours</u>	<u>Base Rate</u>	<u>Burden \$</u>	<u>Burden %</u>	<u>Extended</u>
Journeyman Line Voltage	100.000	13.660	\$87.98	0.00	0.000	\$1,201.81
Total	100.000	13.660	x \$87.98 (average of labor rate w/burden) =			\$1,201.81

Non-Productive Labor

<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Factor</u>	<u>Extended</u>
Total				\$0.00

Total Labor (13.66 hours) \$1,201.81

Job Subtotal (Prime Cost) **\$5,616.90**

Overhead (0.00%) **0.00**

Profit (10.00%) **561.69**

Sales Tax (0.00%) **0.00**

Job Total \$6,178.59

CAT **35.22**

Job Total with CAT **\$6,213.81**

Actual Bid Price **\$6,213.81**

TOMCO ELECTRIC, INC
6191 - CCJC_PR 13 W Parking Lot
Job Number: 11179
Bid Summary: Default
Extension By Breakdown

Item #	Description	Quantity	Price	U	Ext Price	Labor Hr	U	Ext Lab Hr
--- BASE BID ---								
2115	3/4" PVC Coupling	10	24.89	C	2.49	0.05	E	0.50
2127	3/4" PVC Elbow	4	125.05	C	5.00	0.16	E	0.64
2791	#10 THHN CU Stranded Wire	600	321.55	M	192.93	6.50	M	3.90
3107	1/8" Poly Pull Line	210	5.80	M	1.22	2.00	M	0.42
61569	3/4" PVC Conduit	200	64.80	C	129.60	2.10	C	4.20
T0003	S601 Pole Lights	1	4,083.85	E	4,083.85	4.00	E	4.00
--- BASE BID Total ---					4,415.09			13.66
Job Total					4,415.09			13.66

* Target, Labor column 2

Description:
Crook County Justice Center - Additional S601 poles / lights

Quote #2148723
Updated On: 08/06/2024

Company Name:
Tomco Electric Inc

Billing Address:
Tomco Electric Inc (15864)
850 NE First St
Bend, OR 97701-4745

Created Date:
8/6/24

Shipping Address:
735 NE 2nd
Bend, OR 97701 USA

Shipping Method:
Hold For Pickup

FOB:
Destination

Sales Person:
Shawn Black
shawn.black@platt.com

Branch:
Bend #65
5413883487

Job Account:
CROOK

Products	QTY	UNT PR / UOM	TOTALS
<input type="checkbox"/> BEACON Type: S601 Double Head	1	\$1,924.60 ⁰⁰⁰ EA	\$1,924.60
Products	Type	Mfr	Qty
<i>POLE / LIGHTS - (2) HEADS MOUNTING AT 180</i>			
BEACON	S601-POLE		1
			\$793.88 ⁰⁰⁰ EA
<i>SSSB20-40A-2-B3-DBS-UL - 20' square straight steel pole - mounting for 2 heads at 180</i>			
BEACON	S601 - head		2
			\$565.36 ⁰⁰⁰ EA
<i>VP-1/160L-35/3K8/4F/UNV/A/DBS/NXWS40F</i>			

<input type="checkbox"/> BEACON Type: S601- Single Head	1	\$1,359.25 ⁰⁰⁰ EA	\$1,359.25
Products	Type	Mfr	Qty
BEACON	S601-POLE		1
			\$793.88 ⁰⁰⁰ EA
<i>SSSB20-40A-2-B3-DBS-UL - 20' square straight steel pole</i>			
BEACON	S601-HEAD		1
			\$565.37 ⁰⁰⁰ EA
<i>VP-1/160L-35/3K8/4F/UNV/A/DBS/NXWS40F</i>			

Entire Quote:

Sub Total:	\$3,283.85
S/H:	ESTIMATED FREIGHT \$800.00
Other Charges:	\$0.00

Tax:	\$0.00
Total:	\$4,083.85

Prices are subject to change at any time prior to shipment unless agreed to otherwise in writing signed by an authorized Seller representative. Orders related to this quotation must be received, accepted and released by Seller within 48 hours of issuance of the quotation and are subject to availability. Many of Seller's manufacturing partners have advised that until further notice they reserve the right to amend the delivery date, price, scope and quantity of supply and/or other terms and conditions set out in their offer or quotation and Seller equally reserves the right to pass through any such changes from its manufacturing partners to the Buyer. Delivery dates are estimated only. Seller shall not be liable for failure to meet such dates resulting from product shortages or manufacturing delays. Be advised that Seller considers any changes imposed by its manufacturing partners and other vendors outside of Seller's reasonable control and therefore subject to Force Majeure provisions or similar common law doctrines such as "frustration" or "impossibility".

Seller's Standard Terms and Conditions of Sale are incorporated by reference into this quotation. A copy of the most current version of Seller's Standard Terms and Conditions of Sale is available at. <https://www.rexelusa.com/terms>

Full phone support at (888) 739-3577

Delivery dates are estimated only. Seller shall not be liable for failure to meet such dates resulting from product shortages or manufacturing delays.



Date: 8/6/2024

Greenbar Excavation Proposal #: 1383

Submitted To: Kirby Nagelhout Construction

Attn: Austin McGaha

Project: Crook County Justice Center – PR 11

Proposed Work Includes: Furnish and install the following:

Base Bid: \$96,465.00

• Erosion Control:	\$1,250.00
• Demo House:	\$14,500.00
• Sewer and Water Demo:	\$3,000.00
• Demo Sidewalks: 422 SF	\$1,266.00
• Demo Asphalt: 447 SF	\$894.00
• Demo Curb: 88 LF	\$792.00
• Mass Excavation:	\$9,780.00
• Swales: 2 Ea	\$3,000.00
• Concrete Prep for Swales: 203 LF	\$2,030.00
• Storm: 175 LF	\$12,960.00
• Nyoplast Basins: 2 Ea	\$8,200.00
• Catch Basins: 1 Ea	\$2,640.00
• Site Lighting: 250 LF	\$3,740.00
• Curb and Gutter Prep: 88 LF	\$1,320.00
• Sidewalk Prep: 1,175 SF	\$4,112.00
• Standard Curb Prep: 370 LF	\$3,681.00
• Asphalt Prep Parking Lot: 8,920 SF	\$22,300.00
• Bollards Excavation Only 10 Ea	\$1,000.00

Alternate (not part of base bid)

- | | |
|---|-------------|
| • Over Excavate the parking lot 1.5' and bring back structural fill | \$40,173.00 |
| ○ Priced as the same unit price as the first parking lot | |

Specifications Used for this Proposal: NA

Plans Used for this Proposal: 7/29/24

Addenda Acknowledged in this Proposal: None

Exclusions:

- Parking Stops
- Concrete
- Asphalt
- All Conduits
- Striping
- Bollards

This proposal is Greenbar Excavations' offer to your team in accordance with the provisions, terms and conditions contained herein.

Thank you for the opportunity to quote this project. If you have any questions, please feel free to call me at 541-350-6582.

Sincerely,
Sean Brown, Owner
Greenbar Excavation, L.L.C.

This proposal is void after 45 days, and may be reinstated only at Greenbar Excavation's sole option. Any contract resulting from this proposal shall be subject to mutually agreeable terms and conditions.



TRI COUNTY PAVING PROPOSAL & CONTRACT

CCB# 189644, EST. 2010

PROJECT

PROJECT NAME: <u>West Parking Lot 2 (PR#13)</u>	DATE: <u>8/19/2024</u>
SITE ADDRESS: <u>260 NW 2ND Street, Prineville</u>	REVISION # & DATE:

CUSTOMER
OWNER/CONTRACTOR: <u>Kirby Nagelhout Construction</u>
CONTACT: <u>Amber Wood</u>
MAILING ADDRESS: _____
PHONE: <u>541-420-7548</u>
E-MAIL: <u>amberw@kirbynagelhout.com</u>
ALT. E-MAIL OR FAX: _____

TRI COUNTY PAVING
CONTACT: <u>Jeff Curl</u>
ADDRESS: <u>PO Box 1621 Redmond, OR 97756</u>
PHONE: <u>541-408-4926</u>
OFFICE: <u>541-526-5800</u>
FAX: <u>541-647-6515</u>
E-MAIL: <u>jeff@tricitypaving.net</u>
WEB SITE: <u>www.tricitypaving.net</u>

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT \$\$	TOTAL \$\$
1	3' compacted asphalt paving in lot	932	sy	\$17.60	\$16,403.20
2	3' compacted asphalt patching on West 2nd St.	315	sf	\$3.50	\$1,102.50
Grand Total					\$17,505.70

INCLUSIONS/EXCLUSIONS/NOTES
*inclusions: one mobilization, CSS-1 tack application
*exclusions: prep work, saw cuts, prime coat, weed sterilants, testing, traffic control, paving risers, permits, striping
*materials: asphalt (level 2, 1/2 inch dense mix w/ PG 64-28 binder)
*any additional asphalt patching to be priced separately
*proposal based prevailing wage rates
*proposal based on plans dated 7/29/2024 for PR#13
*proposal valid thru 2024

TERMS & CONDITIONS

This proposal is made by Tri County Paving, LLC ("Seller") to Kirby Nagelhout Construction ("Purchaser"). Seller agrees to furnish all labor and materials completed in accordance with these specifications. All material is guaranteed to be as specified and all work is to be completed in a workmanlike manner according to standard practices. A limited one-year warranty on all materials and workmanship applies. Any alteration or deviation from the above specifications involving additional cost or risk to Seller will be performed only upon execution of a written change order agreed to between Purchaser and Seller, which will include any additional costs, compensation, charges and required extensions of time for performance over and above the estimate. Seller's employees are fully covered by workers' compensation insurance. Purchaser agrees to pay Seller for materials, labor and equipment used or to be purchased under this contract, plus any charges for additional materials, labor and equipment covered under a written change order. Payment is due upon Purchaser's receipt of invoice. A late charge of 1.5% per month (18% per annum) may be charged on all past due accounts over 30 days. Seller may stop all work hereunder if any account or other payable hereunder becomes 30 or more days past due and Seller shall not be responsible for any cost or delay arising from such discontinued work. Notice is hereby provided to Purchaser that a lien may be filed for material, labor and/or equipment furnished by Seller. Any and all costs associated with the collection of monies due Seller under this contract and/or written change orders will be the responsibility of Purchaser. Seller shall not be responsible for any loss or delay in performance arising from causes beyond the control of Seller (including, but not limited to, delay in delivery of materials or goods, fire, flood, strike or other casualty or act of God) or as a result of Purchaser's negligence or interference. In the event the parties become involved in litigation or arbitration, the prevailing party shall be fully compensated for its reasonable costs arising thereunder, including attorneys' fees and experts' fees. This contract shall constitute the entire agreement between the parties with respect to the subject matter contained herein. All notices which may be required under this contract shall be in writing and delivered by U.S. mail at the respective address listed above. This contract may be executed in one or more counterparts, which may be delivered by facsimile or other electronic means, and each of which will be deemed an original.

ACCEPTANCE OF PROPOSAL- The above prices, specifications and other terms and conditions contained herein are satisfactory and are hereby accepted by the parties.

<p>PURCHASER</p> <p><u>Kirby Nagelhout Construction</u></p> <p>SIGNATURE: _____</p> <p>PRINT NAME: _____</p> <p>DATE: _____</p>	<p>SELLER</p> <p><u>Tri County Paving, LLC</u></p> <p>SIGNATURE: <u>Jeff Curl</u></p> <p>PRINT NAME: <u>Jeff Curl</u></p> <p>TITLE: <u>Co-Owner</u></p>
--	--



To: Amber Wood
 Address: 260 NW 2nd St.
 Prineville, OR 97754
 Phone: 541.420.7548
 e-mail: amberw@kirbynagelhout.com

Billing: Austin McGaha
 Address:
 Phone: 831.345.9459
 e-mail: austinm@kirbynagelhout.com

August 28, 2024

Crook County Justice P.R. #13 West Parking Lot and Claypool improvements.

SCOPE OF WORK: by P.R. #11 dated 4.26.24 notes 2.e. and 2.f.

PR 11

Site Prep:		\$3,017	\$1,603
Spray areas to be improved	\$75		
Remove turf, weed or clean up of landscape areas to be improved	\$144		
Blanket compost import and place	\$0		
Pocket compost import and place for trees.	\$100		
Till/ Scarify and rough grade	\$83		
<u>Topsoil finish grades provided by owner's rep. +/- .10' below adjacent hardscapes.</u>			
Boulder Placement- 8 boulders.	\$399		
<u>Topsoil alternate if not provided.</u>	\$2,215		
Irrigation:		\$1,979	\$6,281
Controller- <u>power source provided by owner's rep.</u>	\$28		
Point of Connection- <u>valved stub provided by owner's rep.</u>	\$0		
Mainline/ wire conductor	\$0		
Valves	\$194		
Isolation/ manual control valves	\$128		
Laterals	\$272		
Heads, bubblers for trees. Stubbed laterals for drip future.	\$566		
Hardscape sleeving	\$700		
Misc. fittings and hardware	\$91		
Planting: (includes fertilizer and amendments)		\$1,496	\$2,747
Shrubs and groundcovers	\$0		
Perennials and ornamental grasses	\$0		
Gleditsia triacanthos 'Shademaster' Thornless Honey Locust-3	\$1,297		
Evergreen trees	\$0		
Fine lawn- sod	\$0		
Fine lawn- seed/ hydroseed	\$0		
Amendments- stage and place, stake and vent.	\$199		

Other:		\$1,444	\$2,311
Mulch:		\$1,444	\$2,311
	Desert Stone. 'All non-paved areas <i>except</i> drain swale.'	\$1,444	.
	River Rock	\$0	
Retaining Wall:			\$0
	Boulder		
	Block		
	Timber		
	Drainage: French Drain or other sheet technique.	\$0	
Lighting:			\$0
	Halogen		
	LED		
Water Feature/ Dry Creek Bed:			\$0
	Excavation and boulder placement	\$0	
	Underlayment and liner installation	\$0	
	Pump and piping components	\$0	
	Finish rock, foaming and sand	\$0	
Paver Patio/ walks:			\$0
	Excavation	\$0	
	Subgrade preparation and import/ place of gravel and sand	\$0	
	Install block, edge restraining and joint sweep	\$0	
	Paver sealant (*optional)	\$0	
Decorative gravel:			\$0
	Excavation	\$0	
	Subgrade preparation and import and place of decorative gravel	\$0	
	Flagstone installation and joint sweep/ fill	\$0	
	Sealant (*optional)	\$0	
Mobilization:		\$582	\$425
TOTAL- with soil backfill for tree locations.		\$8,520	\$13,368
Added Maintenance Value to West Parking Lot.- 1 Year.	\$83 per month		\$125



Notice of Right to Cancel Contract

Regarding Landscape Construction

(ORS 671.625 and HB 2292 (2023))

Oregon law allows you, the real property owner/lessee consumer, to cancel a landscaping contract within three (3) business days of signing the landscaping contract unless you, the real property owner/lessee consumer, waive your right to cancel. If you waive your right to cancel, then you agree to permit the landscape contracting business to begin work before the three-business day right to cancel period expires.

Your contractor is supplying this *NOTICE OF RIGHT TO CANCEL CONTRACT* to you as required by Oregon law.

To cancel a contract, you, the real property owner/lessee, must do the following:

1. Deliver a written "*notice of cancellation*" to the landscape contracting business with whom you signed the contract within three business days of your signing the contract.
2. Your written *notice of cancellation* may be provided by fax, electronic mail or text messaging as specified below or by hand delivering a written cancellation to the businesses place of business.
3. The written *notice of cancellation* must clearly state your intent to cancel the contract.
Three business days means three consecutive days, excluding Saturdays, Sundays, and holidays. An example of that is the contract was signed on a Friday, three consecutive business days would expire at midnight on the following Wednesday.

These are the strict procedures and deadlines that must be followed under Oregon law. Failure to follow these procedures, or to meet these deadlines, will affect your right to cancel the contract. Contact an attorney if you have any questions about these procedures and deadlines.

Landscape contracting business: Insert here all forms of electronic communication available for the real property owner/lessee to communicate with the landscape contracting business and/or physical address for hand delivery:

Text #: _____ Fax #: _____

Email Address: _____

Physical Address: _____

LANDSCAPE CONTRACTING BUSINESS:

CONSUMER:

Print business name (as it appears on contract)

Print property owner/lessee name (as it appears on contract)

Signature of Authorized Representative Date

Signature of property owner/lessee Date

Real Property Owner/Lessee: Initial here ONLY if you are agreeing to waive the three-business day right to cancel contract period and are agreeing to the landscape contracting business beginning work before the expiration of the three-business day right to cancel period [initial: _____].

Van Nevel Concrete & Curb, Inc.

PO Box 1922

Redmond, OR 97756

Estimate

Date	Estimate #
8/7/2024	2544

Kirby Nagelhout Construction Co
 20635 Brinson Blvd.
 Bend, OR 97701

Project

Description	Unit	Qty	Cost	Total
CCJC PR13 West Parking Lot				
12" Curb	lf	375	33.41605	12,531.02
Curb & Gutter	lf	90	48.69089	4,382.18
4" Conc. Sidewalk	sf	830	7.37614	6,122.20
6" Conc. Sidewalk	sf	270	11.62144	3,137.79
Concrete Planter Wall	lf	204	115.96804	23,657.48
Bollards	each	11	292.64818	3,219.13
<p>CUSTOMER TO SUPPLY: Construction stakes, all excavation, base materials and placement, traffic control, material testing if required, bonding requirements. Cold weather proection is not included, it is available @ \$0.42 lf/curb, \$0.32 sf/walk.</p>				
<p>Questions, please call.</p>			Total	\$53,049.80

Van Nevel Concrete & Curb, Inc.

PO Box 1922
Redmond, OR 97756

Estimate

Date	Estimate #
8/6/2024	2543

Kirby Nagelhout Construction Co
20635 Brinson Blvd.
Bend, OR 97701

Project

Description	Unit	Qty	Cost	Total
CCJC PR 13 West Parking Lot 2				
12" Curb				
Concrete	cy	12	222.00	2,664.00
Cure /Expansion	cy	12	1.96	23.52
Forms/Hrdw.	ls	1	120.00	120.00
Transport Vehicle/fuel	each	2	100.00	200.00
Labor	hrs	112	74.86	8,384.32
Subtotal				11,391.84
Overhead	ls	1	10.00%	1,139.18
<p>CUSTOMER TO SUPPLY: Construction stakes, all excavation, base materials and placement, traffic control, material testing if required, bonding requirements. Cold weather proection is not included, it is available @ \$0.42 lf/curb, \$0.32 sf/walk.</p>				
Questions, please call.			Total	\$12,531.02

Van Nevel Concrete & Curb, Inc.
 PO Box 1922
 Redmond, OR 97756

Estimate

Date	Estimate #
8/6/2024	2543

Kirby Nagelhout Construction Co
 20635 Brinson Blvd.
 Bend, OR 97701

Project

Description	Unit	Qty	Cost	Total
CCJC PR 13 West Parking Lot 2				
Curb and Gutter				
Concrete	cy	7	222.00	1,554.00
Cure /Expansion	cy	7	1.96	13.72
Forms/Hrdw.	ls	1	120.00	120.00
Transport Vehicle/fuel	each	2	100.00	200.00
Labor	hrs	28	74.86	2,096.08
Subtotal				3,983.80
Overhead	ls	1	10.00%	398.38
Total				\$4,382.18

CUSTOMER TO SUPPLY: Construction stakes, all excavation, base materials and placement, traffic control, material testing if required, bonding requirements. Cold weather proection is not included, it is available @ \$0.42 lf/curb, \$0.32 sf/walk.

Questions, please call.

Van Nevel Concrete & Curb, Inc.

PO Box 1922
Redmond, OR 97756

Estimate

Date	Estimate #
8/6/2024	2543

Kirby Nagelhout Construction Co
20635 Brinson Blvd.
Bend, OR 97701

Project

Description	Unit	Qty	Cost	Total
CCJC PR 13 West Parking Lot 2				
4" Concrete Walk				
Concrete	cy	11.5	222.00	2,553.00
Cure /Expansion	cy	11.5	1.96	22.54
Forms/Hrdw.	ls	1	120.00	120.00
Transport Vehicle/fuel	each	2	100.00	200.00
Labor	hrs	35	74.86	2,620.10
Concrete Saw	day	1	50.00	50.00
Subtotal				5,565.64
Overhead	ls	1	10.00%	556.56
CUSTOMER TO SUPPLY: Construction stakes, all excavation, base materials and placement, traffic control, material testing if required, bonding requirements. Cold weather proection is not included, it is available @ \$0.42 lf/curb, \$0.32 sf/walk.				
Questions, please call. *			Total	\$6,122.20

Van Nevel Concrete & Curb, Inc.

PO Box 1922

Redmond, OR 97756

Estimate

Date	Estimate #
8/6/2024	2543

Kirby Nagelhout Construction Co
 20635 Brinson Blvd.
 Bend, OR 97701

Project

Description	Unit	Qty	Cost	Total
CCJC PR 13 West Parking Lot 2				
6" Concrete Walk				
Concrete	cy	7	222.00	1,554.00
Cure /Expansion	cy	7	1.96	13.72
Forms/Hrdw.	ls	1	120.00	120.00
Transport Vehicle/fuel	each	1	100.00	100.00
Labor	hrs	12	74.86	898.32
wire	sf	370	0.45	166.50
Subtotal				2,852.54
Overhead	ls	1	10.00%	285.25
<p>CUSTOMER TO SUPPLY: Construction stakes, all excavation, base materials and placement, traffic control, material testing if required, bonding requirements. Cold weather proection is not included, it is available @ \$0.42 lf/curb, \$0.32 sf/walk.</p>				
Questions, please call.			Total	\$3,137.79

Van Nevel Concrete & Curb, Inc.

PO Box 1922
Redmond, OR 97756

Estimate

Date	Estimate #
8/6/2024	2543

Kirby Nagelhout Construction Co
20635 Brinson Blvd.
Bend, OR 97701

Project

Description	Unit	Qty	Cost	Total
CCJC PR 13 West Parking Lot 2				
Planter Wall				
Concrete	cy	17	222.00	3,774.00
Cure /Expansion	cy	17	1.96	33.32
Forms/Hrdw.	ls	1	580.00	580.00
Transport Vehicle/fuel	each	6	100.00	600.00
Labor	hrs	218	74.86	16,319.48
Generator, power tools,vibrator	ls	1	200.00	200.00
Subtotal				21,506.80
Overhead	ls	1	10.00%	2,150.68
<p>CUSTOMER TO SUPPLY: Construction stakes, all excavation, base materials and placement, traffic control, material testing if required, bonding requirements. Cold weather proection is not included, it is available @ \$0.42 lf/curb, \$0.32 sf/walk.</p>				
Questions, please call.		Total		\$23,657.48

Van Nevel Concrete & Curb, Inc.

PO Box 1922
Redmond, OR 97756

Estimate

Date	Estimate #
8/6/2024	2543

Kirby Nagelhout Construction Co
20635 Brinson Blvd.
Bend, OR 97701

Project

Description	Unit	Qty	Cost	Total
CCJC PR 13 West Parking Lot 2				
Bollards				
Concrete	cy	2	222.00	444.00
Transport Vehicle/fuel	each	2	100.00	200.00
Labor	hrs	18	74.86	1,347.48
Bollards	ls	1	935.00	935.00
Subtotal				2,926.48
Overhead	ls	1	10.00%	292.65
Hole excavation and painting by others				
<p>CUSTOMER TO SUPPLY: Construction stakes, all excavation, base materials and placement, traffic control, material testing if required, bonding requirements. Cold weather proection is not included, it is available @ \$0.42 lf/curb, \$0.32 sf/walk.</p>				
Questions, please call.				
			Total	\$3,219.13

Austin McGaha

From: Austin McGaha
Sent: Wednesday, September 4, 2024 11:03 AM
To: dougpaulabiz@aol.com; Amber Wood
Cc: Roger Snow
Subject: RE: Western Parking Lot

Doug, this will be in addition to the change order you already received for PR 11. They will be separate mobs since the county is currently acquiring the house that sits on the lot.

Austin McGaha, Senior Project Manager

KIRBY NAGELHOUT CONSTRUCTION COMPANY

BEND | PORTLAND | PENDLETON OR CCB #95590 & WA KIRBYNC888DW

Cell 831-345-9459 | **Office** 541-389-7119

www.KirbyNagelhout.com | [LinkedIn](#) | [Instagram](#) | [Facebook](#)

From: dougpaulabiz@aol.com <dougpaulabiz@aol.com>
Sent: Friday, August 30, 2024 8:44 PM
To: Amber Wood <AmberW@kirbynagelhout.com>
Cc: Austin McGaha <austinm@kirbynagelhout.com>
Subject: Re: Western Parking Lot

Hi. Apologize for delay.
Thought I had quoted this,
But believe it was for.
PR 11, The Main Half of this parking Lot?

So attached is for Just PR13,
With. PR 11. Not included?
Please let me know if I have this Right.
Thanks again for your help

[Sent from AOL on Android](#)

On Fri, Aug 30, 2024 at 8:41 PM, dougpaulabiz@aol.com
<dougpaulabiz@aol.com> wrote:

Western Parking Lot
PR 13
*(This is in Addition to PR 11 Quote).
Kirby. - Austin, Amber, Roger
Prineville Justice center
08/20/24

18 Concrete Bumpers
\$3132.00
Stripe (All Regular Traffic Paint)

\$645.00

Doug Nash
Western Protective Coatings

[Sent from AOL on Android](#)

AGENDA ITEM REQUEST



Date: 9/13/2024

Meeting date desired: 9/25/2024 (*work session*)

Subject:

**Airport – Services during construction contract / Precision Approach Engineering Inc.
Phase II Runway reconstruction project**

Background and policy implications:

FAA requires airport sponsors to contract with qualified consultants for construction management and services as they relate to FAA/AIP funded projects. Through a master contract PAE has been selected as our airport consultant. This specific contract is for the phase II, runway reconstruction/Services during construction. Services include project schedule, contractor coordination, FAA coordination, FAA reporting, on site quality control, testing and management.

Fees and services have been approved and confirmed with FAA through an independent fee estimate.

Budget/fiscal impacts:

Consultant fees on this contract are \$586,750. Project is being funded by a \$4,025,270 FAA grant and a \$250,000 state grant.

Requested by:

Kelly Coffelt Airport Manager.

Presenters:

Kelly Coffelt – Airport Manager

Legal review (only if requested):

John Eisler



U.S. Department
of Transportation
**Federal Aviation
Administration**

Northwest Mountain Region
Colorado · Idaho · Montana · Oregon · Utah
Washington · Wyoming

Seattle Airports District Office
2200 S. 216th Street, Room 1W-420
Des Moines, WA 98198

April 17, 2024

Kelly Coffelt
Airport Manager
300 NE Court Street
Prineville, OR 97754

Prineville/Crook County Airport
Prineville, OR
AIP: 3-41-0051-022-2024
Runway 15-33 Reconstruction (SDC)

Dear Mr. Coffelt:

We have reviewed your scope of work, fee proposal, record of negotiations and Independent Fee Estimate (IFE) for engineering services (construction) by Precision Approach Engineering for the subject project. Based on your analysis, we accept these costs as reasonable. Please maintain a copy of your analysis for future audit purposes.

The fee proposed for the engineering services have been approved, subject to the following conditions:

1. Please note that this is a maximum fee and the sponsor can only be reimbursed for actual costs incurred assuming associated construction work is completed.
2. Any amendments to this engineering agreement will require Federal Aviation Administration (FAA) approval.
3. If the amendments occur after the grant is issued, they will be subject to the availability of funds.
4. Design must conform to FAA standards and specifications.
5. Construction must conform to contract documents.

The following items are approved and appear eligible for federal participation, assuming the associated work is completed.

Engineering Services (construction)	\$586,750.00
--	---------------------

We encourage all sponsors to review their engineering services and construction agreements in detail and be familiar with them. Under the AIP, the sponsor is the responsible authority



U.S. Department
of Transportation
**Federal Aviation
Administration**

Northwest Mountain Region
Colorado · Idaho · Montana · Oregon · Utah
Washington · Wyoming

Seattle Airports District Office
2200 S. 216th Street, Room 1W-420
Des Moines, WA 98198

regarding the settlement and satisfaction of all contractual and administrative issues arising from the procurements entered into.

Based on the submitted record of negotiations, we concur with the listed fees established. The fees are fair, reasonable, and the result of good faith negotiations.

Please provide our office with a copy of the executed engineering agreement.

If you have not done so, please submit the following certification:

- **Sponsor Certification for Selection of Consultants.** This certification indicates that you have reviewed and followed the FAA standards and guidance in the selection of your consultant and in the negotiation process, to determine fair and reasonable fees.

If you have questions, please contact me, Chelsea.l.branchcomb@faa.gov or (206) 231-4231.

Sincerely,

Chelsea Branchcomb, PE
Project Manager, SEA-647
Seattle ADO

TASK ORDER NO. 1
RUNWAY 15-33 RECONSTRUCTION AND ASSOCIATED IMPROVEMENTS
PHASE II – SERVICES DURING CONSTRUCTION (SDC)

PRINEVILLE/CROOK COUNTY AIRPORT (S39)
AIP Project No. 3-41-0051-022-2024

Included herein is TASK ORDER NO. 1 to the Professional Services Agreement dated August 21, 2024, hereinafter called CONTRACT, between CROOK COUNTY, OREGON, hereinafter called OWNER, and PRECISION APPROACH ENGINEERING, INC., hereinafter called CONSULTANT.

WHEREAS, the OWNER has defined a PROJECT at Prineville Crook County Airport (S39) and wishes to seek the assistance of the CONSULTANT in accordance with Section A of the CONTRACT for the PROJECT listed above, and further defined in attached Exhibit A, Scope of Services for Services During Construction.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto do mutually agree as follows:

A. EMPLOYMENT OF CONSULTANT

The OWNER hereby employs the CONSULTANT, and the CONSULTANT accepts and agrees to perform the following engineering services to the PROJECT.

1. The OWNER hereby employs the CONSULTANT, and the CONSULTANT accepts and agrees to perform the engineering services for the PROJECT as described in **Exhibit A**, Scope of Services, attached.

B. OWNER'S RESPONSIBILITIES

1. The OWNER shall make available to the CONSULTANT all technical data in OWNER's possession that contain pertinent information required by the CONSULTANT relating to this work.
2. The OWNER shall pay publishing costs for the advertisement of notices, public hearings, requests for bids, and other similar items; pay for all permits and licenses that may be required by local, state, or federal authorities; and secure the necessary land, easements, rights-of-way, required for the project.
3. The OWNER shall provide access to the site as necessary to allow the performance of engineering services.
4. Other OWNER's responsibilities shall be as stated in the Professional Services Agreement.

C. COMPENSATION FOR CONSULTING SERVICES

The OWNER shall pay the CONSULTANT the appropriate fee as complete compensation for all services rendered as herein agreed and as stated in the PROFESSIONAL SERVICES AGREEMENT:

1. The OWNER shall pay the CONSULTANT for the SERVICES DURING CONSTRUCTION set forth in Exhibit A, attached, according to the labor rates shown in Exhibit B, attached, and direct non-salary expenses at actual cost. The maximum estimated total cost for these services is **FIVE HUNDRED EIGHTY-SIX THOUSAND SEVEN HUNDRED FIFTY Dollars (\$586,750)**.
2. Any amount over the maximum estimated cost for the services as set forth in Exhibit A because of a scope of work changes will be negotiated and agreed upon between the OWNER and the CONSULTANT in writing prior to the beginning of additional work.

3. The OWNER recognizes that the CONSULTANT does not control the construction schedule and that the compensation for services is dependent upon the actual time expended by the OWNER and by the Construction Contractor for construction. If the OWNER and the CONSULTANT agree that more effort than is budgeted is required to complete the construction work, the maximum estimated fee shown in C-1 above shall be increased accordingly.
4. In the event that engineering services are required in connection with this project beyond 2024, the Consultant's Hourly Rates shall be adjusted to conform with the CONSULTANT's standard rates as established for the subsequent years.
5. The CONSULTANT's direct nonsalary expenses are defined as the costs incurred on or directly for the PROJECT, other than payroll costs. Such direct nonsalary expenses shall be computed on the basis of actual purchase price for items obtained from commercial sources and on the basis of usual commercial charges for items provided by the CONSULTANT. Direct nonsalary expenses shall include, but not be limited to, necessary transportation costs, including mileage at the current rate per mile allowed by the IRS when automobiles are used and standard rates when aircraft are used, meals and lodging, laboratory tests and analyses, equipment rental, postage, shipping, printing, binding, and copying charges.

The CONSULTANT shall have the option to charge Construction Observer expenses in lieu of as stated above, as follows:

- Meals and lodging incurred by the Construction Observer(s) will be invoiced as per diem at the current standard rate allowable by the Internal Revenue Service. The Consultant shall not be required to provide documentation for meals, lodging, and incidental expenses that do not exceed the daily rate.”

D. AUTHORIZE SIGNER

Each person signing this Amendment represents and warrants that they are duly authorized and has the legal capacity to execute and deliver this Task Order to Professional Services Agreement.

WITNESSETH that the parties hereto do mutually agree to all mutual covenants and agreements contained within the CONTRACT.

CROOK COUNTY, OREGON

By: _____
Seth Crawford, Commissioner

Date: _____

By: _____
Brian Barney, Commissioner

Date: _____

By: _____
Susan Hermreck, Commissioner

Date: _____

PRECISION APPROACH ENGINEERING, INC.

By: Colby McFarland

Title: President

Date: 9/13/2024

p:\c\cco010-rw 15-33 recon\0000con\0030contract\to#1\to#1_cco010-rw15-33recon_sdc.docx

EXHIBIT A
SCOPE OF SERVICES FOR

**RUNWAY 15-33 RECONSTRUCTION AND ASSOCIATED IMPROVEMENTS:
PHASE II – SERVICES DURING CONSTRUCTION (SDC)**

PRINEVILLE/CROOK COUNTY AIRPORT (S39)
AIP Project No. 3-41-0051-022-2024
February 2024

PROJECT DESCRIPTION/JUSTIFICATION

This Phase II: Construction project is the final phase that will relocate the RW 33 threshold, widen and reconstruct Runway 15-33, and relocate both connector taxiways to the relocated RW 33 threshold at the Prineville-Crook County Airport (S39). Crook County (CC) owns and operates the Airport.

This Runway 15-33 project has been divided into two phases:

- Phase I: AGIS Survey, Design Survey, Geotechnical Investigation, Engineering Design & Bidding Services (nearing design and bidding completion-AIP 3-41-0051-021-2023)
- Phase II: Construction and Engineering Services During Construction (SDC) – (this scope of work-AIP 3-41-0051-022-2024)

Runway 15-33

Records indicate that Runway 15-33 was originally constructed sometime in the early 1940s, and per the current Airport Masterplan (2018), airport improvements aimed at increasing the efficiency and safety of the Airport date back to the 1960s when Runway 15-33 was lengthened and paved. Other important projects in the '60s and '70s included the addition of a low intensity lighting system and a second extension of Runway 15-33. Addition records also indicate that Runway 15-33 received a 1.5" asphalt maintenance overlay in 2000 and crack sealing and slurry seal projects in 2012 and 2015, respectively. The crack sealing and slurry seal projects were likely completed as part of the state's Airport Pavement Maintenance Program (PM).

The Oregon Department of Aviation's recent Pavement Evaluation/Maintenance Management Program Report (2017) identified that Runway 15-33 pavements had a PCI value in 2017 of 65-68 ("Fair"), with a project PCI value in 2027 of 37-40 ("Very Poor").

In addition to reconstructing the existing Runway 15-33 pavements, this project will address two Federal Aviation Administration (FAA) design standard changes that the current (2018) Airport Masterplan identified:

1. Runway 15-33 Width (existing width = 40 ft): per the current Airport Masterplan (2018), the Runway Design Code (RDC) for Runway 15-33 is currently B-I (small) and is to remain B-I (small) into the future. The minimum runway width to meet RDC=B-I (small) is 60 ft. For this reason, this project will widen the RW to 60 ft.
2. Runway 33 Threshold Relocation: Currently, adjacent to the Prineville-Crook County Airport (PCCA), State Highway 126, the Ochoco Highway, passes through the Runway Protection Zone (RPZ) of Runway 33. Per Federal Aviation Administration (FAA) standards, roadways are considered incompatible land use within an RPZ. For this reason, the FAA has determined that relocation of the Runway 33 threshold is required to correct the incompatible land use. This project will, therefore, relocate the existing Runway 33 threshold approximately 517 ft north to remove the overlap of the RPZ and the state highway.

FAA has also recently determined that Runway 15-33 will require a Magnetic Variance (MagVar) Change to the designation Runway 16-34. FAA has determined that this work should be completed as part of this current runway project. FAA and CC have determined that this work should be completed as part of this current Runway project. Project work elements associated with the MagVar change include associated runway pavement marking and associated airport signage updates.

In addition to the runway widening and the threshold relocation, this project will also include the following work items: Construction of two new connector taxiways serving runway 33 (both sides of the runway), installation of a new runway Medium Intensity Lighting (MIRL) system, new runway signage, update the runway pavement marking, removal of existing Runway 33 (and associated connector taxiway) pavements, complete runway Shoulder/RSA grading (RSA, ROFA, RSA beyond RW ends), and complete associated storm drain and electrical improvements.

Specific work elements included in this project:

- Reconstruct (full depth) and widen Runway 15-33 (16-34) pavements (existing width = 40 ft, widened to 60 ft to meet B-I small standards)
- Runway 33 Threshold Relocation, approximately 517 ft to the north
- Construction of a new connector taxiway from the main apron (near the fuel system) to the relocated RW 33 threshold
- Construction of a new connector taxiway from the existing aircraft hangars southeast of RW 33 to the new relocated RW 34 Threshold
- Removal of existing pavement beyond the new RW 34 threshold (includes removal of existing connector taxiways)
- Install new RW 16-34 Medium Intensity Runway Lighting (MIRL) system
- Install new Mandatory Guidance Signs for Runway 16-34 (incorporating MagVar change)
- Associated electrical improvements (includes miscellaneous improvements in the Electrical Equipment Building (EEB))
- Install new underdrains at new Runway 15-33 (16-34) structural edge of Runway
- Install new underdrains along new connector taxiways
- Associated drainage improvements
- Runway shoulder/RSA grading (RSA, ROFA, RSA beyond RW ends) and Taxiway shoulder/TSA grading (TSA and TOFA) within project limits
- New Runway 16-34 Pavement Marking (MagVar change)
- New Taxiway pavement marking

Airports Geographic Information System (AGIS) Survey

Additionally, and because the RW 33 threshold relocation project is an FAA Safety Critical project, this Phase II: Construction project will also complete an “As Built” AGIS Survey, including Safety Critical and As-Built data collection.

The FAA has determined that both phases of this project and all elements of work are justified and eligible for funding through the FAA’s Airport Improvement Program (AIP) grant program. This Phase II: Construction (this scope of work) project is currently programmed to be funded this year with a FY 2024 AIP grant, and the Phase II: Construction project is anticipated to be completed in late fall 2024 and spring 2025.

ESTIMATED CONSTRUCTION COSTS

A planning level construction cost opinion prepared in the winter of 2023 estimated construction costs of this project at approximately \$4.3 million for construction.

CONSULTANT ELEMENTS OF WORK

Precision Approach Engineering, Inc. (PAE) and its subconsultants will provide construction administration and observation services during construction (SDC) to assist S39 as listed in the Scope of Services below. Construction of improvements will follow the project Contract Document and the Federal Aviation Administration (FAA) standards and guidelines.

ANTICIPATED PROJECT SCHEDULE

It is anticipated that services associated with this Phase II – SDC work will be completed over 24 months (July 2024 – June 2026) and will generally occur as outlined below:

- Project coordination/management is anticipated to occur July 2024 – June 2026
- Project pre-construction work is anticipated to occur July-September 2024
- Project construction is planned to be completed over two (2) construction seasons-Fall 2024 and Spring 2025:
 - 1-2 months of construction is anticipated to occur October - December 2024
 - Project Winterization is anticipated to occur December 2024 – April 2025
 - 2 months of construction is anticipated to occur May – August 2025
- Project completion/grant closeout is anticipated to be completed by June 2026

SERVICES DURING CONSTRUCTION (SDC) - SCOPE OF SERVICES

Task 1 – Project Administration/Management

PAE will manage internal project efforts and coordination with S39, FAA, Stakeholders, and subconsultants.

PAE’s specific responsibilities/activities consist of:

- 1.1 Project management/administration
- 1.2 S39/contractor/user coordination
- 1.3 FAA communications, coordination, and information exchange
- 1.4 Develop documents to be used by S39 for solicitation of an Independent Fee Estimate (IFE) and provide coordination and support info as requested by S39
- 1.5 Prepare draft and final FAA grant application packages (SF424, SF5100-100, DOT Title IV, CIP data sheet, Pre-award checklist, and sponsor certifications) for S39 review and submittal to FAA
- 1.6 Contracting with S39 (includes the development of detailed scope of work, Draft and Final)
- 1.7 Coordinate with S39, develop and maintain the overall project/grant schedule
- 1.8 Coordination, communication, and contracting with subconsultants, includes the development of detailed subconsultant scope of work
 - Independent Acceptance Testing
 - Electrical Engineer
 - Miscellaneous Survey Support
 - Post Construction “As Built” AGIS Survey

- Storm Drainpipe Post Installation Inspection
- 1.9 In-house file and network management (anticipate up to 24 months)
- 1.10 Project Invoicing (anticipate up to 24 months)
- 1.11 Preparation of FAA required Quarterly Performance Reports (anticipate up to 8 submittals)
- 1.12 Provide DBE Uniform annual reporting – prepare annual FY summary of DBE participation (draft FAA “Uniform Report of DBE Awards or Commitments and Payments”) and input into FAA Civil Rights Connect system for DBE Liaison Officer (DBELO) review and submittal, with 1 telephonic meeting with DBELO per year to review reporting data and incorporation of 1 round of FAA Civil Rights staff comments followed by an updated submittal per year (anticipate 3 years of reporting – 2024, 2025, and 2026)
- 1.13 FAA Civil Rights Title VI support services
 - a. Prepare Title VI Plan based on FAA template dated 12/5/2022. Also includes data collection, information distribution, general support, coordination with Title VI Coordinator, and support services to S39 for submittal of Title VI Plan to FAA Civil Rights
 - b. Prepare Title VI Community Participation Plan (CPP) based on FAA template dated 8/30/2023. Also includes data collection, information distribution, general support, coordination with Title VI Coordinator, and support services to S39 for submittal of the Title VI Plan to FAA Civil Rights
 - c. Provide CPP Reporting (2 cycles) – Prepare annual FY summary report of CPP efforts and results, and comments for incorporation into the Airport’s Title VI Plan (FY 2025 and 2026)
- 1.14 Assist S39 with annual SF 425/SF 271 reporting at the end of the Federal Fiscal Year (anticipate 3 years – 2024, 2025, and 2026)

Deliverables:

- Project schedule
- Monthly invoices
- FAA Quarterly Performance Reports
- Title VI Plan, Title VI CPP and annual summary submittals (Draft and Final submittals)
- FAA annual reports (DBE, SF 425 and SF 271)

Task 2 – Project Startup/Contract Award

PAE will assist S39 staff with contract award.

PAE’s specific responsibilities/activities consist of:

- 2.1 Assist S39 with writing and issuing the Contractor’s Notice of Award Letter
- 2.2 Prepare conforming contract documents containing the contract, bonds, proposal, and other signature forms (anticipate up to 5 documents prepared – S39, Crook County, Contractor, FAA, and PAE)
- 2.3 Collect and compile contractor and subcontractor DBE contract data and set up DBE project files
- 2.4 Assist S39 with writing/issuing the Notice to Proceed (NTP) letters (anticipate 3 – NTP, NTP for Onsite Construction Fall 2024, and NTP for Onsite Construction Spring 2025)
- 2.5 Review and coordinate revisions to the Contractor’s proposed work schedule (anticipate 1 round of revisions)

- 2.6 Prepare and conduct two (2) pre-construction conferences (fall 2024 construction and spring 2025 construction) at S39 Airport (per FAA AC 150/5370-12B). The PM and Construction Observer to attend the meetings, includes meetings prep and travel time

Deliverables:

- Draft NTP's and NTP for Onsite Construction for S39 use
- Conforming Contract Documents (4 documents)
- Pre-construction conference meetings agenda/checkoff list
- Pre-construction meeting minutes, if requested

Task 3 – Pre-construction Work

In preparation for construction, PAE will perform pre-construction activities.

PAE's specific responsibilities/activities consist of:

- 3.1. Incorporate addenda and provide electronic drawing files to Contractor – 75 drawings (requires converting CAD files to Contractor useable format prior to providing to Contractor)
- 3.2. Review Contractor submittals and material certifications (estimate 20-25 civil submittals, including P-401 Asphalt Mix Pavements)
- 3.3. Electrical Engineer - Review of electrical submittals (estimate 10-15 submittals)
- 3.4. Review Contractor-provided Contractors Quality Control Program/Plan (CQCP) and provide 1 round of comments to the Contractor
- 3.5. Prepare Construction Management Plan (CMP) with Contractor and testing laboratory input and submit to FAA for review and approval
- 3.6. Conduct Quality Control (QC)/Quality Assurance (QA) workshop at S39 Airport. PM and lead construction observer to attend the meeting, includes meeting prep and travel time
- 3.7. Review Contractor-provided Safety Plan Compliance Document (SPCD) to the Construction Safety and Phasing Plan (CSPP) and provide comments to Contractor
- 3.8. Conduct an airport stakeholders and users' project kickoff meeting. Project Manager and lead construction observer to attend includes meeting prep and travel time
- 3.9. Set up construction files

Deliverables:

- Electronic drawing files to S39, FAA, and Contractor
- Project Submittal review comments
- Electrical Submittal Reviews
- Contractors Quality Control Program/Plan (CQCP) review comments
- Construction Management Plan (CMP) submittal to S39 and FAA
- Safety Plan Compliance Document review comments
- Meeting minutes, if requested

Task 4 – Construction Services - 93 Calendar Day On-site Construction Duration

Project Manager Services During Construction Management/Coordination during the Construction phase (anticipate up to 14 weeks for construction).

PAE's specific responsibilities/activities include:

Services During Construction Management/Coordination (Project Manager) for the duration of the project. PAE's specific responsibilities/activities include:

- 4.1 Correspondence with S39, FAA, and Contractor during construction (anticipate 2 hrs/week)
- 4.2 Participate in weekly progress meetings with S39 and Contractor, review work completed and work in progress (Up to 14 weekly meetings)
 - a. Attend up to 10 weekly progress meetings via on-line conference – anticipate 2 hrs/week, includes meeting prep and meeting follow up
 - b. On-site attendance for up to 4 weekly construction meetings. Each on-site visit will include meeting attendance and time for PM site visit. Anticipate 6 hours on-site for each site visit, plus travel time
- 4.3 On-site support of construction activities - up to 2 additional, 1-day site visits, including travel time
- 4.4 Project Manager services during Winter 2025 (project winterization) - anticipate up to 4 months of project winterization (no -onsite work)
 - c. Attend up to 4 project coordination meetings during winterization via on-line conference – anticipate 2 hrs/meeting, includes meeting prep, meeting, and meeting follow up
 - d. Correspondence with S39, FAA, and Contractor during project winterization (anticipate 6 hrs/month)
- 4.5 Prepare contract change orders and supplemental agreements with associated cost justifications as necessary (anticipate up to 2)
- 4.6 Respond to Contractor's requests for information (RFI) – anticipate up to 6
- 4.7 Prepare monthly pay estimate and letter to S39 recommending payment - includes PM and administrative support time (anticipate up to 7 total, 5 partial pay estimates and 1 Final quantity payment and 1 Release of Retainage payment)
- 4.8 Conduct a substantial completion walkthrough. PM Site visit, including travel time
- 4.9 Prepare punch list items as necessary
- 4.10 Prepare a draft substantial completion letter for S39 use
- 4.11 Construction administration and coordination with construction observer (anticipate 4 hrs/wk) during construction
- 4.12 Project Electrical Engineer Services During Construction - Electrical Engineer will provide miscellaneous field and office support services during construction. The specific Electrical Engineer responsibilities/activities consist of:
 - a. Respond to Contractor's requests for information (RFI) for Contractor's electrical work
 - b. Participate in weekly progress meetings (via on-line conference) with S39 and Contractor to review work completed and work in progress (anticipate up to 14 weekly meetings – anticipate 2 hrs/wk)
 - c. Assist with preparation of contract change orders and supplemental agreements as required for Contractor's electrical work (anticipate support for up to 1 electrical change order)
 - d. Provide coordination and support during commissioning of the new electrical equipment and systems installed, anticipate one (1), 8-hour day on-site, plus travel time and expenses

- e. Prepare, electrical systems specific, punchlist
- f. Prepare, electrical systems specific, Final Acceptance Letter

Construction Observation and Administrative Support – Assume 82 Work Days of On-site Construction. Provide full-time lead construction observer(s), and one part-time administrative support staff to monitor general conformance with plans and specifications as follows:

- 4.13 Construction Phase 1 (Fall 2024): 42 Calendar Days, assume 36 workdays on-site
 - a. One full-time (on-site) construction observer – 12-hour shifts for up to 36 workdays
 - b. One part-time (not on-site) construction administrative support staff - 4 hours per week for 6 weeks
- 4.14 Construction Phase Winter 2025 (project winterization): anticipate up to 4 months of project winterization (no -onsite work)
 - a. Coordinate and attend up to 4 project coordination meetings during winterization via on-line conference – anticipate 3 hrs/meeting, includes meeting prep, meeting, and meeting follow up
 - b. Correspondence with S39, and Contractor during project winterization (anticipate 6 hrs/month)
- 4.15 Construction Phase 2 and 2A (Spring/Summer 2025): 16 Calendar Days, assume 16 workdays on-site
 - a. One full-time lead construction observer – 14-hour shifts for 16 work days (daytime)
 - b. One part-time construction observer – 14-hour shifts for 16 work days (nighttime)
 - c. One part-time (not on-site) construction administrative support staff - 10 hours for Phase 2 and 2A
- 4.16 Construction Phase 3 (Spring/Summer 2025): 5 Calendar Days, assume 5 workdays on-site
 - a. One full-time lead construction observer – 16-hour shifts for 5 work days (daytime)
 - b. One part-time (not on-site) construction administrative support staff - 4 hours for Phase 3
- 4.17 Construction Phase 4 and 4A (Spring/Summer 2025): 28 Calendar Days, assume 24 workdays on-site
 - a. One full-time (on-site) construction observer – 16-hour shifts for up to 5 workdays
 - b. One full-time (on-site) construction observer – 12-hour shifts for up to 19 workdays
 - c. One part-time (not on-site) construction administrative support staff - 4 hours per week for 4 weeks
- 4.18 Construction Phase 5 (Spring/Summer 2025): 2 Calendar Days, assume 2 workdays on-site
 - a. One full-time (on-site) construction observer – 12-hour shifts for up to 2 workdays

In addition to construction observation to monitor Contractor’s general conformance with the contract documents, day-to-day (on-site) construction observation time noted above also includes:

- Correspondence with S39, Contractor and PAE Project Manager
- Prepare daily and weekly inspection reports; weekly inspection reports to follow FAA format and will include photos representing work performed/completed for the work period
- Participate in weekly progress meetings with Contractor, S39

- Coordinate with users/airport operations at the beginning and end of each phase during construction
- Assist with the preparation of pay estimates for Contractor's completed work, including field measurement and CAD time to verify quantities
- Coordinate with S39 for issuance of required NOTAMs
- Review acceptance testing and Contractor's quality control testing results
- Assist with the preparation of contract change orders and supplemental agreements as required
- Review and verify Contractor's submitted certified payroll for prevailing wage compliance
- Perform wage rate interviews
- Review Contractor's survey data/field survey
- Conduct a substantial completion walkthrough with S39
- Prepare punch list items as necessary

4.19 Additional Construction Observation services/costs not included in the time noted above:

- a. Time on-site prior to the start of construction for construction observer to set up field office and hold project meetings; and time on-site after construction completion to demobilize field office and debrief the project with Owner (up to 2 day) – total of 2-8 hrs days)
- b. Construction observer travel from Corvallis, OR to and from S39 during construction duration (anticipate up to 6 round trips)
- c. Assist with preparation of Final quantity payment and Final Release of Retainage payment – anticipated to occur after completion of construction

4.20 Additional administrative support staff services/costs not included in the time noted above:

- a. Review and monitor Contractor compliance with Disadvantage Business Enterprise (DBE) and Equal Employment Opportunity (EEO) contract requirements, includes contractor DBE utilization monitoring and data collection, and prompt payment data – anticipate 4 hrs per month during construction – anticipate 4 months

Deliverables:

- Weekly inspection reports to S39 and FAA
- Monthly pay estimates, including a letter recommending payment to the Contractor
- Project and Electrical RFI responses
- Project and Electrical systems punchlist
- Contract change orders/supplemental agreements/RFI responses as required
- Wage rate interviews
- Punch list documenting construction deficiencies noted during substantial completion inspection, including Electrical Punchlist items
- Electrical Systems Final Acceptance Letter
- Draft Substantial Completion letter for S39 use

4.21 Quality Assurance Inspection and Testing Services during Construction:

Employ certified laboratory to perform P-401 (Bituminous Surface Course) and P-610 (Portland Cement Concrete) Quality Acceptance sampling and testing in conformance with FAA AC 150/5370-10H.

The subconsultants specific responsibilities/activities consist of:

a. Independent Acceptance Testing

Provide P-401 and P-610 acceptance sampling and testing

The responsibilities/activities consist of:

1. Project Management/Administration
2. Prepare and submit daily testing results
3. Prepare and submit a draft report summarizing all testing results for PAE review
4. Prepare Final Report summarizing all testing results for project closeout
5. Mobilization of the lab including: MOB to site; setup, calibration, and maintenance of all laboratory equipment; consumables; and demobilization from project site including cleanup
6. P-401 Asphalt Mix Pavements testing (1.5 technicians/shift, up to 14 hours/shift, Mon. – Sat.) estimated 6,390 tons and up to 12 paving shifts
 - a) Phase 2 and 2A (Spring/Summer 2025)–Test strip: anticipate 1 paving shift
 - b) Phase 3 (Spring/Summer 2025) – anticipate 4 paving shifts
 - c) Phase 4 and 4A (Spring/Summer 2025) – anticipate up to 7 paving shifts
7. P-610 Concrete testing (anticipate up to 7 total concrete pours)
 - a) Phase 1 (Fall 2024) - anticipate up to 2 concrete pours
 - b) Phase 2 and 2A (Spring/Summer 2025) – anticipate up to 2 concrete pours
 - c) Phase 3 (Spring/Summer 2025) – anticipate up to 1 concrete pours
 - d) Phase 4 (Spring/Summer 2025) – anticipate up to 2 concrete pours

Air Content and Slump

Prepare and cure cylinders

Cylinder compressive strength testing – 7, 14 and 28 day results

Deliverables

- Daily test results submitted to PAE
- Draft and Final report summarizing all testing results
- P-610 testing reports submitted to PAE
- Final testing report to be included in FAA project closeout package

4.22 Storm Drain Pipe Post Installation Inspection

Storm Pipe Inspection subconsultant will provide inspection and documentation of the new storm pipe installed (per FAA AC 150/5370-10H, Item D-701 Pipe Storm Drains and Culverts).

The specific responsibilities/activities consist of:

- a. Clean or flush all storm lines prior to inspection
- b. Inspection and evaluation of reinforced concrete pipes (approx. 540 LF) - inspection, evaluation, and reporting will be in accordance with ASTM C1840, “Standard Practice for Inspection and Acceptance of Installed Reinforced Concrete Culvert, Storm Drain, and Storm Sewer Pipe
- c. Inspection and evaluation of flexible pipes (approx. 780 LF) - inspection will include evaluation for rips, tears, joint separations, soil migration, cracks, localized buckling, settlement, alignment, and deflection
- d. Prepare and submit inspection reports for reinforced concrete pipes and flexible pipes
 1. The inspection report for flexible pipe will, at a minimum, include the deflection results and final post-installation inspection report, a copy of all video taken, pipe location identification, equipment used for inspection, inspector name, deviation from design line and grade, and inspector’s notes
 2. The inspection report for reinforced concrete pipe will include results of all inspection/evaluation items outlined in ASTM C1840, the final post-installation inspection report, a copy of all video taken, pipe location identification, equipment used for inspection, inspector name, deviation from design line and grade, and inspector’s notes

Deliverables

- Draft Inspection Report
- Final Inspection Report to be included in FAA project closeout package

Task 5 - Post Construction “As-Built” AGIS Survey

Per FAA Advisory Circular (AC) 150/5300-18B (18B), the Airports GIS Transition Policy dated August 23, 2012, and FAA NWMR Engineering Guidance 2013-04 the following Safety-Critical Project activity triggers AGIS Survey requirements:

- Relocate or move a runway end or threshold more than 1 foot longitudinal

Per discussions with the FAA, the Predesign Phase I scope of Work for this project included completion of an “As Design” AGIS Survey in compliance with ACs 150/5300-16A, 150-5300-17C, and 150/5300-18B-Change 1. This scope includes completion of an “As Built” AGIS Survey incorporating the following elements from Table 2-1 of the 18B AC:

- Navigational Aid Siting: Visual
- Construction: Airside
- Pavement Design, Construction, Rehabilitation or Roughness

Including additional data as listed below.

AGIS Subconsultant will provide the necessary airspace analysis, airport geodetic control, ground survey, and associated aerial imagery.

PAE will submit data collected and required deliverables, in the specified format(s), as outlined in the appropriate advisory circulars. Data submissions to the FAA will be electronic, through the program’s website at <https://adip.faa.gov/>. The website also provides guidance on the proper preparation of data for the National Geodetic Survey (NGS) for submission and verification.

PAE and AGIS Subconsultant’s specific responsibilities/activities consist of:

- a. “As Built” AGIS survey elements for Airport and Runway 11-29 as listed in Table 2-1 of 18B including:
- *Provide Statement of Work*
 - *Provide a Survey and Quality Control Plan*
 - *Provide Remote Sensing Plan*
 - *Establish or validate Airport Geodetic Control (S39 does not currently have PACs or SACs)*
 - *Perform, document and report the tie to National Spatial Reference System (NSRS)*
 - *Survey Runway end(s)/threshold(s) – (RW 16-34)*
 - *Monument Runway end(s)/threshold(s) – (RW 16-34)*
 - *Document Runway end(s)/threshold location(s) – (RW 16-34)*
 - *Determine or validate Runway length – (RW 16-34)*
 - *Determine or validate Runway width – (RW 16-34)*
 - *Determine the Runway profile using 50-foot stations – (RW 16-34)*
 - *Determine the touchdown zone elevation (TDZE) – (RW 16-34)*
 - *Determine or validate and document the position of navigational aids*
 - *Perform or validate and document an airport airspace analysis - (Non-Vertically Guided: RW 16, 34)*
 - *Collect or validate and document airport planimetric data - (project limits)*
 - *Perform or validate a topographic survey - (project limits)*
 - *Document features requiring digital photographs*
 - *Document features requiring sketches*
 - *Collect imagery*
 - *Provide a final Project Report*
- b. PAE AGIS data review and submittal – PAE will review the AGIS survey data and required deliverables, and coordinate submission of deliverables to FAA for review.

Deliverables:

- “As-Built” AGIS survey updates and associated required deliverables in the formats specified in advisory circular 150/5300-16A, 150-5300-17C, and 150/5300-18B-Change 1 to the FAA Office of Airports, Airports Surveying-GIS Program. All data submissions to the FAA will be through the program’s website at <http://airports-gis.faa.gov> .

Task 6 – Project Closeout - (per NWMR Engineering Guidance 620-05)

PAE will assist S39 with the closeout of the project.

PAE’s specific responsibilities/activities consist of:

- 5.1 The Project Manager to coordinate, and the construction observer and PM to attend the final inspection, includes PM travel time – anticipate Final inspection to occur while construction observer is still onsite as outlined in Task 4 above
- 5.2 Obtain release of liens from prime contractor and subcontractors
- 5.3 Compile and summarize DBE data to be included in the final construction/project report – anticipate up to 6 hrs
- 5.4 Draft final completion letter for S39 use

- 5.5 Create Electronic AutoCAD Record Drawings from Contractor-provided markups (75 sheets) and prepare electronic and printed sets of deliverables
- 5.6 Review final project test results and finish grade survey
- 5.7 Update Airport Layout Plan (ALP) set to reflect project improvements – anticipate updates to eleven (11) sheets; includes one (1) draft review submittal and one final submittal
 - *Airport Layout Plan Cover Sheet – Sheet 1/15*
 - *Airport Data Sheet– Sheet 2/15*
 - *Airport Layout Plan– Sheet 3/15*
 - *Airport Airspace Drawing – Sheet 5/15*
 - *Runway 15 Inner Approach Surface Plan and Profile – Sheet 8/15*
 - *Runway 33 Inner Approach Surface Plan and Profile – Sheet 9/15*
 - *Terminal Area Drawing – Sheet 11/15*
 - *Airport Land Use Plan – Sheet 12/15*
 - *Airport Noise Contours – Sheet 13/15*
 - *Airport Property Map – Sheet 14/15*
 - *Airport Utilities Plan – Sheet 15/15*
- 5.8 Coordinate updates for FAA Chart Supplements (formerly the Airport Facility Directory) associated with airport data and sketch. Includes updates to text and airport diagram
- 5.9 Prepare and submit FAA-format Final Report (per FAA checklist for final construction report requirements EG 2013-12), to include the project financial information, which will require coordination with S39 records
- 5.10 Assist S39 with AIP grant closeout

Deliverables:

- Final Completion/inspection and acceptance letter
- PDF record drawings to S39 and FAA
- Draft ALP submittal in PDF format for S39 and FAA review
- Final ALP submittal in PDF format to S39 and FAA
- FAA chart supplement updates
- Project DBE reporting
- Final project closeout report

ASSUMPTIONS

This scope of services provides for a general review of the Contractor’s work for general conformance with the contract documents and does not include the performance of any further special studies or services beyond those specifically stated. Should the project be found to require further studies or services, a revised scope of services and fee proposal will be required.

Project travel - All PAE staff providing on-site SDC services on this project will originate from PAE’s Corvallis, Oregon office.

The following items are specifically identified and not included in this scope of services:

- Construction Survey - It is intended that all construction layout and staking associated with this project shall be scheduled and performed by a state licensed Professional Land Surveyor hired and paid for by the construction Contractor.
- Material Testing - Except for P-401 and P-610 Acceptance Sampling and Testing, all other material testing is to be scheduled, paid for, and performed by the independent testing laboratory hired by the

Contractor. Construction services associated with testing will include a review of test results for conformance with project specifications.

- Environmental – National Environmental Policy Act (NEPA) environmental requirements: Previous coordination with the FAA identified that the scope of work associated with this project will not require additional environmental investigation or studies. No additional Environmental work is anticipated or included in this project.

EXHIBIT B
OREGON
2024 STANDARD LABOR RATES

Classification	2024 Rate
ADMIN 1	\$88.60
ADMIN 2	\$103.40
ADMIN 3	\$119.00
ADMIN 4	\$132.60
ADMIN 5	\$148.00
ADMIN 6	\$163.00
TECHNICIAN 1	\$118.80
TECHNICIAN 2	\$132.60
TECHNICIAN 3	\$148.00
TECHNICIAN 4	\$166.00
TECHNICIAN 5	\$185.60
TECHNICIAN 6	\$208.20
TECHNICIAN 7	\$231.00
ENGINEER 1	\$148.60
ENGINEER 2	\$166.80
ENGINEER 3	\$182.00
ENGINEER 4	\$201.80
ENGINEER 5	\$231.00
ENGINEER 6	\$262.00
ENGINEER 7	\$294.80
ENGINEER 8	\$329.00
ENGINEER 9	\$368.80

All meals and incidentals shall be at the current federal government rate and government per diem price(s) in effect at the time the charge(s) are incurred. Consultant shall have the option to charge actual meals and incidentals, on the basis of the actual purchase price in no case shall actual purchase price exceed the per diem rate, unless otherwise agreed upon in writing. Expense items that are incurred that are not meal and incidental related shall be expensed on the basis of the **actual purchase price** for items obtained from commercial sources and on the basis of usual commercial charges for items provided by the Consultant. Direct nonsalary expense shall include, but not be limited to, necessary transportation cost, including mileage when automobiles are used and standard rates when aircraft are used, meals and lodging, laboratory tests and analyses, equipment rental, postage, shipping, printing, binding, and copying charges.

AGENDA ITEM REQUEST



Date:

September 12, 2024

Meeting date desired:

September 25, 2024

Subject:

Consideration of options regarding prosecution of dog-as-a-public nuisance code violations

Background and policy implications:

Attached is a memo describing how the County's animal control ordinance has been applied since the summer of 2023, and what options there may be to alter that practice. Each option includes a discussion of disadvantages.

Budget/fiscal impacts:

The greatest fiscal impact involved is an opportunity cost for other County functions.

Requested by:

*Eric Blaine; County Counsel
Eric.Blaine@CrookCountyOR.gov
541-416-3919*

Presenters:

Eric Blaine, County Counsel

Legal review (only if requested):

Legal drafted

Elected official sponsor (if applicable):

N/A

Crook County Counsel's Office

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MEMO

*For Work Session
September 25, 2024*

TO: Crook County Board of Commissioners
FROM: Crook County Legal Counsel's Office
DATE: September 12, 2024
RE: Options regarding the prosecution of dog-as-a-public nuisance violations
Our File No.: Sheriff # 228

The County Code, Chapter 6.04, contains rules governing how individual keepers of dogs are responsible for their conduct. Since the summer of 2023, when these cases started being referred to the County Counsel's office, there have been not fewer than 37 separate citations – roughly an average of 2.6 per month. While some of these citations result in the accused merely paying a fine, many require proceeding to trial.

Dog-as-a-public-nuisance trials are taking up a considerable amount of our office's time, and unfortunately, may not offer a great deal of value to the County. Prosecuting these cases requires reviewing police reports, drafting and filing complaints, interviewing witnesses and informing them what they can expect from the trial, reviewing evidence (some of which is presented the day of the trial itself), issuing and serving subpoenas on witnesses, conducting the trials, drafting and serving proposed judgments, and where necessary, conferring with the circuit court if individual victims do not receive restitution in a timely manner. In one instance, the County had to prepare for and conduct the same trial three times: once because the presiding judge cancelled the trial about an hour before it was scheduled; once because the trial had been scheduled for only half an hour, and a separate matter (admittedly, more important) had been scheduled immediately after; and once to finally finish the matter. The presumptive fine for any violation is \$265.00, with a maximum fine of \$1,000.00. However, the courts have been reluctant to impose the maximum fine, even for habitual offenders.

In addition to staff time from the County Counsel Office, processing these matters requires the investment of Sheriff's Office staff time – serving subpoenas, compiling and providing evidence, and sometimes testifying at the trial itself.

Each of the components are individually manageable. However, they aggregate to a large volume of work that is otherwise not available for other County purposes. I am writing this memorandum to describe potential avenues to addressing this issue, including disadvantages to any particular option.

It is my hope that the Board of Commissioners can examine these advantages and disadvantages, and determine whether to maintain the status quo, or to undertake any revisions to its current process.

Again, none of these options are without downsides. Each option, including the status quo, will require sacrificing something meaningful.

Option 1: Revising the code to reduce the number of citable offenses.

How it would work: The Code currently encompasses over 20 separate violations. Some of these, like killing chickens, menacing persons, or chasing domestic animals, are serious. Others, like a dog wandering at large on public property, are less so. The Code could be revised so that certain offenses are no longer subject to citation, reducing the number of citations simply by deeming the matter legal. Simply as an example, the County could simply state that dogs wandering at large is no longer a citable offense, unless the dog menaces a person, damages property, or causes some other type of meaningful harm.

This would require an ordinance with the familiar requirements of public hearings and, potentially, an emergency clause.

Disadvantages: Any amendment to the Code would require informing Sheriff's deputies as to the significance of the changes, and, in particular, what is no longer a citable offense. The County would then need to face the possibility that members of the public complain that they are no longer able to sign citations for conduct that had previously been citable.

Option 2: Revising the code to require warnings before issuing a citation. The Code currently permits an immediate citation, without warning, for most offenses. In one instance, however, the Code requires an escalating warning system before citations are issued. When the offense involves a dog continuously barking or creating noise, the steps are:

- (i) First Occurrence – Strike One. Keeper would be given a documented warning advising the keeper of the violation;
- (ii) Second Occurrence within 30 Days – Strike Two. Keeper would receive a citation for the violation and a documented report submitted to the circuit court;
- (iii) Third Occurrence within 30 Days – Strike Three. Keeper would receive another citation and keeper's dog may be impounded and lodged at an approved facility;
- (iv) If any violations of continuous annoyance occur after a 30-day period during the three-strike rule timeframe, the process would start over with strike one.

How it would work: The Code could be revised so that other offenses, particularly the offense of dogs wandering at large, would require a similar system. This would reduce the number of instances which are subject to citation. Other offenses, such as trespassing, might be subject to a two-strike system, or some other truncated version of the above. The most serious offenses may remain immediately citable.

As discussed above, amending the code would require an ordinance, including public hearings and potentially an emergency clause.

Disadvantages: Keeping track of the warnings will incur an administrative burden on the Sheriff's Office, and in the event that a citation is issued, the County will need to demonstrate that it followed this system as an additional element of proof. The Code changes will require that Deputies are informed of the revisions, as well.

Option 3: Revising the code to require a different department prosecute these citations.

How it would work: The Code currently states that the County Counsel's office prosecutes these particular code violations. It can be amended to require some other office do so instead.

Disadvantages: The most obvious disadvantage is that this option would not diminish the amount of work required; it would simply require others to perform that same amount of work.

Long before this option is implemented, the potentially affected departments ought to be consulted for their views, and any objections or reservations taken seriously.

Option 4: Engage an outside counsel firm to prosecute these citations.

How it would work: The Board of Commissioners can select and engage an attorney for the purposes of prosecuting dog-as-a-public-nuisance cases. The attorney would likely charge either an hourly rate, or a flat per-case fee. The outside attorney would thereafter represent the County, meet with witnesses, compile evidence, present at trials, and prepare judgments for the circuit court's consideration.

Disadvantages: While I can only guess at the rates an outside attorney would charge, the County can expect to spend several hundred dollars per citation. Those fees would rack up quickly, and the County would need to decide where the funds to pay for these services would come from.

Option 5: Revising the code to create a new administrative hearing process, whereby the complainants themselves prosecute their complaints.

How it would work: The County Code includes a chapter for administrative hearings, and something similar could be adopted whereby complaints are referred to a hearings officer. However, instead of having the Environmental Health Officer or Code Compliance Officer prosecute the case, the complaining private citizens would be responsible for doing so. This would mean that the citizens would be responsible for compiling and presenting evidence, obtaining witnesses, examining and cross-examining witnesses, and otherwise be responsible for proving the elements of the complaint.

Disadvantages: Members of the general public may find the requirements of prosecuting the cases to be daunting. They may seek to present irrelevant evidence or testimony, or not understand the order of a trial (who presents when, how cross examination is conducted, what objections may be raised, etc.) This may lead to frustration by the complainants, the defendants, and the hearings officer. Further, the costs for the hearings officer would need to be allocated as well.

The County previously maintained an animal control board, but based on our experience with that process, I believe that a hearing officer would be better suited. Part of the issues with a board is that its deliberations would be subject to public meetings laws, and in all likelihood, the members would be unfamiliar with rules of evidence or court procedures. They would likely want to have legal guidance on how to manage their meetings including what the code states, what the rules of evidence are and how they are applied, and who is entitled to speak at what point in the hearing (the prior board did), which would end up requiring a considerable investment of time.

Option 6: The Board of Commissioners creates criteria for when citations are and are not brought to trial, to be applied ministerially.

How it would work: The Board could establish a chart or matrix, taking into consideration the different circumstances that each complaint may present, and the other obligations which the Board places on the County Counsel's Office. Like the Jail's matrix for deciding when a given inmate is to be released from custody, this chart would establish a means by which more severe complaints are given a higher priority (and are thus more likely to proceed to trial) while still allowing the Board to establish other obligations on the Office's time and energy.

As an example, factors which would increase or decrease the rating on a given dog-as-a-public nuisance complaint may include: whether the same dog or same keeper has been previously convicted, and if so, how often and how recently; whether any person or animal was injured or menaced; whether the County is involved in other litigation or complaint proceedings which have a larger dollar value than the possible fines than a given dog nuisance complaint; the number of other review or drafting projects assigned to the County Counsel Office, and whether the affected department categorizes it as a higher priority than the nuisance complaint; or whether the Board of Commissioners has established a critical priority for a different project.

Disadvantages: Choosing what factors to include on the matrix, what relative weight to give each factor, and where to establish the line of take-to-trial/don't-take-to-trial, will require a judgment call. The Board would need to feel comfortable with knowing that any such judgment will not please everyone, and there will be instances where either (a) a department is informed that they must wait on their project, because time must be devoted to a dog nuisance trial, or (b) a private citizen is informed that their complaint will not be prosecuted, because other projects take precedence. All of this can be done, but it will require the County to endure the consequences of these decisions.

Option 7: Status quo. The County Counsel's Office will continue to prosecute dog-as-a-public nuisance cases as it has been.

Disadvantages: Staff will continue to devote the time and energy necessary to carry through the complaints to trial. As discussed above, this will involve interviewing and meeting with witnesses (sometimes after normal business hours), compiling evidence, preparing questions, subpoenaing attendees, preparing judgments, and where necessary, conferring with the Court if there are any issues with restitution for victims.

These steps are eminently feasible; however, they aggregate into something that requires the investment of a substantial amount of time, for which there is an opportunity cost. Other matters will necessarily be delayed. The maximum fine is \$1,000.00, with a presumptive fine of \$265.00. The commissioners should decide if this is the best use of our office's time and energy.

AGENDA ITEM REQUEST



Date:

September 13, 2024

Meeting date desired:

Work session September 25, 2024; Regular meeting October 2, 2024

Subject:

Order 2024-43, update to the County's biennial Equal Employment Opportunity Plan

Background and policy implications:

The County receives a number of grants, either directly from the federal government, or through the State, which may require the County to adopt and maintain an Equal Employment Opportunity Plan (EEO). As described by the USDOJ, "An Equal Employment Opportunity (EEO) plan is a comprehensive document that analyzes a recipient's relevant labor market data, as well as the recipient's employment practices, to identify possible barriers to the participation of women and minorities in all levels of a recipient's workforce. Its purpose is to ensure the opportunity for full and equal participation of men and women in the workplace, regardless of race, color, or national origin." The County's current EEO has an expected duration of October 1, 2022 through September 20, 2024. The attached Order 2024-43 would promulgate a new biennial plan, including workforce analysis.

Budget/fiscal impacts:

The plan itself does not require any additional expenses beyond implementing current County policy. The failure to adopt and maintain a plan may result in the inability to apply for future grants, or the noncompliance with current grant requirements.

Requested by:

*Eric Blaine; County Counsel
Eric.Blaine@CrookCountyOR.gov
541-416-3919*

Presenters:

Eric Blaine, County Counsel

Legal review (only if requested):*Legal drafted Elected official sponsor (if applicable):N/A*

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF CROOK

IN THE MATTER OF ADOPTING)
THE CROOK COUNTY EQUAL) ORDER NO. 2024-43
EMPLOYMENT OPPORTUNITY)
PLAN FOR 2024-2026)

WHEREAS, as part of its obligations under certain state and federal grants, grant recipients like Crook County may be required to adopt an Equal Employment Opportunity Plan; and

WHEREAS, the requirements of the Equal Employment Opportunity Plan are prescribed by rules adopted by the U.S. Department of Justice; and

WHEREAS, Crook County is committed to furthering the goals of providing equal employment opportunities for its employees and its job applicants, now and in the future.

NOW, THEREFORE, the Crook County board of commissioners adopts the recitals above, and ORDERS and DIRECTS, based upon the above recitals, that the Equal Employment Opportunity Plan attached to this Order be adopted for the period of October 1, 2024 to September 30, 2026.

BE IT FURTHER ORDERED that County staff members are directed to take those steps necessary to promulgate the adopted plan as described under applicable law and the terms of the plan itself.

BE IT FURTHER ORDERED that County staff are directed to complete all necessary ancillary documentation as may be required under applicable law.

DATED this ____ day of _____, 2024.

CROOK COUNTY BOARD OF COMMISSIONERS

Commissioner Seth Crawford

Commissioner Susan Hermreck

Commissioner Brian Barney

Crook County Equal Employment Opportunity Plan

Grant Title:	Multiple Grants
Grant Number:	Multiple Grants
Grantee Name:	Crook County
Award Amount:	Multiple Award Amounts
Address:	300 NE Third St.
Prineville, OR 97754	
Crook County Contact Person:	Human Resources Director
Telephone Number:	(541) 416-3962
Date and Effective Duration of EEOP	October 1, 2024 to September 30, 2026

Equal Employment Opportunity Statement:

Crook County makes an affirmative acknowledgement that it adheres to the laws and principles of providing equal employment opportunities. Job and volunteer applications include the phrases "Equal Opportunity Employer" as does the County's human resources webpage. Further, the following statement is included on the second page of the Crook County employee handbook, which is made available to each new employee upon hiring and is periodically updated. The employee handbook is also posted on the County's website (available to the general public) as a word-searchable PDF document, which may be downloaded free of charge.

EQUAL EMPLOYMENT OPPORTUNITY:

It is the policy of Crook County to employ, retain, promote, discharge and otherwise assess all job applicants and employees on the basis of their merits, qualifications and competence. Crook County is an equal opportunity employer, and as such, we consider individuals for employment according to their abilities and performance. Employment decisions are made without regard to age, disability, race, color, national origin, religion, sex, sexual orientation, veteran status, military status (except for Veterans Preference as described in the employment application), association with members of a protected class, marital status, injured worker status, non-supervisory family relationships, or any other protected class or work relationship. All employment requirements mandated by State and Federal laws and regulations are observed.

Any job applicant or employee who believes he or she has been discriminated against because of any protected classification is encouraged to bring his or her concern to the County Counsel who is the designated EEO Officer for the County. Concerns will be investigated immediately and resolved in accordance with Oregon and federal laws. (If the complaint relates to the County Counsel, the job applicant should bring his or her concern to the County Judge.)

The County evaluates its current equal employment opportunity plan once every two years, or sooner if there is need, to help ensure that the plan reflects the County's

current practices and the current state of the law. The plan is presented at a public meeting of the Crook County Board of Commissioners and deliberated upon prior to enactment. Upon approval of the plan, the original is formally recorded in the records of the Crook County Clerk, and additional copies are available for inspection upon request.

Purpose of the Equal Employment Opportunity Plan:

To explain the idea animating the Federal requirement to draft an Equal Employment Opportunity, it may be useful to start by explaining what is NOT its purpose.

- The EEOP does not require any kind of hiring quota or disparate treatment.
- The EEOP does not mandate any particular type of hiring method.
- The EEOP does not require that the County's workforce exactly match, or even approach, the proportion of the workforce in the wider community within any particular category.

Instead, the purpose of the EEOP requirement is to gather information, and for public agencies to consider in good faith whether the data collected indicates something meaningful. The County is to examine its workforce's demographics, and examine them in the context of reliable comparator information. If there is a disparity, the County is then able to determine whether this might be the result of invidious discrimination, or whether it might be due to innocuous, non-discriminatory causes (including random chance, or the individual choices of private citizens.)

The EEOP is therefore a tool for review and consideration, but not a mandate to undertake any particular action unless the County determines that unlawful discrimination may in fact have been the cause of the disparity. By being armed with such knowledge, the County can thereafter take those steps appropriate to ensure that its hiring practices afford equality of opportunity to all its residents, as the Constitution requires.

Note on Nomenclature:

As more fully described below, determining whether the County's own employee pool over-or-under- represents a particular category requires comparison against the local community. That can lead to confusion as to whether a given paragraph is discussing Crook County as an employer, or Crook County as a community.

For the sake of clarity, in this Equal Employment Opportunity Plan, the term "Crook County" or "the County" will refer to the County as an employer; and the term "community" will refer to the local community workforce population as a whole.

Workforce Comparison Narrative:

In determining whether the County as employer is significantly over-representing or under-representing particular demographic groups in its employee pool, the County draws upon two sources of information. The first is the U.S. Census Bureau American

Fact Finder report EEO-ALL06W for Crook County¹, updated January 31, 2022. This report provides information about the county-wide employee pool along three axes: gender (two options), race/ethnicity (six options), and job categories (eight options). The American Fact Finder therefore tracks 96 separate entries for the county-wide workforce.

The second source of information is the EEO-4 form, promulgated by the U.S. Equal Employment Opportunity Commission. Crook County is responsible for filling in the form that the EEOC publishes, based upon the compilation of its own employment data. The EEO-4 form requires entries along three axes: gender (two options), race/ethnicity (seven options), and job categories (eight options). The EEO-4 form therefore tracks 112 separate entries for Crook County's employee workforce.

Data Comparison Issues:

As has been discussed in previous Crook County EEOP's, comparing these two sources of information presents some challenges.

1. *Comparing categories between the Census and EEO-4 form.*

First, while the two documents have the same number of job categories, they do not have the same names for the job categories. For instance, the EEO-4 lists a category entitled "para-professionals," whereas the American Fact Finder does not. Meanwhile, the American Fact Finder report includes two separate types of protective service employees, "sworn" and "unsworn," whereas the EEO-4 form only includes a single category for protective service employees.

For the purpose of this EEOP, the County will compare the following categories against each other:

American Fact Finder category titles	EEO-4 category titles
Officials/Administrators	Officials/Administrators
Professionals	Professionals
Technicians	Technicians
Sworn Protective Services; Unsworn Protective Services	Protective Services
Administrative Support	Administrative Support, Para-Professionals
Skilled Crafts	Skilled Crafts
Service/Maintenance	Service Maintenance

¹ The report is entitled "Crook County, Oregon EEO-ALL06W - State/Local Government Job Groups by Sex and Race/Ethnicity for Worksite Geography, Total Population (Universe: Civilian employed at work 16 years and over)."

2. *Reconciling the different ethnic/racial categories.*

In prior years, the differences between the EEO-4 form and the Census data were even greater than today (e.g. comparing 128 categories in the latter versus 240 categories in the former.) Much of the scale of differences could be attributed to the number and manner in which racial and ethnic groups were tracked between those two forms. For instance, for years the EEO-4 form included “Hispanic” as a separate racial category, while the Census’ American Fact Finder report used the term “Hispanic/Latino”² as an ethnic signifier. This meant that in earlier versions of the EEO-4, an individual could either be Hispanic, or some other racial group; while for the Census report, someone could be simultaneously Hispanic/Latino and White, or Hispanic/Latino and Native American. This difference, in particular, made comparisons between the two sources of information difficult.

This divergence, unfortunately, continues. For the purposes of comparing the two sources of information, the County will treat the term “Hispanic” in the same manner as the EEO-4 report, in the hopes that this will help elucidate whether there are any significant disparities in the workforce. Further, while in prior iterations of these reports, there were entries for individuals claiming two or more racial categories, the reports used for this Plan have eliminated such entries.³

3. *Contradictory data between the two sources.*

In previous years’ Crook County EEOs, there had been instances where the data from one source showed individuals within one of the categories which was not mirrored in data from the other source for that same (or comparable) category. For instance, the County’s EEO-4 form might show that it had individuals within the Female Native Hawaiian/Pacific Islander Professionals category, where the Census data showed zero such persons in the community workforce.

This is not unexpected, as the Census Data was published on January 31, 2022, and the County’s workforce data is more recent. As shown on the attached chart, there are seven such categories where the County has at least one employee, but the Census data states there are zero such employees in the wider community workforce. Fortunately, however, in none of those seven categories are there 30 employees – as explained below, the US DOJ advises that categories with 30 individuals or fewer may be disregarded for determining whether there is any significant demographic disparity.

² While often used interchangeably, the two terms mean different things. “Hispanic” refers to someone who traces his or her ancestry back to Spain. “Latino” refers to someone who traces their ancestry back to Latin America. A person can be one, or the other, or both.

³ While the decision of the Census Bureau to discontinue these entries may seem dramatic, in Crook County’s case, the number of individuals claiming such categories was extremely low. For instance, for the Census data used in the 2017 Crook County EEO, the total number of individuals claiming two or more categories was less than 40 in the entire community, out of a population in excess of 20,000 (two tenths of 1%). The vast majority of the two-racial group combinations in the Census data had zero local individuals listed.

Analysis Chart:

Attached to this narrative is a detailed spreadsheet showing the comparisons between the wider community workforce and Crook County's workforce. In order to assist in evaluating the data, below is an example of one particular sorting: female, white, Officials/Administrators.

Officials/Administrators	11
# community	265
% of County workforce	8.66%
CC % of community workforce	4.15%
% of community workforce	8.77%
Dif CC% to Comm %	-4.62%

Total Female Crook County Employees: 127

Total Female community workforce: 3,022

This chart shows that within Crook County's workforce, there are eleven individuals which fall within the category of female, white, Official/Administrators. Meanwhile, there are 265 individuals within the wider community workforce which fall within that category. The eleven individuals in Crook County's workforce comprise 8.66% of the female workers in Crook County ($11 \div 127 = 0.0866$, or 8.66%). The eleven County employees comprise 4.15% of the total number of White, Female, Officials / Administrators in the community workforce ($11 \div 265 = 0.0415$, or 4.15%). Meanwhile, the 265 individuals comprise 8.77% of the total female community workforce of 3,022 workers ($265 \div 3,022 = 8.77\%$).

In this example, there is a difference between the percentage of Crook County's share of the wider community workforce for this one racial/ethnic, gender, and professional category, and the percentage of the wider community workforce: $8.77\% - 4.15\% = -4.62\%$ difference.

The question now becomes whether these differences are statistically significant. If they are, then additional actions on the part of the County may be required to address the disparity. If it is not statistically significant, then it is likely that the difference is due to mere random chance, and no additional actions would be required.

Determination of Significance:

The requirement to publish an EEOP, and the requirement to examine an employer's workforce in comparison to the wider community, are not mandates that a given employer must match exactly the demographics of the region. The law does not require some manner of quota system, and differences between one of the Census categories and one of the EEO-4 categories is not necessarily a sign of anything inappropriate. Further, the smaller the category, the likelier that any one input is determined by random chance. The smallest Crook County category includes only 1 individual, meaning that any change along one of three axes will adjust that category by 100%. A

difference of 100% may sound significant in the abstract, but in this example, that literally means that only one single person has changed in one of many different possible demographic categories.

Also, a number of categories produce results that are both very small in both relative and absolute terms. Take the following as an example: the comparisons for Female American Indian/Alaskan Native Technicians.

Technicians	0
# community	4
% of County workforce	0.00%
CC % of community workforce	0.00%
% of community workforce	0.13%
Dif CC% to Comm %	-0.13%

Crook County had zero such employees. However, in the wider community workforce, there are only four such individuals described in the data sources. The question becomes, even if Crook County has zero employees in a given category, does that demonstrate anything more than random chance? The United States Department of Justice advises that a difference of two standard deviations can be considered significant. They further advise that categories which include fewer than 30 individuals can be disregarded as being too small for statistical significance.

Standard deviation can be found according to the following formula:

$$\text{Standard Deviation} = \sqrt{\frac{\sum |x - \mu|^2}{N}}$$

- Σ (sigma) is a symbol signifying “the sum of” a data set.
- μ (mu) is a symbol signifying the mean (average) of the data set.
- The two vertical lines, “| |” within which are “ $x - \mu$,” signify that we are to find the “absolute value.” This means that if the difference between x and μ is a positive number, no change is made. If, however, the difference between x and μ is negative, the number is rendered into a positive to reflect its “absolute value.”
- X signifies an individual value within the data set.
- N signifies the number of data points in the data set’s “population.”

The order of mathematical operations is as follows:

1. The “data set” is identified.
2. The individual values in the data set are counted. This constitutes the “population” of the data set, which will become the equation’s value of N .
3. The individual entries in the data set are added together, with the resulting sum divided by the value of N . This is used to determine the value for μ .

4. For each individual value in the data set (“x”), the value of μ is subtracted. The “absolute value” of the difference of $x - \mu$ is found.
5. The absolute value is then squared for each iteration of $x - \mu$.
6. The squared values are then added together, to find the value of Σ .
7. Σ is divided by N.
8. The dividend of $\Sigma \div N$ is then square-rooted,⁴ to find the value of the standard deviation for the data set.

However, the US DOJ does not provide guidance as to which data set to use to find the appropriate standard deviation. The two possibilities are (1) the standard deviation from the County’s workforce; and (2) the standard deviation from the community workforce. A further question is whether to (3) compare the difference between the percentage of Crook County employees fall within a certain category versus the same percentage of employees in that category for the wider community workforce, or (4) to compare the percentage which Crook County’s employees represent in the wider community workforce.⁵

While each can be calculated, there is little guidance on which of these figures to use to determine significance.

The County calculated each value⁶, ignoring data sets where the data showed fewer than 30 individuals. The County workforce only included three (3) categories with more than 30 individuals. The community workforce included seventeen (17) categories with more than 30 individuals. The County calculated a comparison of each of these, comparing either the percentage of the community workforce made up by the County’s employees; or the difference in percentages between the County’s workforce represented by a category, versus the percentage of the wider community workforce represented by that same category. Those figures show:

- When what is compared is the percentage of the County’s workforce, versus the percentage of the community workforce, for those positions where there are at least 30 County employees, the standard deviation is **10.52%**.
- When what is compared is the percentage of the County’s workforce, versus the percentage of the community workforce, for those positions where there are at least 30 employees in the wider community, the standard deviation is **9.55%**.
- When what is compared is the difference between the percentage of Crook County’s workforce made up of a given category, versus the percentage of the

⁴ There is probably a more artful way of saying this, but the author of this document did not excel in high school mathematics. The indulgence of the reader is appreciated.

⁵ For instance, the County might have 103 male employees, of which 17 are white male Skilled Craft workers. Those 17 employees represent 16.5% of the County’s male employees. In the community, there may be 3,618 male employees, of which 650 are white male Skilled Craft workers. Those 650 employees represent 17.97% of the 3,618 male employees in the County. Crook County’s 17 employees represent 2.6% of the 650 white male Skilled Craft workers; and those 17 employees represent 0.4% of the 3,618 male employees in the community workforce.

⁶ A copy of these calculations is attached to the plan.

wider community workforce made up of that same category, for those positions where there are at least 30 County employees, the standard deviation is **8.55%**.

- When what is compared is the difference between the percentage of Crook County’s workforce made up of a given category, versus the percentage of the wider community workforce made up of that same category, for those positions where there are at least 30 employees in the wider community, the standard deviation is **9.51%**.⁷

In light of the lack of guidance as to which of these four values to use to determine whether there is a statistically significant difference between the County’s workforce and the wider community workforce, this plan will use **9.51%** as the standard deviation. While this is not the lowest figure⁸, using the lowest percentage (8.55%) would mean that the County only potentially examines 3 out of 112 different categories, to determine significance. Using the next lowest figure (9.51%) would require the County to examine 17 out of 112 categories. On a purely subjective level, it is hoped that examining more categories will assist the County in complying, in good faith, with the letter and spirit of the equal employment requirement, than would examining fewer categories.⁹

For the purpose of Crook County’s EEOP, below are the calculations:

1. The data set is identified. In this case, the data set includes the difference between the percentage of Crook County’s workforce made up of a given category, versus the percentage of the wider community workforce made up of that same category, apportioned among the three axes (gender, racial/ethnic group, job type) for which the value of the wider community workforce is more than 30 individuals. Those values are:

White Male Officials 8.3%	White Female Officials 4.62%	White Male Professionals 2.32%	White Female Professionals 5.83%
White Male Technicians 0.62%	Hispanic Female Technicians 2.8%	White Female Technicians 3.31%	White Male Protective Services 1.99%
White Male Administrative Support 10.11%	White Female Administrative Support 25.7%	Hispanic Male Skilled Craft 3.89%	White Male Skilled Craft 15.35%
White Female Skilled Craft 1.65%	Hispanic Male Service/Maintenance 3.04%	White Male Service/Maintenance 26.82%	Hispanic Female Service/Maintenance 2.15%
White Female Service/Maintenance 30.77%			

⁷ For point of comparison, the 2022-24 County Plan observed that the standard deviation for the County workforce was 10.09%, and the standard deviation for the wider community workforce was 9.25%.

⁸ The lower the standard deviation number, the **more likely** it is that any difference is found to be significant.

⁹ Fortunately, as shown on the attached chart, using 8.55% as a standard deviation for the 3 categories (out of 112) does not result in any different outcome than using 9.51% as a standard deviation for 17 categories (which includes the 3 mentioned previously).

2. N is identified: there are seventeen values in this data set, therefore $N = 17$.
3. μ is calculated: For this data set, the cumulative sum is 149.27%. 149.27% divided by 17 is 8.81%, therefore, $\mu = 8.81\%$.
4. The absolute value for each entry in the data set is calculated, as $|x - 8.81\%|$
5. The square of the absolute values is calculated.

<u>Data Set Entry</u>	<u>Absolute Value</u>	<u>Squared</u>
8.3	0.51	0.26
4.62	4.19	17.56
2.32	6.49	42.12
5.83	2.98	8.88
0.62	8.19	67.08
2.8	6.01	36.12
3.31	5.5	30.25
1.99	6.82	46.51
10.11	1.3	1.69
25.7	16.89	285.27
3.89	4.92	24.21
15.35	6.54	42.77
1.65	7.16	51.27
3.04	5.77	33.29
26.82	18.01	324.36
2.15	6.66	44.36
30.77	21.96	482.24

6. The sum of the squared values is calculated: 1,538.24%.
7. The sum of the squared values, 1,538.24%, is divided by N, 17. $1,538.24\% \div 17 = 90.48\%$
8. The standard deviation is calculated by finding the square root of the dividend: $\sqrt{90.48\%} = 9.51\%$.

For this data set, the standard deviation is 9.51%.

Two standard deviations equals 19.02%.

Analysis:

Using the two standard deviations recommended by the US Department of Justice, the following observations can be made:

- The County underrepresents white male service/maintenance employees. Crook County employs 4 such individuals, out of a total of 103 male employees (3.88%). These County employees constitute 0.41% of all such workers in the entire community workforce. The wider community employs a total of 985 such individuals, out of a male workforce of 3,618 (27.22%).

- The County underrepresents white female administrative support employees. Crook County employs 49 such individuals, out of a total of 127 female employees (38.58%). These County employee constitute 5.24% of all such workers in the entire community workforce. The wider community employs a total of 935 such individuals, out of a female workforce of 3,022 (30.94%).
- The County underrepresents white female service/maintenance employees. Crook County employs no such individual, out of a total of 127 female employees (0%.) The wider community employs a total of 930 such individuals, out of a female workforce of 3,022 (30.77%).
- Using two standard deviations to determine significance, no other categories are significantly different.
- For those three categories with a significant difference, one has zero County employees.

Therefore, of the categories where Crook County has even a single employee, there are only two (out of 112) for which there is a significant over-or-under-representation. That equals a bare 1.8% of the 112 categories.

The County's past EEOs have found that the rate of significant over-or-under-representation 15, 12, 7, 3, 3, and 3 demographic categories. The County is very close to having zero categories with no statistically significant differences between its workforce and the wider community workforce.

Based upon this data, the County finds that its hiring processes have been successful in preventing discrimination in the hiring of qualified employees, and that these hiring practices should continue.

Objectives:

- Crook County is committed to continue hiring and employment practices that adhere to the County's Equal Employment Opportunity Plan, and improve minority opportunities for employment with the County.
- Increase representation in the identified "underrepresented" job categories as identified above, while maintaining current levels for those categories which are within the range as being significantly proportionate.

Steps to Achieve Objectives:

The following steps will be implemented to address the County's objectives:

- Provide training opportunities for employees in all job classifications to upgrade their skills and improve their career development opportunities in

conjunction with the "Education and Training" Policy, which can be found in the Crook County Employee Policy Handbook.

- Review and update the County's recruitment policies and procedures to promote equal employment opportunities, as needed.
- Continue to offer reimbursements for education, classes and seminars that could promote bilingual and secondary language skills, as outlined in the "Education and Training" Policy, which can be found in the Crook County Employee Policy Handbook.
- Explore new methods to recruit employees.

Dissemination:

The Human Resources Director, or appointed County representative, will be designated to implement the Equal Employment Opportunity Plan for Crook County.

External

- Continue to include the "Equal Employment Opportunity" statement on the Crook County 'Employment Application' and the 'Sheriffs Application' (employment).
- In newspaper and external postings, advertise as "EEO".
- Continue to include the "Equal Employment Opportunity" statement on the Crook County 'Human Resources' department webpage.
- Continue to maintain the availability of the Crook County Employee Policy Handbook, which contains all relevant policies associated with the County's Equal Employment Opportunities, including by keeping it on the County website available for free download.
- The County welcomes and encourages comments upon this EEO Plan, which should be directed to the County's Equal Employment officer.

Internal

- Provide the 'Employee Questionnaire for Self-Identification of Race/ Ethnicity' at new hire orientation.
- Provide newly hired employees with the Crook County Employee Policies Handbook.
- Provide hiring and selection assistance to all County hiring managers that promote the County's Equal Employment Opportunity Plan and Crook County Employee handbook Policies .
- The County welcomes and encourages comments upon this EEO Plan, which should be directed to the County's Equal Employment officer.

Job Categories	Male							Female						
	Hispanic	White	Black	Amer. Indian/Alaska Nat.	Asian	Hawaiian/Pac. Islander	Two or more	Hispanic	White	Black	Amer. Indian/Alaska Nat.	Asian	Hawaiian/Pac. Islander	Two+
Officials/Administrators	0	17	0		0	0	0	0	2	11	0	0	0	0
# community	20	440	70		0	0	0	0	0	265	0	0	0	0
% of County workforce	0.00%	16.50%	0.00%		0	0	0	0	0.87%	8.66%	0	0	0	0
CC % of community workforce	0.00%	3.86%	0.00%		0	0	0	0	N/A	4.15%	0	0	0	0
% of community workforce	0.55%	12.16%	1.93%		0	0	0	0	N/A	8.77%	0	0	0	0
Dif CC% to Comm %	0	-8.30%	-1.93%		0	0	0	0	N/A	-4.62%	0	0	0	0
Professionals	0	8	0		0	0	0	0	35	0	0	0	0	0
# community	0	345	0		0	10	0	0	425	0	10	0	0	0
% of County workforce	0	7.77%	0		0	0.00%	0	0	27.56%	0	0	0.00%	0	0
CC % of community workforce	0	2.32%	0		0	0.00%	0	0	8.24%	0	0	0.00%	0	0
% of community workforce	0	0.00%	0		0	0.28%	0	0	14.06%	0	0	0.33%	0	0
Dif CC% to Comm %	0	2.32%	0		0	0	0	0	-5.83%	0	0	0	0	0
Technicians	1	12	0		0	0	0	0	15	1	0	0	0	0
# community	50	265	0		0	10	0	0	100	185	0	4	0	0
% of County workforce	0.97%	11.65%	0		0	0	0	0	0.00%	11.81%	0.79%	0.00%	0	0
CC % of community workforce	2.00%	4.53%	0		0	0	0	0	0.00%	8.11%	N/A	0.00%	0	0
% of community workforce	1.38%	7.32%	0		0	0	0	0	3.31%	6.12%	N/A	0.13%	0	0
Dif CC% to Comm %	0.62%	-2.80%	0		0	0	0	0	-3.31%	1.99%	N/A	-0.13%	0	0
Protective Services	3	32	0		0	0	1	0	1	6	0	0	0	0
# community	15	204	0		0	0	0	0	0	10	0	0	0	0
% of County workforce	2.91%	31.07%	0		0	0	0.79%	0	0.79%	4.72%	0	0	0	0
CC % of community workforce	20.00%	15.69%	0		0	0	N/A	0	N/A	60.00%	0	0	0	0
% of community workforce	0.41%	5.64%	0		0	0	N/A	0	N/A	0.33%	0	0	0	0
Dif CC% to Comm %	0	10.05%	0		0	0	N/A	0	N/A	0	0	0	0	0
Admin. Support & Paraprofessionals	0	5	0		0	0	0	1	5	49	0	0	1	1
# community	4	410	0		0	0	0	0	20	935	0	4	0	0
% of County workforce	0.00%	4.85%	0		0	0	0	0.79%	3.94%	38.58%	0	0.00%	0.79%	0.79%
CC % of community workforce	0.00%	1.22%	0		0	0	0	N/A	0.00%	5.24%	0	0.00%	N/A	0
% of community workforce	0.11%	11.33%	0		0	0	0	N/A	0.66%	30.94%	0	0.13%	N/A	0
Dif CC% to Comm %	0	-10.11%	0		0	0	0	N/A	0	-25.70%	0	0	N/A	0
Skilled Craft	2	17	0		0	0	0	0	0	0	0	0	0	0
# community	40	650	0		0	0	0	0	50	0	0	0	0	0
% of County workforce	1.94%	16.50%	0		0	0	0	0	0.00%	0	0	0	0	0
CC % of community workforce	5.00%	2.62%	0		0	0	0	0	0.00%	0	0	0	0	0
% of community workforce	1.11%	17.97%	0		0	0	0	0	1.65%	0	0	0	0	0
Dif CC% to Comm %	3.89%	-15.35%	0		0	0	0	0	-1.65%	0	0	0	0	0
Service/Maint.	0	4	0		0	0	0	0	0	0	0	0	0	0
# community	110	985	0		0	0	0	0	65	930	0	0	4	15
% of County workforce	0.00%	3.88%	0		0	0	0	0	0.00%	0.00%	0	0	0.00%	0.00%
CC % of community workforce	0.00%	0.41%	0		0	0	0	0	0.00%	0.00%	0	0	0.00%	0.00%
% of community workforce	3.04%	27.22%	0		0	0	0	0	2.15%	30.77%	0	0	0.13%	0.50%
Dif CC% to Comm %	-3.04%	-26.82%	0		0	0	0	0	-2.15%	-30.77%	0	0	0	0

Total	Total Male County workforce							Total Female County workforce						
	103							127						
	Total Male community workforce							Total Female community workforce						
	3618							3022						
	Percent of community workforce:							Total County workforce:						
	Male 54.49%							230						
	Female 45.51%													
	Percent of County workforce:													
	Male 44.78%													
	Female 55.22%													
	Total community workforce 6640													

Standard deviation calculation

Crook County Workforce for categories with 30 or more individuals

Category	# individuals	% of CC's workforce	CC% of comm workf.	% of community wf	Diff cc v Com
White F Profs	35	27.56	8.24	14.06	5.83
White M Prot Serv	32	31.07	15.69	5.64	10.05
White F Admin	49	38.58	5.24	30.94	25.7

N = 3 categories
 Mu = 14.06 + 5.64 + 30.94 = 50.64
 50.64 / 3 = 16.88

Data Set	Absol. Val.	Squared
14.06	2.82	7.95
5.64	11.24	126.34
30.94	14.06	197.68

7.95 + 126.34 + 197.68 = 331.97
 331.97 / 3 = 110.66
 $\sqrt{110.66} = 10.52$
 One standard deviation is 10.52
 Two standard devs is 21.04

N = 3 categories
 Mu = 5.83 + 10.05 + 25.7 = 41.58
 41.58 / 3 = 13.86

Data Set	Absol. Val.	Squared
5.83	8.03	64.48
10.05	3.81	14.52
25.7	11.84	140.19

64.48 + 14.52 + 140.19 = 219.19
 219.19 / 3 = 73.06
 $\sqrt{73.06} = 8.55$
 One standard deviation is 8.55
 Two standard devs is 17.1

Wider community workforce for cat. With 30+ individuals

Category	# individuals	% of CC's workforce	CC% of comm workf.	% of community wf	Dif CC v Com
1 White M Officials	440	16.5	3.86	12.16	8.3
2 White F Officials	265	8.66	4.15	8.77	4.62
3 White M Profs	345	7.77	2.32	9.54	2.32
4 White F Profs	425	27.56	8.24	14.06	5.83
5 White M Techs	265	11.65	4.53	7.32	0.62
6 His F Techs	100	0	0	3.31	2.8
7 White F Techs	185	11.81	8.11	6.12	3.31
8 White M Prot Serv	204	11.65	4.53	7.32	1.99
9 White M Admin Spt.	410	4.85	1.22	11.33	10.11
10 White F Admin Spt	935	38.58	5.24	30.94	25.7
11 His M Skilled Craft	40	1.94	5	1.11	3.89
12 White M Skilled C.	650	16.5	2.62	17.97	15.35
13 His F Skilled Craft	50	0	0	1.65	1.65
14 His M Serv/Maint	110	0	0	3.04	3.04
15 White M Serv/Maint	985	3.88	0.41	27.22	26.82
16 His F Serv/Maint	65	0	0	2.15	2.15
17 White F Serve/Maint	930	0	0	30.77	30.77
Total				194.78	149.27

N = 17 categories
 Mu = 194.78
 194.78 / 17 = 11.46

Data Set	Absol. Val.	Squared
12.16	0.70	0.49
8.77	2.69	7.24
9.54	1.92	3.69
14.06	2.60	6.76
7.32	4.14	17.14
3.31	8.15	66.42
6.12	5.34	28.52
7.32	4.14	17.14
11.33	0.13	0.02
30.94	19.48	379.47
1.11	10.35	107.12
17.97	6.51	42.38
1.65	9.81	96.24
3.04	8.42	70.90
27.22	15.76	248.38
2.15	9.31	86.68
30.77	19.31	372.88
Sum:		1551.44

1551.44 / 17 = 91.26
 $\sqrt{91.26} = 9.55$
 One standard deviation is 9.55
 Two standard devs is 19.1

N = 17 categories
 Mu = 149.27
 149.78 / 17 = 8.81

Data Set	Absol. Val.	Squared
8.3	0.51	0.26
4.62	4.19	17.56
2.32	6.49	42.12
5.83	2.98	8.88
0.62	8.19	67.08
2.8	6.01	36.12
3.31	5.5	30.25
1.99	6.82	46.51
10.11	1.3	1.69
25.7	16.89	285.27
3.89	4.92	24.21
15.35	6.54	42.77
1.65	7.16	51.27
3.04	5.77	33.29
26.82	18.01	324.36
2.15	6.66	44.36
30.77	21.96	482.24
Sum:		1538.24

1538.24 / 17 = 90.48
 $\sqrt{90.48} = 9.51$
 One standard deviation is 9.51
 Two standard devs is 19.02



Crook County

Mailing: 300 NE 3rd Street • Prineville, Oregon 97754
Physical: 203 NE Court Street • Prineville, Oregon 97754
Phone (541) 447-6555

October 4, 2024

Sent via email: nicole.strong@oregonstate.edu

Nicole Strong
OSU Extension, Regional Director
3800 SW Airport Way Building Ste 4
Redmond, OR 97756

Dear Nicole,

This letter follows-up your presentation to the Board on April 17, 2024, regarding the future management of local operations at the OSU Extension office in Crook County. You suggested restructuring the program so that OSU would assume additional oversight, with the County maintaining responsibility for the annual budget's development and approval, and OSU assuming responsibility for staffing and human resources duties, specifically for the office management staff.

The Board appreciates you starting this conversation. While there is the potential for improving operational efficiencies, the Board believes that it remains in our community's best interest to maintain responsibility for fiscal and personnel supervision of the office management. Maintaining the status quo ensures the Board has direct contact with office management staff, who serve as the office hub and as a liaison between the County and OSU. They are also responsible for the budget and finances and oversee the day-to-day operations of the programs that serve Crook County. The current structure ensures that community values, needs, and input are directly accounted for in the operations of the Extension office.

Crook County has taken the time since your April presentation to look at how other counties' Extension Offices operate under the proposed model. We have also looked at our local operations. While operational improvements need to be made locally, it is clear to the Board that it is critical that we maintain responsibility for the day-to-day operations through the office management staff as county employees.

We greatly appreciate you taking the time to start this conversation, and we look forward to continuing to work with you and your staff to make the OSU Extension program in Crook County the best in the state.

Sincerely,

X

Seth Crawford
County Commissioner

X

Brian Barney
County Commissioner

X

Susan Herrreck
County Commissioner

AGENDA ITEM REQUEST



Date:

September 17, 2024

Meeting date desired:

September 25, 2024

Subject:

CDD Monthly Update – August Report

Background and policy implications:

Update on Department services, including permit and application activity.

Budget/fiscal impacts:

N/A

Requested by:

Katrina Weitman

Katrina.weitman@crookcountyor.gov | 541.447.3211

Presenters:

Randy Davis

Legal review (only if requested):

n/A

Elected official sponsor (if applicable):

Community Development Department

Mailing: 300 NE Third St. RM 12, Prineville, OR 97754 □ Phone: 541-447-3211



MEMO

TO: Crook County Board of Commissioners

FROM: Katrina Weitman, Operations Manager
Randy Davis, Building Official

DATE: September 17, 2024

SUBJECT: Community Development Activity Update – August 2024

Below is a summary of building, planning, onsite, and code enforcement activity for the last month.

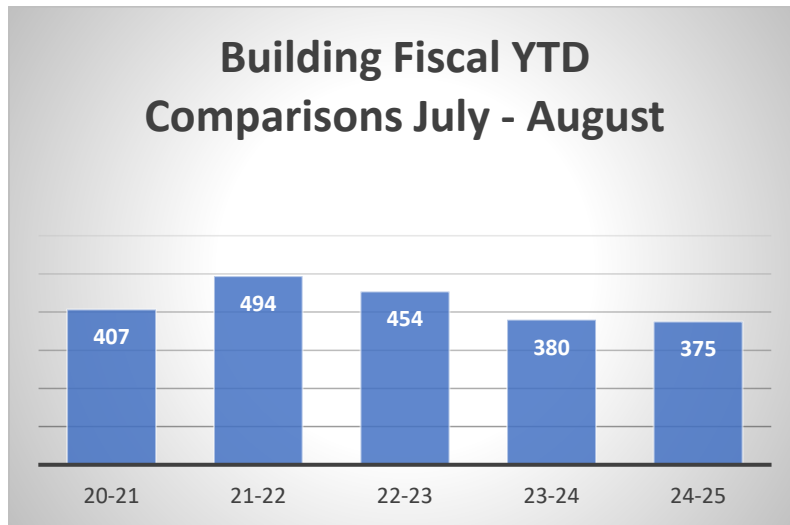
Building:

Permits issued summary (August):

Permit Type	Number of Permits
New Residential Dwellings (Site Built or Manufactured)	13
Commercial (plumbing, electrical, structural, etc.)	47
Residential Permits (plumbing, electrical, mechanical etc.)	109
Residential Structural (shops, etc.)	18
Other (e.g. demo)	1
TOTAL	188

Comparisons:

Time Frame	Permits
August 2024	188
August 2023	197
YTD 2024	1343
YTD 2023	1419
Fiscal YTD 2024-25	375
Fiscal YTD Comparison 2023-24	380



Active Permits:

Permit Type	Amount Still Active as of end of August
Dwellings (Site Built or Manufactured)	193
Other Residential Permits	714
Commercial Permits	270

Daily Inspections:

Inspection Type	Amount this month
Residential	774
Commercial	202
All	976

Larger Projects Under Construction:

Justice Center
CCO5&6 Data Center
Apple Data Center
Hangar at Airport
Area H & I of Prineville Campus
C.O.P. Prineville Campus "H" Occupancy
R-2 Construction – 22,840 sq ft Industrial Building with Office Space
PRN1 Retrofit
USFS Rappel Towers
F-5 Smokehouse
Humane Society – Dog Wing Addition
Crook Co Fire & Rescue
Thoroughbred Carwash
Holt Ag – Tenant Improvement
Cuppa Yo
Myths & Legends
Chamber of Commerce
Rooster Restaurant/Bar
Convenience Store
Crook Co Fire & Rescue Annex

Larger Projects Under Review or Incoming:

Cessna Dr – Data Mining Facility, Bit Coin
Reserve at Ochoco Creek - Apartments
Church/Community Center – Madras Hwy

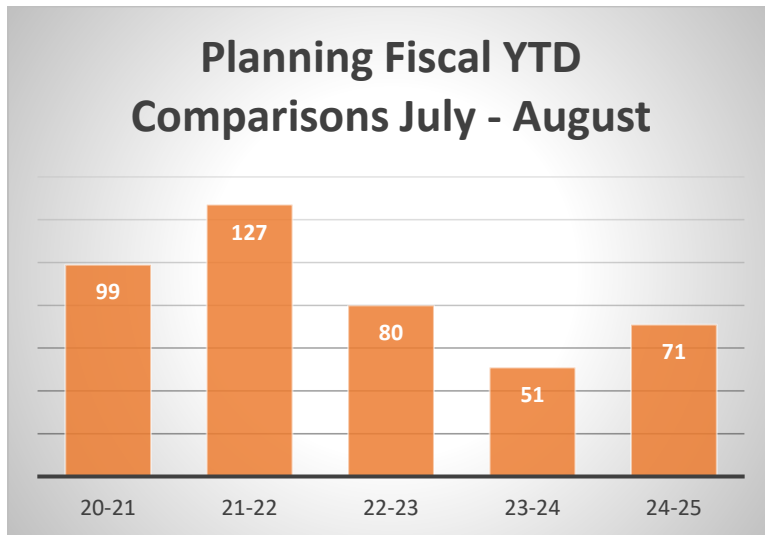
Planning:

Applications received:

Application Type	# of Applications (August 2024)	YTD
Appeals	0	0
Variance	0	4
Site Plan Review	29	137
Land Partition	3	7
Combine/Un-Combine Lots	0	1
Road Approach	4	14
Boundary Line Adjustment	1	10
Destination Resort	0	1
Conditional Use	3	13
Miscellaneous (Temporary Hardship Two-year renewals)	4	31
Sign	0	0
Extension	0	1
Subdivision	0	1
Amendment	1	4
Road Name/Rename	0	2
Vested Right	0	0
TOTAL	45	226

Comparisons:

Time Frame	Permits
August 2024	45
August 2023	21
YTD 2024	226
YTD 2023	266
Fiscal YTD 2024-25	71
Fiscal YTD Comparison 2023-24	51



Notable Land Use Applications:

Request	Status
Juniper Canyon Aggregate Pit Amend.	Hearing Scheduled 8/28
Zone Change/Map Amend. Powell Butte Study Area EFUs – R10	Public Hearing 9/11
Pinecrest Ridge – 11 lot subdivision	Public Hearing 10/9
(3) Temporary Meteorological Towers	In Review

Notable City Land Use Applications:

Request	Status
20-Unit Multi-Family Development	Hearing Scheduled 10/15/2024

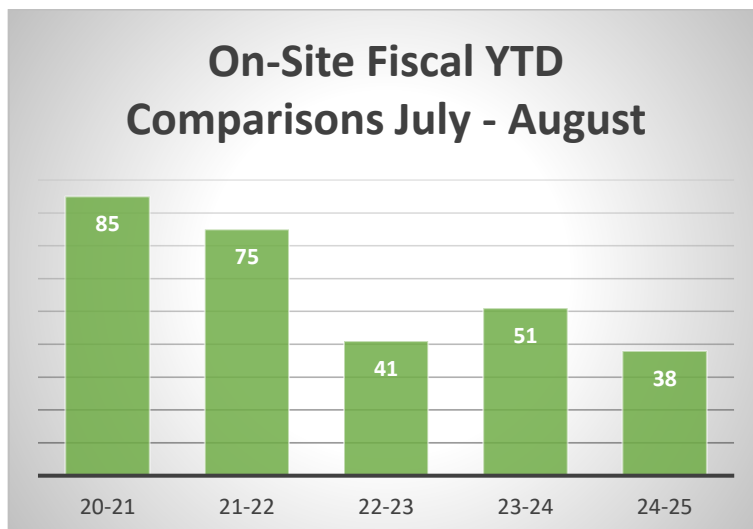
On-Site:

Applications (August):

Application Type	Number of Applications
Residential Authorization	0
Commercial Authorization	0
Construction Permit (Residential)	5
Construction Permit (Commercial)	0
Repair (Major) - Residential	0
Repair (Minor) - Residential	2
Repair (Major) - Commercial	0
Repair (Minor) - Commercial	0
Residential Site Evaluation	7
Commercial Site Evaluation	0
Alteration (Minor) – Residential	0
Alteration (Major) – Residential	0
Alteration (Minor) - Commercial	0
TOTAL	14

Comparisons:

Time Frame	Permits
August 2024	14
August 2023	23
YTD 2024	136
YTD 2023	154
Fiscal YTD 2024-25	38
Fiscal YTD Comparison 2023-24	51



Code Compliance:

Case Load (Total violations from open cases):

Year	Building	Land Use	Waste	Septic
YTD 2024	24	18	10	7

Activity:

Opened in August: 5

Closed in August: 5



Crook County

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Phone (541) 447-6555

September 25, 2024

RE: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System #65356

On behalf of Crook County, Oregon, we are writing to express our deep concerns regarding the National Old Growth Amendment and its potential impact on our county, particularly as it relates to the management of Ochoco National Forest within our jurisdiction. While we recognize the importance of conserving old-growth forests, the process by which this Amendment has been developed and is being implemented raises significant procedural and substantive concerns. The exclusion of counties from early participation, the lack of meaningful local engagement, and the potential socio-economic impacts on our communities must be addressed before this Amendment can proceed.

At the outset, the process to develop the National Old Growth Amendment excluded counties from participating as cooperating agencies and particularly here in Crook County, the failure to **Coordinate**, despite the clear definition under the National Environmental Policy Act (NEPA) that local agencies are essential partners in land-use planning and environmental management and that NEPA specifically calls for Coordination with local governments during major planning efforts. Counties like ours, which have jurisdiction over and responsibilities on adjacent lands were not included until late in the process, despite unique expertise in forest health, wildfire mitigation, and local economies. By that time, critical decisions had already been made, limiting our ability to influence key aspects of the Amendment.

The failure to fully engage counties early in the process not only undermines the principles of cooperative federalism but also weakens the overall effectiveness of the Amendment. Local governments bring valuable insights into the day-to-day management of forests and the impacts federal decisions have on the surrounding communities. However, counties have had minimal opportunities to contribute this expertise. The rushed invitation to join as cooperating agencies, with little room for modification or tailored agreements, has left us without the capacity to meaningfully participate in shaping this critical policy.

Moreover, the one-size-fits-all nature of the Amendment does not account for the wide diversity of ecological, economic, and social conditions across different regions. Here in Crook County, OR, we are home to the Ochoco National Forest, where forest management is crucial to balancing conservation with responsible resource use. Our county relies on these forests for recreation, grazing, and logging among many other important uses, The Amendment's restrictive approach could significantly curtail these activities, jeopardizing jobs and economic stability in our community.

The Amendment introduces a national framework for managing old-growth forests, but it fails to consider the distinct forest types and local management needs within regions like ours. Applying uniform policies across diverse landscapes will hinder rather than help the health of old and mature-growth forests. For example, in some areas, proactive management strategies like thinning and prescribed burns are critical to reducing the risk of catastrophic wildfires, particularly in the Wildland-Urban Interface (WUI), where forests meet human development. The current framework risks creating more procedural hurdles for these necessary treatments, delaying or preventing vital actions that protect both the forest and surrounding communities.

The U.S. Forest Service in a report titled “Mature and Old-Growth Forests: Analysis of Threats” found that wildfires pose the greatest threat to old and mature-growth forests. The inadvertent creation of additional procedural requirements before forest management activities can take place, and the added exposure to lawsuits which delay necessary work, could slow critical treatments to a crawl, exasperating the threat of wildfires to old and mature-growth forests. Careful implementation and planning of the amendment through locally-led, cooperative practices, helps to ensure that procedural requirements are streamlined and tailored to local agencies often responsible for carrying out these vital treatments.

In our county, we are already seeing the devastating impacts of wildfires exacerbated by the dense, unhealthy conditions of our forests. This year’s catastrophic fires in the Ochoco National Forest, Crazy Creek Fire (87,000 ac), Wiley Flat Fire (30,000 +ac), Rail Ridge Fire (162,000 ac) are just the few of major fires that burnt public and private lands within the County. The Amendment’s focus on long-term conservation without adequate flexibility for active forest management could unintentionally contribute to this growing wildfire crisis. Many areas need proactive intervention—thinning, prescribed burns, and vegetation management—to restore forest health, reduce fuel loads, and improve resilience to wildfire, drought, and pests. Without these tools, our forests face increased vulnerability to the very threats the Amendment seeks to address.

It is crucial that the Amendment not only protect old-growth forests but also maintain consistency with county and regional management plans. The failure to coordinate federal plans with local governments risks creating a disconnect between federal goals and the practical realities on the ground. In Crook County, we have developed a comprehensive resource management plan that includes strategies for managing forest health, water resources, economic development, and fire prevention. This plan reflects the unique conditions of our area and are tailored to the needs of our communities. Unfortunately, the current process for the Amendment has not meaningfully incorporated local plans or the local knowledge related to forest management.

Local governments, including counties like ours, have long-standing knowledge of the lands we manage and can provide critical input on how to achieve conservation goals while supporting sustainable economic development and forest health. The County has contributed input into management plans including Mill Creek Dry Forest Vegetation Management Plan, North Fork Crooked River Management Plan and Lemon Gulch Trails Project.

Moreover, the Amendment’s provisions seem to disproportionately emphasize conservation over active management. While preserving old-growth forests is an important goal, it should not come at the expense of proactive management that reduces fire risks, damage caused by insects and disease and improves forest resilience. This balance is especially important given that many of our mature forests are already facing threats from climate change, invasive species, and years of fire suppression that have led to overgrown, unhealthy conditions. Allowing old-growth forests to be managed as static, unchanging ecosystems is not a sustainable approach in the face of these challenges. Instead, the focus should be on creating adaptive, resilient forests that can withstand the pressures of changing environmental conditions.

Considering these concerns, we respectfully request that the National Old Growth Amendment process be paused or restarted to allow for full and meaningful participation from counties like ours. By slowing down the process, the U.S. Forest Service can ensure that local governments are fully engaged as cooperating agencies, providing the expertise and insights necessary to make the Amendment more practical, effective, and regionally appropriate.

We believe that counties are not just stakeholders but essential partners in managing public lands. With proper involvement, counties can help shape policies that balance ecological preservation with the needs of local communities. We urge you to restart this process and create a more inclusive framework that recognizes the value of local governments in crafting policies that benefit both our forests and the people who rely on them.

Thank you for considering our concerns. We look forward to working with you and the U.S. Department of Agriculture to ensure that this important policy is developed in a transparent, collaborative, and effective manner.

Sincerely,

X

Seth Crawford
County Commissioner

X

Brian Barney
County Commissioner

X

Susan Herrmreck
County Commissioner