



**CURRY COUNTY
BOARD OF COMMISSIONERS**

94235 Moore Street
Gold Beach, Oregon

(541) 247-3296

BOC_Office@co.curry.or.us

www.co.curry.or.us

**AGENDA
BOC BUSINESS MEETING
December 21, 2023
6:00 p.m.**

Items may be taken out of sequence to accommodate staff availability and the public.

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

2. AMENDMENT AND APPROVAL OF THE AGENDA

3. PUBLIC COMMENTS

To make a public comment, please submit a Speaker's Slip to the Chair prior to the start of the meeting, or email public comments during the meeting to BOC_Office@co.curry.or.us. Public comments are limited to three (3) minutes per speaker.

4. CONSENT AGENDA

- A. Approve Minutes for Business Meeting on December 6, 2023 (Pg. 1)
- B. Approve Minutes for BOC-DCO Meeting on November 2, 2023 (Pg. 5)
- C. Approve Minutes for BOC-DCO Meeting on November 10, 2023 (Pg. 6)
- D. New Hire - Donaldson (Pg. 7)
- E. New Hire – Srimongkol (Pg. 13)
- F. New Hire – Romsa (Pg. 18)
- G. Appoint Fair Board Member - Donaldson (Pg. 23)
- H. Approve SPIRE Grant – Aquatic Safety (Pg. 27)
- I. Appoint Flood Hazard Administrator (Pg. 39)
- J. Appoint Mountain Drive Special District Member (Pg. 76)

5. PUBLIC HEARING

- A. Amendment to County Fee Schedule (County Clerk) (Pg. 80)
 - i. Order
 - ii. Updated Fees

6. DISCUSSION/ACTION ITEMS

- A. Rural Roots Contract (Pg. 83)
 - i. Contract
 - ii. Insurance Indemnity
- B. ODOT Agreement – N. Bank Rogue River Rd. (Pg. 91)
 - i. ODOT ER Draft Agreement

- C. Animal Control Service (Pg. 109)
 - i. Letter to WRAR – Dated December 20th, 2023
 - ii. Proposed Dog Control Shelter Services Agreement
 - iii. Shelter Termination Letter/Contract
 - iv. County Code – Animal Control
 - v. ORS – County Impound Requirements
 - vi. Animal Shelter Historical Documents

7. ELECTED OFFICIAL UPDATES

8. COMMISSIONER UPDATES

- A. Commissioner Alcorn
- B. Commissioner Herzog
- C. Commissioner Trost

9. EXECUTIVE SESSION

- A. 192.660(2)(h)

10. OTHER

ORS 192.640(1) provides that “... notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.”

11. ADJOURN

*Meetings are recorded and will be available on YouTube – Curry County Civic TV.
To make a public comment, please submit a Speaker’s Slip to the Chair prior to the start of the meeting,
or email public comments during the meeting to BOC_Office@co.curry.or.us.
Auxiliary aids will be provided upon request with 48-hour advance notification.*



CURRY COUNTY BOARD OF COMMISSIONERS

City of Brookings Council Chambers
898 Elk Drive, Brookings, Oregon
www.co.curry.or.us

BUSINESS MEETING MINUTES

December 6, 2023

Please note: For detailed information on any agenda item refer to Audio/Video.

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

The meeting was called to order 9:00 p.m.; present were Chair John Herzog, Vice Chair Brad Alcorn, and Commissioner Jay Trost

Staff present: Director of County Operations and County Counsel Ted Fitzgerald, County Counsel Assistant Rabiah Lee, and Administrative Assistant Natasha Tippetts

The Pledge was recited by all.

2. AMENDMENT AND APPROVAL OF THE AGENDA

Commissioner Alcorn motioned to move Consent Agenda item 4-M, Purchase Spray Truck, to Discussion/Action Items 5-H.

Trost motioned to approve the agenda as amended. Alcorn seconded. Motion carried unanimously.

3. PUBLIC COMMENTS

- Cindy Myers – Spoke on behalf of the Master Gardeners and provided information on the potential greenhouse at the Curry County Fairgrounds.
- David Denney – Spoke on behalf of the Master Gardeners and provided information on the potential greenhouse at the Curry County Fairgrounds.
- Travis Webster – Provided opinion on transparency of the allocation of TLT funds.

Commissioners engaged in a conversation on their best knowledge of TLT funds and their distribution.

Commissioners engaged in a conversation with several members of the audience regarding the Curry County Fairgrounds, the potential Greenhouse, and procedures to be followed moving forward.

4. CONSENT AGENDA

- A. Approve Minutes for Business Meeting on November 1, 2023
- B. Approve Minutes for Special Meeting on November 20, 2023
- C. Change in FTE Status – Fein
- D. Pay Increase – Swank

- E. New Hire – Dahl
- F. New Hire – Darrow
- G. Promotion – Younger
- H. Employee Transfer – Felton
- I. Donation of Parcels to City of Brookings
- J. Reclassification of Employee – Tippetts
- K. Application for Grizzly Mountain Tower Site
- L. Surveyor Equipment Rental
- ~~M. Purchase of Spray Truck~~
- N. MOU for Building Services – City of Brookings
- O. Annex Door Purchase
- P. Agreement with ODOT – Edson Creek Bridge Rehabilitation
- Q. Boice-Cope Park Host Agreement
- R. Information – Sheriff New Hires

Trost motioned to approve the Consent Agenda as amended. Alcorn seconded. Motion carried unanimously.

5. DISCUSSION/ACTION ITEMS

- A. Credit Card Policy – Ted Fitzgerald gave a brief overview of the County Credit Card policy and procedures, and introduced the updated Policy.

Alcorn motioned to approve the Credit Card Policy – Guidelines, Procedures and Expectations for Credit Card Holders. Trost seconded. Motion carried unanimously.

- B. Discuss PIO/Grant Manager Job Description – Commissioner Trost described the proposed job description and the need for services within the County.

Trost motioned to direct Director of County Operations to proceed with the PIO/Grant Manager position. Alcorn seconded. Motion carried unanimously.

- C. Smith River National Recreation Area – Commissioner Herzog described the request for a letter of support.

Commissioners discussed the lack of information on proposed letter and decided to table this until a presentation can be made.

- D. Discuss Curry County Fair Board – Commissioner Alcorn reported on the current status of the Fair Board, and recent history of events.

Trost motioned to appoint Commissioner Alcorn to open position #5 with a term expiring December 31, 2025. Herzog seconded. Motion carried unanimously.

**Commissioner Herzog called to break at 10:45
Regular Session proceeded at 11:00**

E. Harm Reduction Sites – Commissioner Alcorn presented staff report.

Commissioners discussed the draft Ordinance provided in packet. Commissioner Alcorn would like to make some modifications to insert stronger language.

Commissioners also discussed the use of the Brookings County Building by an organization named Alliance. Commissioner Alcorn provided items being distributed out of the Brookings County Building by the organization.

Commissioner Alcorn motioned to direct Director of County Operations to inform HIV Alliance that they will no longer be permitted to provide services and paraphernalia at the Brookings County Building and to proceed with modifying the draft Ordinance to be brought to the next Commissioner Business Meeting. All Commissioners agreed on this motion.

F. Animal Control Update – Ted Fitzgerald gave an oral report of County Animal Control Services.

South Coast Humane Society Executive Director, Jenifer Alcorn, presented information on the Animal Control services she provided during her time volunteering those services for the County.

Commissioners discussed the status of the building currently used by Wild Rivers Animal Resue.

Commissioners directed Director of County Operations to find options on buildings to possible be used for kennel spaces and bring to the next Board of Commissioners meeting.

G. Pet Friendly County – Commissioner Trost presented a Staff Report and survey of County businesses.

Commissioners directed Director of County Operations to work with Economic Development Director to create Resolution declaring Curry County as “Pet Friendly” to promote the pet friendly business, dog parks, trails, etc.

H. Purchase Spray Truck

Commissioner Alcorn expressed his concern with the cost of the new spray truck.

Commissioners requested more information/possible bids to review prior to bringing this back to a Board Meeting.

6. ELECTED OFFICIAL UPDATES

Treasurer Barnes – Made positive comments on efficiency of Assessor’s office. Also provided kudos to HR and Payroll Coordinator Julie Swift and Deputy Treasurer Nicholas Vicino for their assistance.

7. COMMISSIONER UPDATES

Alcorn –

Expressed gratitude for IT Director Phil Dixon.

Provided information on current open jobs in Curry County.

Congratulated Commissioner Trost for graduating County College. Present Commissioner Trost with plaque from AOC.

Herzog – None

Trost – None

- 8. OTHER** *(ORS 192.640(1) "... notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.")*

10. ADJOURN

Chair Herzog adjourned the meeting at 12:37p.m.

Dated this 21st day of December, 2023

John Herzog, Chair

Brad Alcorn, Vice Chair

Jay Trost, Commissioner

Minutes prepared by Natasha Tippetts, Administrative Assistant



**CURRY COUNTY
BOARD OF COMMISSIONERS**

94235 Moore Street
Gold Beach, Oregon
(541) 247-3296

BOC_Office@co.curry.or.us

www.co.curry.or.us

MINUTES

BOC – DCO MEETING

November 2, 2023

1:00 p.m.

The meeting was called to order at 1:18 p.m.

Discussion regarding Courthouse security and how to respond to concerns in a fiscally responsible manner. Must coordinate with CCSO to determine plan of action moving forward. Previously, Judges have indicated that they cannot commit to certain days of the week for intensified security.

Alcorn discussed use of opioid funding and its division (75% CCSO / 25% Juv), and the potential use of the CCSO share of the funding for CRO position funding and opioid-related training. CRO would collect opiate related data. LPSCC will be voting on this proposal and such will be brought to the BOC for approval.

Consideration of a polling option for the use of the Airport Road property. Will schedule this item for discussion at the next North County meeting. In the meantime, we will put out an RFP for chipping the brush piles.

Discussion regarding the approval of a position description for a Parks Office Assistant

Motion to approve a new position description for Parks Office Assistant approved unanimously.



**CURRY COUNTY
BOARD OF COMMISSIONERS**

94235 Moore Street
Gold Beach, Oregon
(541) 247-3296

BOC_Office@co.curry.or.us

www.co.curry.or.us

MINUTES

BOC – DCO MEETING

November 10, 2023

11:00 a.m.

The meeting was called to order at 11:02 a.m.

Teamsters Collective Bargaining Agreement

Motion by Commissioner Alcorn to ratify CBA for Teamsters - approved 2-0.

Supplemental Budget – Code Enforcement

Discussion regarding needed supplemental budgets to transfer Code Enforcement Budgeted funds in order to fund the CCSO CRO position, Surveyor Administrative Assistant, and Community Development CCO position. Also regarding potential use of opioid funds for the CRO position in the future. Commissioner Trost requested specification on the supplemental budget that the execution of such shall be subject to the conditions of use as set forth above.

Motion by Commissioner Trost to approve the execution of supplemental budgets subject to the conditions of use for only the specific purposes approved by the Board - approved 2-0.

CDBG Food Bank Grant

Discussion regarding the current status of the Food Bank Grant (South Coast Food Share) and CCD's request to become the subrecipient. A Subrecipient Agreement will transfer Curry County's responsibility for the grant to CCD. Commissioner Alcorn suggested that we offer the Grant to other County departments for administration prior to turning it over to CCD. No motion was made.

Meeting adjourned at 11:18 a.m.



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:		Agenda Item Title:	
December 21, 2023		New Hire of an Employee Deputy Clerk I – T. Donaldson	
Time Needed:			
Financial Impact:		Description and Background:	
		This order will hire Trista full time as the Deputy Clerk I	
Category:			
<input type="checkbox"/> Action/Discussion			
<input checked="" type="checkbox"/> Consent			
<input type="checkbox"/> Executive Session			
<input type="checkbox"/> Hire Order			
<input type="checkbox"/> Presentation			
Requested Motion:			
Approve the hire of Trista Donaldson as full time Deputy Clerk I			
Attachments:		Instructions Once Approved:	
1. Order			
2. Job Description			
3.			
4.			
5.			
Contact Person – Name and Department:			Date Submitted:
Natasha Tippetts - HR			12/13/2023

In the Matter of an Order Approving the)
Hire of an Employee) ORDER NO. _____
(Deputy Clerk I))

<u>Name</u>	<u>Position</u>	<u>Range/Step</u>	<u>Rate</u>	<u>Status</u>
Trista Donaldson	Deputy Clerk I	D-1	\$3,901/mo	FT/Prob

**CURRY COUNTY
JOB DESCRIPTION**

JOB TITLE: Deputy Clerk I - Clerk's Office

EXEMPT: No
SALARY LEVEL: D
SUPERVISOR: Curry County Clerk
PREPARED BY: Curry County Clerk

June 2023

GENERAL POSITION SUMMARY:

Perform highly complex and varied functions related to the recording of legal documents, issuing of marriage licenses, maintenance of voter registration records and preparation for and execution of elections. Manages as a U.S. Passport Acceptance Facility Agent. May serve as Deputy Registrar & Board of Property Tax Appeals Clerk.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

1. Administers Oregon Revised Statutes by receiving and verifying authenticity of documents presented for recording; indexes and files a wide variety of legal and other documents.
2. Maintains record of fee collections, provides funds to the Treasurer, and prepares monthly financial reports. Maintains records of County Commissioners Orders, agreements, contracts, resolutions, and ordinances signed by the County Commissioners. Oversees and performs microfilming process for all recorded information.
3. Assists the public in ascertaining what documents they may want; searches for recorded documents; answers questions and interprets documents; provides accurate and complete photocopies. Answers questions from the public relating to recording procedures and requirements. Designs and maintains web pages for County Clerk's Recording/Election Divisions.
4. Maintains voter registration data, voter history data, scanning and indexing of voter signatures to archival index. Prepares and issues official ballots to eligible voters, creates other audits, labels and materials required by Oregon Election Laws. Assembles and distributes elections supplies for drop sites, and other specific election needs required by Oregon Election Law. Explains and advises citizens in understanding their rights and responsibilities in exercising their voting franchise.

5. Audits ballot processing and counting functions produced by Election Board Personnel. Proofs Taxing District records – code area splits, ballot text in preparation of ballot distribution.
6. Upholds legal responsibilities as an Acceptance Agent. Accepts and properly allocates only authorized fees as established by the U.S. Department of State.
7. Meets annual training requirements and stays up to date with correspondence from Passport Services in the form of Agency Newsletters, notices, and any other procedure and policy updates.
8. Maintains confidentiality by not releasing passport application information to anyone other than the applicant and Passport Services, unless expressly authorized. Makes passport records available to the U.S. Department of State Office of the Inspector General for review, monitoring, audit, or investigation.
9. Complies with all instructions of the state registrar per ORS 432.035. Checks upon the compliance of others. Makes an immediate report to the state registrar of any violation of this chapter or of a rule adopted under this chapter coming to their notice by observation, upon complaint of a person or otherwise.
10. Collects fees associated with vital statistics requests using the up-to-date fee collection schedule. Deposits to the bank all collected fees and submits a report.
11. Selects members for the Board of Property Tax Appeals after the Commissioners have appointed eligible persons to the pool.
12. Receives and incorporates documents into the official record of the Board of Property Tax Appeals including appeal petitions, value recalculation worksheets, evidence, stipulations, and Summary of Actions. Distributes orders to Assessors office and Tax office directing them to reduce or sustain land values.
13. Reviews and audits all petitions to determine compliance with ORS and to establish jurisdiction with the Board. Calculates and prepares the “Summary of Actions” of the Board of Property Tax Appeals for the Department of Revenue.

SUPERVISORY CONTROLS AND RESPONSIBILITIES:

No supervisory responsibilities. Supervised by Curry County Clerk.

QUALIFICATIONS REQUIREMENTS:

Knowledge of . . .

- Standard office practices and procedures
- Local, state, and federal election/recording laws
- Real estate transactions, forms, and procedures
- Basic accounting principles

Ability to . . .

- Analyze accounting records and prepare clear and concise reports as required
- Work proficiently both independently and in a team environment dealing with the public, county officials/employees, agencies, candidates, and the media in a helpful, courteous, and tactful manner
- Organize record keeping and clerical operations
- Communicate and originate letters and memos in English effectively both verbally and in writing using good form, spelling, and grammar
- Read and interpret various maps and/or legal documents to determine property ownership, location, and description
- Use 10-Key accurately by touch 40-60 keystrokes per minute
- Type accurately 40-60 WPM
- Proof work personally performed and work done by others

Skill in . . .

- Microsoft Word and Excel programs and spreadsheets

EDUCATION AND/OR EXPERIENCE:

High school graduation or equivalency.

Two years of progressively responsible clerical experience which includes one year of property transaction experience; plus additional course work in office practices and procedures including accounting; or any satisfactory equivalent of experience and training which demonstrates the ability to perform the above described duties.

Continued compliance training and education required by Oregon Election Law.
Possession of a valid Oregon Driver License with good driving record.

PHYSICAL DEMANDS AND WORK ENVIROMENT:

- The incumbent works in a professional office environment and uses a computer & keyboard, telephone and other office equipment as needed to perform duties.
- The noise level in the work environment is typical of that of an office with frequent contact with customers and will encounter frequent interruptions throughout the workday, while maintaining attention to detail.
- This position is regularly required to sit, talk; frequently required to use repetitive hand motion, stand, walk, reach, bend or lift up to 20 pounds regularly and 50 pounds occasionally. Performs occasional work after hours depending on the office work cycle.

Reasonable accommodation may be made to enable individuals with disabilities to perform these essential functions.



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:		Agenda Item Title:	
December 21, 2023		New Hire of an Employee Maintenance and Construction Worker I	
Time Needed:			
Financial Impact:		Description and Background:	
		This order will hire Thailer Srimongkol full time as Maintenance and	
Category:		Construction Worker I	
<input type="checkbox"/> Action/Discussion			
<input checked="" type="checkbox"/> Consent			
<input type="checkbox"/> Executive Session			
<input type="checkbox"/> Hire Order			
<input type="checkbox"/> Presentation			
Requested Motion:			
Approve the hire of Thailer Srimongkol as full time Maintenance and Construction Worker I			
Attachments:		Instructions Once Approved:	
1. Order			
2. Job Description			
3.			
4.			
5.			
Contact Person – Name and Department:			Date Submitted:
Natasha Tippetts - HR			12/14/2023

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Order Approving the)
Hire of an Employee) **ORDER NO. _____**
(Maintenance/Construction Worker I))

WHEREAS, it is the recommendation of Michael E. Fitzgerald, Director of County Operations, that the following person shall be hired to fill the position identified below at the specified salary range, step, rate of pay, and status:

<u>Name</u>	<u>Position</u>	<u>Range/Step</u>	<u>Rate</u>	<u>Status</u>
Thailer Srimongkol	Maintenance/Construction Worker I	B-1	\$19.27/hour	FT/Prob

The job description is attached hereto for reference.

WHEREAS, the Board of Commissioners of Curry County, a political subdivision of the State of Oregon, is in agreement with the above stated recommendation.

NOW, THEREFORE, IT IS HEREBY ORDERED that the above stated hire be in effect as of December 26, 2023.

DATED this 21st day of December, 2023. **BOARD OF CURRY COUNTY COMMISSIONERS**

John Herzog, Chair

Approved as to Form:

Brad Alcorn, Vice Chair

Michael E. Fitzgerald, OSB #950738
Curry County Legal Counsel

Jay Trost, Commissioner

**CURRY COUNTY
JOB DESCRIPTION**

JOB TITLE: Maintenance and Construction Worker I

EXEMPT:	No	
SALARY LEVEL:	Range Road - B	
SUPERVISOR:	Maintenance and Construction Foreman	
PREPARED BY:	Road Master	June 2023

GENERAL POSITION SUMMARY:

Performs a variety of manual and semi-skilled tasks and operates light automotive and other equipment used in the general construction and maintenance of county roads, bridges, and other related facilities.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

1. Flags, controls pilot-car driving, and directs traffic during regular and evening hours (dark) working call-out emergencies.
2. Operates utility vehicles (pickups, crew cabs, 2.5-yard dump, etc.), chipper, chain saw and other equipment. Drives pilot vehicles through work zones to guide public safely. Uses hand tools and power tools.
3. Operates & drives de-icer on all County maintenance roads. Required to work early/late work hours in the dark during late fall/winter.
4. Performs manual labor digging ditches, cleaning and installing culverts, building fences, cutting, and disposing of brush and trees, setting chokers, installing guardrails and traffic signs, and removing litter and debris from roadway and adjacent area.
5. Operates snow removal equipment, installs and counts traffic counters, dead animal removal, provides work or flagging for other companies or agencies. Removal of fallen rock with plow on 1 ton pickup
6. Climbs steep embankments to mark hazards for equipment, fueling & greasing equipment.
7. Reports weekly auxiliary diesel dispensing fuel usage.
8. Conducts daily vehicle inspections, fuels and greases machines and vehicles.

SUPERVISORY CONTROLS AND RESPONSIBILITIES:

Supervision of other employees is not a responsibility of positions in this classification.

QUALIFICATION REQUIREMENTS:

Knowledge of . . .

- The rules of safe operation of the equipment operated by this classification and the precautions to be taken to avoid accidents.
- The appropriate tools, equipment, materials, and procedures used in road construction and maintenance
- Establish and maintain effective working relationships with other employees, public agencies, and the general public

Ability to . . .

- Understand and follow oral and written instructions.

Skill in

- The safe operation of automotive and light equipment (chain saw, post hole digger, brush chipper, compactor, etc.).
- Using hand tools including rakes and shovels
- NIMS Emergency Management training
- First Aid
- Chainsaw operation

EDUCATION AND/OR EXPERIENCE:

Some experience in general maintenance and construction work; sufficient education to demonstrate the ability to read and write; or any satisfactory equivalent combination of experience and training which demonstrates the ability to perform the duties.

Requires possession of a valid Oregon Drivers License.

Requires possession of a current certificate of completion of the ODOT Work Zone Traffic Control Course (Flaggers Card).

Required Continuing Education:

- ODOT Fuel Dispensing Training
- Annual Flagger Certification
- Annual Chainsaw Certification
- NIMS (Emergency Management)
- Road Scholar

PHYSICAL DEMANDS AND WORK ENVIRONMENT:

- 24/7 Call-Out Availability
- Must have the ability to perform strenuous physical tasks. Climbing hillsides – uphill working/walking in rough terrain & brush, exposure to poisonous native brush.
- Must have the ability to work in variable and inclement weather conditions and deal effectively with stress.
- Must wear safety apparel – PPE Personal Protective equipment, hardhats, ANSI 3 clothing, raingear and follow OSHA Safety requirements.
- The noise level in the work environment may be high at times.
- The weather in the work environment will variable and may be adverse at times.

Reasonable accommodations may be made to enable individuals with disabilities to perform these essential functions.

Typical Working Conditions

Work is performed outdoors in hot or cold weather under dusty, noisy conditions. Temperature extremes will vary depending on the seasonal exposure. There is occasional exposure to fumes, odors, dusts, gasses, and chemicals (such as solvents), and to allergy causing agents (such as poison oak, grasses, and insect bites). Equipment that is used on the job presents an exposure to moving and/or vibrating machinery with occasional mechanical and electrical hazard and possible abrasion and contusion.

Special Working Conditions: Exposure to: Variable temperatures and weather conditions; slippery surfaces, such as wet trenches; heights, such as at the edge of a trench; cramped workspaces; high levels of noise; dust and silica dust; allergens, such as poison oak and stinging insects; strong, unpleasant odors; electrical hazards; potentially hostile or violent individuals; the possibility of experiencing bodily injury and contact with toxic substances and chemical irritants.



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:		Agenda Item Title:	
December 21, 2023		New Hire of an Employee Maintenance and Construction Worker I	
Time Needed:			
Financial Impact:		Description and Background:	
		This order will hire Zachariah Romsa full time as Maintenance and	
Category:		Construction Worker I	
<input type="checkbox"/> Action/Discussion			
<input checked="" type="checkbox"/> Consent			
<input type="checkbox"/> Executive Session			
<input type="checkbox"/> Hire Order			
<input type="checkbox"/> Presentation			
Requested Motion:			
Approve the hire of Zachariah Romsa as full time Maintenance and Construction Worker I			
Attachments:		Instructions Once Approved:	
1. Order			
2. Job Description			
3.			
4.			
5.			
Contact Person – Name and Department:			Date Submitted:
Natasha Tippetts - HR			12/13/2023

**In the Matter of an Order Approving the)
Hire of an Employee) ORDER NO. _____
(Maintenance/Construction Worker I))**

19

**CURRY COUNTY
JOB DESCRIPTION**

JOB TITLE: Maintenance and Construction Worker I

EXEMPT: No
SALARY LEVEL: Range Road - B
SUPERVISOR: Maintenance and Construction Foreman
PREPARED BY: Road Master June 2023

GENERAL POSITION SUMMARY:

Performs a variety of manual and semi-skilled tasks and operates light automotive and other equipment used in the general construction and maintenance of county roads, bridges, and other related facilities.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

1. Flags, controls pilot-car driving, and directs traffic during regular and evening hours (dark) working call-out emergencies.
2. Operates utility vehicles (pickups, crew cabs, 2.5-yard dump, etc.), chipper, chain saw and other equipment. Drives pilot vehicles through work zones to guide public safely. Uses hand tools and power tools.
3. Operates & drives de-icer on all County maintenance roads. Required to work early/late work hours in the dark during late fall/winter.
4. Performs manual labor digging ditches, cleaning and installing culverts, building fences, cutting, and disposing of brush and trees, setting chokers, installing guardrails and traffic signs, and removing litter and debris from roadway and adjacent area.
5. Operates snow removal equipment, installs and counts traffic counters, dead animal removal, provides work or flagging for other companies or agencies. Removal of fallen rock with plow on 1 ton pickup
6. Climbs steep embankments to mark hazards for equipment, fueling & greasing equipment.
7. Reports weekly auxiliary diesel dispensing fuel usage.
8. Conducts daily vehicle inspections, fuels and greases machines and vehicles.

SUPERVISORY CONTROLS AND RESPONSIBILITIES:

Supervision of other employees is not a responsibility of positions in this classification.

QUALIFICATION REQUIREMENTS:

Knowledge of . . .

- The rules of safe operation of the equipment operated by this classification and the precautions to be taken to avoid accidents.
- The appropriate tools, equipment, materials, and procedures used in road construction and maintenance
- Establish and maintain effective working relationships with other employees, public agencies, and the general public

Ability to . . .

- Understand and follow oral and written instructions.

Skill in

- The safe operation of automotive and light equipment (chain saw, post hole digger, brush chipper, compactor, etc.).
- Using hand tools including rakes and shovels
- NIMS Emergency Management training
- First Aid
- Chainsaw operation

EDUCATION AND/OR EXPERIENCE:

Some experience in general maintenance and construction work; sufficient education to demonstrate the ability to read and write; or any satisfactory equivalent combination of experience and training which demonstrates the ability to perform the duties.

Requires possession of a valid Oregon Drivers License.

Requires possession of a current certificate of completion of the ODOT Work Zone Traffic Control Course (Flaggers Card).

Required Continuing Education:

- ODOT Fuel Dispensing Training
- Annual Flagger Certification
- Annual Chainsaw Certification
- NIMS (Emergency Management)
- Road Scholar

PHYSICAL DEMANDS AND WORK ENVIRONMENT:

- 24/7 Call-Out Availability
- Must have the ability to perform strenuous physical tasks. Climbing hillsides – uphill working/walking in rough terrain & brush, exposure to poisonous native brush.
- Must have the ability to work in variable and inclement weather conditions and deal effectively with stress.
- Must wear safety apparel – PPE Personal Protective equipment, hardhats, ANSI 3 clothing, raingear and follow OSHA Safety requirements.
- The noise level in the work environment may be high at times.
- The weather in the work environment will variable and may be adverse at times.

Reasonable accommodations may be made to enable individuals with disabilities to perform these essential functions.

Typical Working Conditions

Work is performed outdoors in hot or cold weather under dusty, noisy conditions. Temperature extremes will vary depending on the seasonal exposure. There is occasional exposure to fumes, odors, dusts, gasses, and chemicals (such as solvents), and to allergy causing agents (such as poison oak, grasses, and insect bites). Equipment that is used on the job presents an exposure to moving and/or vibrating machinery with occasional mechanical and electrical hazard and possible abrasion and contusion.

Special Working Conditions: Exposure to: Variable temperatures and weather conditions; slippery surfaces, such as wet trenches; heights, such as at the edge of a trench; cramped workspaces; high levels of noise; dust and silica dust; allergens, such as poison oak and stinging insects; strong, unpleasant odors; electrical hazards; potentially hostile or violent individuals; the possibility of experiencing bodily injury and contact with toxic substances and chemical irritants.



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:		Agenda Item Title:	
December 21, 2023		Re-Appoint T Donaldson to Fair Board Position #2	
Time Needed:			
Financial Impact:		Description and Background:	
		Trista Donaldson currently holds Fair Board Position #2 that expires on	
Category:		December 31, 2023. This will reappoint Trista for a term to expire on	
<input type="checkbox"/>	Action/Discussion	December 31, 2026.	
<input checked="" type="checkbox"/>	Consent		
<input type="checkbox"/>	Executive Session		
<input type="checkbox"/>	Hire Order		
<input type="checkbox"/>	Presentation		
Requested Motion:			
Reappoint Trista Donaldson to Fair Board Position #2 with a term to expire December 31, 2026			
Attachments:		Instructions Once Approved:	
1. Order			
2. Application			
3.			
4.			
5.			
Contact Person – Name and Department:			Date Submitted:
Natasha Tippetts – BOC Admin			12/13/2023

In the Matter of an Order Reappointing a)
Member to the Fair Board)
) **ORDER NO. _____**

DATED this 21st day of December, 2023. **BOARD OF CURRY COUNTY COMMISSIONERS**



**Application: Volunteer Boards, Commissions, Councils,
Committees or Task Forces Board of Curry County Commissioners**

94235 Moore Street, Suite 122 Gold Beach, OR 97444

Phone: 541-247-3296 Fax: 541-247-2718

Email: BOC_Office@co.curry.or.us

Please complete both pages of this form. Information submitted as part of this application is available and shall be considered public information as it pertains to Oregon Public Records.

Please print or type clearly

Name: Trista Donaldson

Date: 12.12.23

Please indicate which Board, Commission, Council, Committee, or Task Force on which you are interested in serving.

<input type="checkbox"/>	Ambulance Service Area Advisory Committee
<input type="checkbox"/>	Board of Property Tax Appeals
<input type="checkbox"/>	Budget Committee
<input type="checkbox"/>	Planning Commission
<input type="checkbox"/>	Solid Waste Advisory Committee
<input type="checkbox"/>	Compensation Board
<input type="checkbox"/>	Coos Curry Housing Authority
<input checked="" type="checkbox"/>	Fair Board
<input type="checkbox"/>	Local Public Safety Coordinating Council
<input type="checkbox"/>	CCD Business Development Corporation
<input type="checkbox"/>	Suicide Awareness and Prevention Council
<input type="checkbox"/>	Destination Leadership Team - Travel Curry Coast

**Are you currently serving on a Board,
Commission, Council, Committee, or Task
Force for Curry County?**

☒ Yes ☐ No ☐

Date Received:

If yes, list which committee(s):

Curry County Fairboard

What experience, training, or qualifications do you, have for this Board, Commission, Council, Committee, or Task Force?

As a current board member I've attended 2 conventions and have valuable information that was taught during them.

What community topics concern you that relate to this Board, Commission, Council, Committee, or Task Force?

Describe your previous experience in this appointed position or a similar position:

I'm fully vested into the future of our community and of the fairgrounds.



Application: Volunteer Boards, Commissions, Councils,
Committees or Task Forces Board of Curry County Commissioners

94235 Moore Street, Suite 122 Gold Beach, OR 97444

Phone: 541-247-3296 Fax: 541-247-2718

Email: BOC_Office@co.curry.or.us

Other Volunteer activities:

Circle one:

Does your schedule allow you to attend daytime meetings?

Yes No

Does your schedule allow you to attend evening meetings?

Yes No

Does your schedule limit the days you could attend meetings?

Yes No

If yes, please explain:

Signature:

Donaldson

Date:

12.12.23

My signature above indicates my desire to serve Curry County in a voluntary capacity as a member of one of its Boards, Commissions, Councils, Committees, or Task Forces. I understand that there is no financial compensation for serving.

Per ORS 192.502(3), the following can only be disclosed to the public following a public record request that shows clear and convincing evidence that the public interest requires disclosure.

Your Mailing Address:

[REDACTED]

Best Phone Number to Call:

[REDACTED]

Email Address:

[REDACTED]

Thank you for your application. Please return your completed application to the Curry County Commissioners' Office at the address or email listed on page one of this form or you may submit your application on the county's website at www.co.curry.or.us

NOTE: A separate application may be required for each Board, Commission, Council, Committee, or Task Force for which you are applying.



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:		Agenda Item Title:	
12/21/2023		Application permission for ODEM State Preparedness and Incident	
Time Needed:		Response Equipment (SPIRE) Grant Program III.	
Financial Impact:		Description and Background:	
		Aquatic Safety currently is in use and possession of personal watercraft	
Category:		(PWC's) from the Oregon Department of Emergency Management. This	
<input type="checkbox"/> Action/Discussion		grant is to solidify possession and use. This grant is not for ownership.	
<input checked="" type="checkbox"/> Consent			
<input type="checkbox"/> Executive Session			
<input type="checkbox"/> Hire Order			
<input type="checkbox"/> Presentation			
Requested Motion:			
Motion to allow Luke Martinez to apply for the ODEM State Preparedness and Incident Response Equipment grant and give signature authority for grant purposes to the Aquatic Safety Director, Luke Martinez.			
Attachments:		Instructions Once Approved:	
1. Order.		Notify Aquatic Safety.	
2. Guidance and Application Instructions			
3.			
4.			
5.			
Contact Person – Name and Department:		Date Submitted:	
Luke Martinez – Aquatic Safety		12/13/2023	

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON**

**In the Matter of an Order Authorizing)
the Application and Acceptance of an) ORDER NO. _____
Oregon Department of Emergency State)
Preparedness and Incident Response)
Equipment Grant)
(Personal Watercraft))**

WHEREAS, Curry County Aquatic Safety assumed the use of a personal watercraft provided in conjunction with the State Preparedness and Incident Response Equipment (“SPIRE”) Grant program administered by the Oregon Department of Emergency Management (“ODEM”); and

WHEREAS, the personal watercraft has been instrumental in providing Aquatic Safety services related to aquatic hazards in Curry County, and the continued use of the personal watercraft is desired; and

WHEREAS, Curry County Aquatic Safety must enter into a SPIRE grant agreement with ODEM in order to continue using the personal watercraft; and

WHEREAS, Board approval is required for the Aquatic Safety Officer to apply for and accept the SPIRE Grant.

NOW, THEREFORE, IT IS HEREBY ORDERED that the application and acceptance of the above-referenced SPIRE Grant is authorized, with signature authority for grant purposes being assigned to Luke Martinez, Aquatic Safety Officer.

DATED this 21st day of December, 2023. **BOARD OF CURRY COUNTY COMMISSIONERS**

John Herzog, Chair

Approved as to Form:

Brad Alcorn, Vice Chair

Michael E. Fitzgerald, OSB #950738
Curry County Legal Counsel

Jay Trost, Commissioner

GUIDANCE AND APPLICATION INSTRUCTIONS

**STATE PREPAREDNESS AND INCIDENT RESPONSE
EQUIPMENT (SPIRE)
GRANT PROGRAM III**

OREGON DEPARTMENT OF EMERGENCY MANAGEMENT

<https://spire-geo.hub.arcgis.com/>

Mailing address:
P.O. Box 14370
Salem, OR 97309-5062

Physical address:
3930 Fairview Industrial Drive SE
Salem, OR 97302

Application Due Date: 5 p.m., Tuesday, Jan. 2, 2024

<https://survey123.arcgis.com/share/71ae70b5b7374fba86045b3099889a74>

CONTENTS

CONTENTS	2
INTRODUCTION	3
State Preparedness and Incident Response Equipment Grant (SPIRE)	3
Eligibility	3
USAR Requirements.....	3
AVAILABLE FUNDING	3
Resiliency Grant Fund	3
Application Evaluation Criteria	4
Possession of Equipment.....	5
Delivery of Equipment	5
Inventory Process	5
Equipment Grant	5
ELIGIBLE EXPENSES	5
INELIGIBLE EXPENSES	6
OWNERSHIP	6
Returned Equipment/Terminated Agreements	6
APPLICATION INSTRUCTIONS	6
Online Form Notes.....	6
Application Due Date.....	7
Funds Availability.....	7
REVIEW PROCESS.....	7
AWARD INFORMATION	8
Applicant Notification.....	8
Grant Award	8
IMPLEMENTATION INFORMATION.....	8
PROCUREMENT STANDARDS.....	8
SUSPENSION OR TERMINATION OF AGREEMENT	8
REPORTING	9
Narrative Reporting	9
Inspection Reporting	9
EQUIPMENT LIST	10

INTRODUCTION

State Preparedness and Incident Response Equipment Grant (SPIRE)

As defined by House Bill 2687, Oregon Department of Emergency Management (ODEM) will create a grant to distribute emergency preparedness equipment, which may include vehicles or other property, to eligible applicants. The bill established the Resiliency Grant Fund, herein referred to as the State Preparedness and Incident Response Equipment (SPIRE) Grant Program. During the 2021 Legislative Session, HB 2426 added Urban Search and Rescue (USAR) equipment list. The fund for the current grant will contain approximately \$3 million but will be adjusted as equipment is purchased from previous grant periods. Funds are made available by bond sale through the state.

Eligibility

Qualified applicants include any organization responsible for or containing expertise in emergency preparedness and that is a local government as defined by ORS 174.116, special government body, a federally recognized Indian tribe in Oregon or a private organization qualified for federal tax-exempt status under 501(c)(3) of the Internal Revenue Code. All equipment must be made available through ORS 402 Oregon Resources Coordination Assistance Agreement (ORCAA).

USAR Requirements

USAR Team: A full-time paid or combination fire department capable of deploying the following personnel within 12 hours and self-sustained for up to three days.

- 1- Structural Collapse Strike Team Leader
- 4- Structural Collapse Technicians
- 1- Search Technician
- 1- Haz Mat Technician
- 1- Safety Officer
- 1- Paramedic trained in collapse compartment syndrome
- 1- Logistics Specialist or Emergency Equipment Tech
- USAR applicants must also provide as part of their application appropriate covered, secured storage for awarded equipment.
- Provide a roster of structural collapse-trained personnel, including date and type of training received.
- Provide an annual structural collapse training plan and budget.

Entities working toward the above requirements may apply, knowing they will be evaluated against those meeting the full requirements. Communicate what your team currently consists of including how many positions, how many trained and how the equipment being applied for will move your team toward compliance.

AVAILABLE FUNDING

Resiliency Grant Fund

Individual items purchased must qualify for depreciation under Oregon law and therefore have a minimum cost of \$5,000 **per item** and be selected from an approved list found on the attached equipment list. ***Leases, rentals, training, software, subscriptions or partial funding will not be eligible.***

Application Evaluation Criteria

Through the application process, applicants will be scored based upon the following data:

- **Past Performance (20):** If you have never received any SPIRE equipment, you will automatically receive full points on this criteria. If you have received equipment in the past, we will be reviewing all applicants that say “yes” to confirm all reports are complete. Feel free to email oem.spire@oem.oregon.gov to request a review to see if you are up to date. Go here <https://spire-geo.hub.arcgis.com/pages/spire-equipment-annual-reporting> to submit any missing reports. *(Reports are not required until you have received equipment. If you have been awarded equipment but have not received it, you are up to date.)*

Have not received equipment in the past – 20

Yes, have received equipment and up to date on reporting – 20

Yes, have received equipment and not up to date on reporting – 0

- **Capability Gap filled/Demonstrated need (50):** Describe the capability gap this equipment will address. Clearly describe the need that will be filled by this request. This may be based on historical data, upcoming events or other forecasted variables. See attached links for further information on capability gaps.
<https://www.fema.gov/emergency-managers/national-preparedness/mission-core-capabilities>
https://www.oregon.gov/oem/emresources/Plans_Assessments/Pages/State-Capability-Assessment.aspx
- **Ability to sustain, maintain, insure and secure equipment (25):** The applicant must demonstrate that it has the means to safely store and secure, maintain, insure and transport the equipment. Please provide a narrative that addresses each of these in your application.
- **Training Qualifications (15):** If this equipment takes specialized training or certifications, describe your qualifications to use this equipment. (For USAR, provide a roster of structural collapse-trained personnel, including date and type of training received.)
- **Training Plans (15):** How will you train staff and partners on the use of this equipment? (For USAR, provide annual structural collapse training plan and budget.) Any organization can apply for any equipment, including USAR equipment, through this grant. Please specify on your application if you wish to be evaluated for the first round under USAR, Tribal or your region. All applicants must show they are qualified to use equipment to be eligible to receive it.
- **Sharing Equipment Procedure/Plan (20):** Describe how you would work with internal partners (those included in your application) as well as external partners (another entity in need of the equipment due to an emergency that is not included in your application) to deploy the equipment. Include information about your plan for hand-off and training of the borrowing user. Do you have agreements in place or readily available?
- **Commitment to partnership-based support (30):** The SPIRE Grant, like all grants, seeks to provide the greatest level of benefit to the greatest number of Oregon’s population as possible, within the limits of the funding provided. To accomplish that goal, greater weight will be given to applicants that seek acquisition of equipment for greater benefit than just one organization. Application priority will fall into one of five categories. In descending order of population impact, they are: Regional, Tribal, County, Community and Individual Organization. Regional-based support efforts will earn the highest score in the application process, followed by Tribal, County, Community (city) and Individual Organization.

- *Regional (30): A “region” is defined as two or more contiguous counties. Regional projects must include two or more county emergency managers as the applicant and/or partner organization. All partner organizations must provide a letter of support to be included with the application.*
 - *Tribal (25): A “tribal” application is defined as an application that originates with a federally recognized tribe in Oregon. Tribes can be partner organizations. All partner organizations must provide a letter of support to be included with the application.*
 - *County (20): A “county” application must include a county emergency manager as the applicant and/or partner organization. All partner organizations must provide a letter of support to be included with the application.*
 - *Community (15): A “community” application is defined as a jurisdiction smaller than a county. All partner organizations must provide a letter of support to be included with the application.*
 - *Individual Organization (10): An “individual organization” application is defined as a single non-profit or public organization. See definition of eligible organizations identified in eligibility section.*
- **Letters of support (25):** County and Tribal Letter of Support (10), each additional partner letter of support (5) to a maximum of 25 points.
 - **Equipment Priority Designation (10):**
 - Priority 1 – 10
 - Priority 2 – 8
 - Priority 3 – 6
 - Priority 4 – 4

Possession of Equipment

Unless reclaimed or repurposed by the state, the equipment will remain with the grantee for the duration of its useful life. The state will work with each grantee after the equipment’s useful life for final disposition.

Delivery of Equipment

If awarded equipment cannot be delivered directly to the awardee, they must agree to pick it up from an alternate location within five working days of notification.

Inventory Process

Although ownership will be maintained by ODEM, the applicant must include the equipment in its inventory, including all appropriate disposition tracking.

Equipment Grant

The SPIRE Grant Program is an equipment grant. Successful applicants will receive a grant agreement with the specific legal requirements of the grant. Once the agreement is signed by ODEM and the grantee the project can begin, and the equipment will be issued once available. ODEM will facilitate all procurement steps.

ELIGIBLE EXPENSES

Identified equipment will be purchased by ODEM and provided to the grantee. Additional equipment expenditures or items necessary to operate the equipment, such as installation, connectors, maintenance or any other expense, will be the responsibility of the applicant and will not be covered under the grant. See Equipment List for approved items.

INELIGIBLE EXPENSES

No expenditures outside of ODEM procurement will be covered outside of the approved equipment list for any reason. This includes payroll, benefits, management and administration costs, engineering fees or other professional services, consulting fees, etc. ***Leases, rentals or partial funding of equipment are not eligible.***

OWNERSHIP

ODEM will retain ownership of all equipment dispersed under the grant and can reclaim the item(s) at any time and for any duration based on: Failure to meet requirements of grant agreement, community needs or any other purpose as determined solely by ODEM.

Possible reasons for ODEM reclamation:

- Equipment has not been maintained.
- Grantee refuses to deploy to a needed location.
- Jurisdiction decides to return the equipment.

At the end of the equipment's useful life, ODEM may sell the equipment to the jurisdiction, permanently transferring ownership, for any price that does not exceed fair market value.

Returned Equipment/Terminated Agreements

In the event an agreement is terminated, and the equipment is still usable, ODEM shall determine the best method to reappropriate the equipment.

- Review if any of the regional agencies or jurisdictional partners that provided letters of support for the application, have the ability or desire to accept the equipment and enter into a new grant agreement with ODEM.
- Review the unfunded grant applications from the ranked list.
- Reopen applications for the equipment*.
- Sell the equipment for any price that does not exceed fair market value.

*There are currently two used Rescue Jet Skis with Trailers included in this application process.

APPLICATION INSTRUCTIONS

The applicant will provide one application for EACH piece of qualifying equipment for which it is applying. There is a limit of three applications that can be submitted by each applicant. There is no limit on the amount of Regional or County project applications of which an applicant can be part. Any organization can apply for any equipment, including USAR equipment, through this grant. Please specify on your application if you wish to be evaluated for the first round under USAR, Tribal or your region. All applicants must show they are qualified to use equipment to be eligible to receive it.

Only completed applications with all requested information will be accepted and reviewed. Applications will be scored based upon the criteria stated in this guidance. Applications will be scored individually.

Please complete all sections of the online application form.

Online Form Notes

Equipment is listed in alphabetical order, not the order listed in the Equipment List. There is a field that asks for requested features. Please fill this out completely so we know what is important in the equipment received. This will not be used for scoring but will be used after award to help develop specifications for ordering. There is a field on the application: "Please add any additional information here you believe is relevant and not covered elsewhere in your application." This field is available for you to submit comments or any other correspondence that does not fit elsewhere. If the same entity is applying for more than piece of the same equipment, please

make that clear in this field (i.e., duplicate applications, 1 of 2 for X piece of equipment). We have also added a field for attachments if you need to provide additional support to descriptions.

Some of the boxes limit the number of characters available. If you exceed them, you will not be able to submit. If you want to save your application as you work on it, you must submit a primary contact email address and you must check the “No, I’m saving a draft copy for myself” button and hit “Submit.” This will send you an email with a link so you can go back and work on your application at another time. For your application to be received by ODEM, you must hit “Yes, Submit Now.” Please be sure your application is complete before sending to ODEM.

Application Due Date

All application packages must be submitted online through the following link <https://survey123.arcgis.com/share/71ae70b5b7374fba86045b3099889a74> no later than **5 p.m. on Tuesday, Jan. 2, 2024**. You will receive an emailed copy of your submittal. Save this copy for your records and proof of submittal.

Because internet connections can be unstable, we highly recommend you submit your application well before the application deadline. Applicants are fully responsible for the timely delivery of grant applications. Late applications, or past due date modifications to meet minimum qualifications, will not be accepted under any circumstances.

Funds Availability

Approximately \$2.4 million will be available and each Region, Tribal and USAR will have approximately \$300,000 allocated to ensure equitable distribution of equipment. Applications not funded will be ranked and forwarded for further consideration if funds remain.

REVIEW PROCESS

Applications submitted by the deadline that meet all requirements will be forwarded to a statewide committee for review and scoring. The review team will consist of ODEM staff, county and tribal emergency managers, representatives from USAR, emergency services, search and rescue, cities and special districts/other. All members of the review committee will score all proposals using the matrix included in this guidance. If a committee member has a conflict of interest with an application, they will not score that application. All members will declare their conflicts of interest at the beginning of each meeting and will not participate in any review if they have a conflict. All reviews and scores must be completed the day before the scheduled review meeting.

Applications will be reviewed and discussed together in the order of their scores per allocation, with the highest scoring discussed first. The statewide committee will forward their funding recommendations to the ODEM director for final approval. Those not recommended for the first allocation will remain in ranked order to be reviewed for possible funding if there are funds remaining following purchase of awarded equipment.

Meeting review date will be announced when scheduled. If you are interested in participating in the review committee, applications will be accepted beginning Nov. 1. Look for a link on the SPIRE website to apply. This process is consistent with previous ODEM grant review processes. The initial allocation of USAR, Tribal and Regional was developed in response to feedback received from the previous two SPIRE processes. The intent of this process is to ensure that equipment granted will fill the capability gaps identified through the THIRA/SPR, all disciplines and regions have representation in the decision-making process, and each Regional/USAR Team/Tribal Community is ensured the opportunity to receive equipment where it will have the greatest impact for the area.

You may submit your application under

- Regional
- USAR Team
- Tribal – federally recognized tribes in Oregon

If your application covers more than one region, select the region where the equipment will be stationed and maintained.

AWARD INFORMATION

Applicant Notification

Applicants will receive notification of the status of their application within 60 days of the application deadline or an updated timeline in the event of extenuating circumstances.

Grant Award

Successful applicants will receive a grant agreement within 90 days of notification. The grant agreement is a legal contract between the awarding agency (Oregon Department of Emergency Management) and the recipient (successful applicant). The agreement will include details regarding each specific piece of equipment and the location for use or storage. The agreement will include all legal commitments of both parties.

IMPLEMENTATION INFORMATION

The equipment and materials awarded through SPIRE Grant Program are as provided. Any local, specific materials, additional equipment, training, configuration, fuel or service subscriptions, or other costs to make the equipment mission capable and deployable are the sole responsibility of the receiving grantee. The SPIRE Grant Program will not be responsible for any installation or follow-on costs related to the provided materials. No modifications are allowed that will hamper or reduce the equipment's effectiveness or original use.

PROCUREMENT STANDARDS

All items under the grant will be procured by the state and delivered to grantees. All purchases will be through Oregon Buys. Grantees should anticipate a wait period, sometimes significant, between award and receipt of equipment.

SUSPENSION OR TERMINATION OF AGREEMENT

Suspension or termination of agreement occurs only when ODEM has determined that the Grant Agreement has not been followed and is subject to termination. Recipients will be given not less than 72 hours to prepare the equipment for removal by ODEM if termination of funding occurs. In addition, ODEM may suspend or terminate the agreement, in whole or in part, or impose other measures for any of the following reasons:

- Failing to follow grant agreement requirements or standard or special conditions.
- Implementing substantial project changes, to the extent that, if originally submitted, the item would not have been selected for funding.
- Failing to submit required reports.
- Failing to comply with inspections for any reason.
- Filing a false certification in this application or other report or document, including correspondence with ODEM by any medium.
- Determining that the equipment could be of greater use to the community elsewhere.

Before acting, ODEM will provide the recipient with reasonable notice (not less than 72 hours) of intent to impose measures and will make efforts to resolve the problem.

REPORTING

Narrative Reporting

A narrative report will be required to be submitted to ODEM annually. ODEM will provide a report template to grantees.

Inspection Reporting

The equipment will be subject to inspection by ODEM at any time, with or without notice, and will occur at least once per year. Failure to comply with inspections could result in suspension or termination of agreement.

EQUIPMENT LIST

Each piece of equipment has been assigned to one of four priorities under the grant. They include: 1. Saving or Sustaining Lives /Urban Search and Rescue; 2. Obtaining or Maintaining Situational Awareness; 3. Incident Stabilization; or 4. Recovery. The equipment list below is very generic, and applicants are asked to submit additional details in their request with specifications that would make the equipment most effective and usable for their organization. Not all specifications may be able to be accommodated, but all will be considered.

This equipment list was developed through a collaborative statewide process involving regional, Urban Search and Rescue, and state partners. Initial meetings were conducted with county emergency managers who forwarded their equipment priority needs by region. This list was reviewed by statewide partners, and the draft list was provided for additional feedback from participants, Urban Search and Rescue, and partners. The result was the following recommended list. The Oregon Homeland Security Council reviewed and approved it at its May 3, 2023, meeting.

Priority 1: Save/Sustain Lives	
Generators (medium, large, solar option) – trailer mounted generators that can be moved to provide temporary power.	
Fuel Transportation – 900-1000 gallon – trailer mounted tank.	
Water Purification System – trailer mounted to provide potable water.	
Mobile Water Tankers – 900-1000 gallon – trailer mounted tank.	
Shelter, Portable – can be set up to provide mass care services.	
Priority 1: Urban Search and Rescue	
Utility Terrain Vehicle - Wheeled - able to seat passengers side by side and built with lots of storage space, commonly used to haul equipment and supplies.	
Utility Terrain Vehicle – Tracked – able to seat passengers side by side and built with lots of storage space, commonly used to haul equipment and supplies.	
Hydraulic Rescue Complement (Cutter, Spreader, Combi Tool, Telescopic Rams).	
Heavy Lift Airbags – capable of lifting heavy loads with relative ease and efficiency.	
Unmanned Aerial Vehicle (UAV) with thermal imaging.	
High-Axle Rescue Water Evacuation Vehicle.	
Priority 2: Obtain/Maintain Situational Awareness	
Communication Units/Sets - cache of radios, deployable.	
Lighting, Portable – trailer mounted lighting system.	
Communication Tower, Portable – Cell on Wheels – for emergency coverage on a short-term basis.	
Communication trailer with mobile repeaters, radio equipment for UHF/VHF, power supply, generator and backup. Used to set up temporary communications.	
Snow Cat – an enclosed-cab fully tracked vehicle designed to move on snow.	
Priority 3: Incident Stabilization	
Traffic Message Board – trailer mounted.	
Vehicle, 10+ passenger transport vehicle – crew carrier with intercom and headsets and gear storage.	
Priority 4: Initiate Recovery	
Sandbagging Machine – trailer mounted.	
Mobile Command Center (Trailer).	
Mobile Command Vehicle (with off-road and high-water capability).	
Water gate flood barrier for flood pre/support.	



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:	Agenda Item Title:	
12/21/23	Appointing a Flood Hazard Administrator	
Time Needed:		
N/A		
Financial Impact:	Description and Background:	
TBD	<p>Curry County Ordinance No. 2018-06 provides that the Planning Director serves as the Flood Hazard Administrator for Curry County, designates the Administrator to administer and implement the Ordinance, and additionally sets forth the duties and responsibilities of that position.</p> <p>Ted Fitzgerald, Community Development Director, has determined that Scott Fein, County Surveyor, has the knowledge and expertise necessary to serve as the Flood Plain Administrator and should be appointed to serve in that regard.</p>	
Category:		
<input type="checkbox"/> Action/Discussion		
<input checked="" type="checkbox"/> Consent		
<input type="checkbox"/> Executive Session		
<input type="checkbox"/> Hire Order		
<input type="checkbox"/> Presentation		
Requested Motion:		
Appoint Scott Fein as Curry County Flood Hazard Administrator		
Attachments:	Instructions Once Approved:	
1. Ordinance 2018-06 2. Order 3. 4. 5.	File copy of Order with County Clerk.	
Contact Person – Name and Department:		Date Submitted:
Ted Fitzgerald, Director of County Operations		12/13/23

BEFORE THE BOARD OF COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY OREGON

An Ordinance)	
Adopting a New Curry County)	
Flood Damage Prevention)	ORDINANCE 2018- <u>06</u>
Ordinance and Repealing the)	
2009 Curry County Flood)	
Damage Prevention Ordinance)	

On October 3, 2018, this matter came before the Board of Commissioners for Curry County, a general law county political subdivision of the state of Oregon, after duly posted and published notice; and

The Board having heard a staff report and considered public testimony the Board of Commissioners finds:

The proposed amendment to the Curry County Flood Management Ordinance is consistent with applicable statewide planning goals and the Curry County Comprehensive Plan. Because these amendments only impose additional requirements in a marginal way, they are consistent with the existing comprehensive plan and land development ordinances.

These amendments are consistent with Citizen Involvement by making materials available for public inspection and publishing and otherwise advertising a public hearing; individual landowner notice under 215.503 is not required under subsection (10) thereof.

Now therefore, The Board of Curry County Commissioners ordains as follows:

Section 1: Adoption

A new Curry County Flood Damage Prevention Ordinance which is attached hereto and incorporated by reference as Exhibit "A" is hereby adopted.

Section 2: Repealer

Curry County Ordinance 09-05 is hereby repealed.

Section 3: Effective Date

This ordinance is being adopted consistent with ORS Chapters 197 and 215 and with ORS 203.035. Pursuant to FEMA requirements, this ordinance must be adopted by November 16, 2018.

The Board of Curry County Commissioners for the County of Curry deems this ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists.

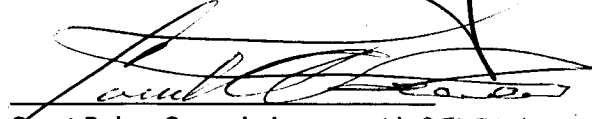
This ordinance shall be in full force and effect on November 16, 2018.

DATED this 3rd day of October, 2018.

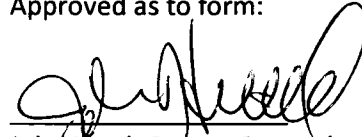
BOARD OF CURRY COUNTY COMMISSIONERS


Sue Gold, Chair

 10/23/18
Tom Huxley, Vice Chair


Court Boice, Commissioner 10/23/18

Approved as to form:


John Huttel, County Counsel

Public Hearing /Reading October 3, 2018
Public Hearing/Reading October 17, 2018
Emergency Adoption Yes
Effective date November 16, 2018

EXHIBIT A

CURRY COUNTY, OREGON FLOOD DAMAGE PREVENTION ORDINANCE

SECTION 1.0. AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION

The State of Oregon has in ORS 197.175 and ORS 203.035 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of Curry County Oregon does ordain as follows:

1.2 FINDINGS OF FACT

- (1) The flood hazard areas Curry County are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for emergency rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard and to discourage the victimization of uninformed land and home buyers;
- (8) To prevent development which increases base flood heights that could increase flood damage and may result in conflicts or litigation between property owners;
- (9) To make flood insurance available from FEMA at the lowest possible rates; and,
- (10) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas; and
- (6) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

SECTION 2.0. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"ACCESSORY (APPURTENANT) STRUCTURE" means a structure which is on the same parcel of land as the principal structure, and the use of which is incidental to the use of the principal structure.

"APPEAL" means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

"AREA OF SHALLOW FLOODING" means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow

"AREA OF SPECIAL FLOOD HAZARD" is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term ``special flood hazard area" is synonymous in meaning with the phrase ``area of special flood hazard".

"BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year

"BASE FLOOD ELEVATION" means the water surface elevation of the one percent (1%) annual chance flood (100-year flood).

"BASEMENT" means any area of the building having its floor subgrade (below ground level) on all sides.

"BELOW-GRADE CRAWL SPACE" means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

"BOARD" means the Curry County Board of Commissioners

"BREAKAWAY WALL" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"COASTAL HIGH HAZARD AREA" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

"CRITICAL FACILITIES" means facilities for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

"COUNTY" means Curry County, Oregon.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"ELEVATED BUILDING" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" is the Federal agency which administers the National Flood Insurance Program.

"FLOOD OR FLOODING" means:

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

"FLOOD HAZARD ADMINISTRATOR" means the Planning Director or his or her designee.

"FLOOD HAZARD MAP" is a composite of Federal Flood Insurance Rate Maps, Floodway Maps and more recently acquired information that does not appear on the federal maps. It is used to administer the Curry County Flood Damage Prevention Ordinance.

"FLOOD INSURANCE RATE MAP (FIRM)": means an official map of a community, on which the Flood Insurance Administrator has delineated both the special hazard areas and the risk of premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

"FLOOD INSURANCE STUDY" means the official report provided by the Federal Insurance Administration that includes an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards."

"FLOOD PROOFING" means any combination of structural and non-structural additions, changes, or adjustments to structure which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"FLOODWAY FRINGE" means the area within the 100 year flood plain excluding the floodway.

"FUNCTIONALLY DEPENDENT USE" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for loading or

unloading cargo or passengers and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"GRADE" is the elevation of the lowest ground level immediately adjacent to the building, or for pre-construction, the building site.

"HABITABLE SPACE" means a space occupied by one or more persons for living, sleeping, eating, or cooking. Habitable Space does not include the following: a space used for a bath, boiler room, closet, dressing room, heater, kitchenette, laundry, locker, pantry, storage, toilet, and utility; or for service and maintenance of a building; or used for access and vertical travel between stories.

"INCREASE IN BASE FLOOD HEIGHT" means a calculated upward rise in the base level flood elevation resulting from comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Code of Regulations Sec. 60.3.

"LOWEST HORIZONTAL SUPPORTING MEMBER" means the horizontal beam or floor joist that provides structural support for the habitable floor of the structure.

"MANUFACTURED DWELLING" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term ``manufactured home" does not include a ``recreational vehicle".

"MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"MEAN HIGH TIDE" means the average height, relative to mean sea level, of all observed high tides from tidal data available for coastal site shown on the community's Flood Insurance Rate Map.

"MEAN SEA LEVEL" means, for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 (NAVD 88) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after April 3, 1978 and includes any subsequent improvements to such structures.

"NEW MANUFACTURED HOME PARK OR SUBDIVISION" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations adopted by the community.

"PARTITION" means to divide land into two or three parcels of land within a calendar year, but does not include:

- (1) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- (2) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance; or
- (3) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s).

"PLANNING COMMISSION" means the Planning Commission as appointed by the Board of Commissioners of Curry County.

"PRIMARY FRONTAL DUNE" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

"RECREATIONAL VEHICLE" means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"REGULATORY FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"START OF CONSTRUCTION" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"STATE BUILDING CODE" means the State of Oregon combined specialty codes.

"STRUCTURE" means, for floodplain management purposes, a walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"SUBDIVISION" means any land division of 4 or more lots.

"SUBSTANTIAL DAMAGE" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by

- the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a ``historic structure", provided that the alteration will not preclude the structure's continued designation as a ``historic structure".

"VARIANCE" means a grant of relief from the terms of a flood plain management regulation.

"WATER DEPENDENT" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

SECTION 3.0. GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Curry County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Curry County, Oregon, and Incorporated Areas", dated November 16, 2018, with accompanying Flood Insurance Maps and Attachment A, Curry County Ordinance 98-1 (Flood Hazard Map Revision – Rogue Shores), are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the Curry County Planning Department, located on the lower level of the Courthouse Annex, Gold Beach, Oregon. The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section 4.3-2.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to citation under *Curry County Code – Article Ten – Enforcement* and its amendments and subsequent revisions and in addition shall pay all costs and expenses involved in the case. Each day on which a violation exists shall be deemed to be a separate violation. Nothing herein contained shall

prevent Curry County from taking such other lawful action as is necessary to prevent or remedy any violation.

ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the furtherance of the purposes of this ordinance; and,
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes and rules including the state building code.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Curry County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

3.7 SEVERABILITY

Should any section, clause, or provision of this ordinance be declared invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared invalid.

SECTION 4.0. ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.1-1 Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

4.1-2 Application for Development Permit

Application for a development permit shall be made on forms furnished by the Flood Hazard Administrator to be submitted with a fee as established by order of the Board and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been flood proofed.
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 9.2-2; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

Additional information which may be required by the Flood Hazard Administrator includes: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

4.2 DESIGNATION OF THE FLOOD HAZARD ADMINISTRATOR

The Flood Hazard Administrator is hereby designated to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE FLOOD HAZARD ADMINISTRATOR

Duties of the Flood Hazard Administrator shall include, but not be limited to:

4.3-1 Notice and Development Permit Review

The Flood Hazard Administrator shall:

- (1) Provide notice to affected parties concerning all development permit requests as provided for in ORS 197.763 (2) and (3)
- (2) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (3) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- (4) Review all development permits in un-numbered A zones and numbered A zones without a designated to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and permitted development will increase the water surface elevation of the base flood more than one foot at any point. In numbered A zones with designated floodways no increase in the water elevation of the base flood shall be allowed.
- (5) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 7.1-2(1) are met.
- (6) Ensure all development complies with all conditions of the development permit and this ordinance. The Flood Hazard Administrator shall have the authority to inspect developments for consistency with the issued permit and conditions thereto, this ordinance, and applicable FEMA regulations. The Flood Hazard Administrator may suspend or revoke the development permit and issue necessary orders to ensure compliance with the applicable requirements.
- (7) Ensure that where there is a reference to a study or design related to hydraulic, hydrostatic or hydrodynamic factors that the work is performed or certified by an Oregon registered engineer.
- (8) Render the decision regarding all development permits in the form of a written land use decision order which is supported by findings of fact.
- (9) Provide a copy of the decision order to the applicant and all affected parties who responded to the notice of the requested development permit, as well as to the Board.
- (10) Make a record of all determinations for the location of whether a proposed development site is located within a special flood hazard area on those lands which are partially located within flood hazard boundaries; however, no development permit fee shall be charged for such determinations and no

development permit fee shall be charged if the proposed development does not require base flood elevation or flood proofing.

- (11) Provide to building officials the base flood elevation and freeboard applicable to any building requiring a building permit.

4.3-2 Use of Other Base Flood Data (A and V Zones)

When base flood elevation data has not been provided (A and V Zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Flood Hazard Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from Federal, State or other sources, in order to administer Sections 5.0 -SHALLOW FLOODING AREAS; 6.0 - FLOODPLAIN PROVISIONS; 7.0 – FLOODWAY PROVISIONS, 8.0 –COASTAL HIGH HAZARD AREA, and 9.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.

4.3-3 Information to be Obtained and Maintained

- (1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or established as in Section 4.3-2, obtain and record the actual elevation (in relation to mean sea level) of the bottom of the lowest horizontal supporting member in V zones, and of the lowest floor (including basements and below-grade crawlspaces) in A zones of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.3-2:
 - (i) verify and record the actual elevation to which the structure was flood proofed (in relation to mean sea level), and
 - (ii) maintain the floodproofing certifications required in Section 4.1-2(3)
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance
- (4) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters.
- (5) The Flood Hazard Administrator shall keep on file in the Planning Department information known on flooding conditions affecting lands under county jurisdiction. The applicant shall use the information in preparing the application to demonstrate compliance with the requirements of this ordinance.

- (6) The Flood Hazard Administrator shall maintain the records of all appeal actions and report any variances including justification for their issuance, to FEMA, annually or biennially.

4.3-4 Alteration of Watercourses

- (1) Notify adjacent communities, Curry Soil and Water Conservation District, the Army Corps of Engineers, Department of State Lands, the Department of Land Conservation and Development, and the Federal Emergency Management Agency, Region X, and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration as required in Section 4.3-5.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 Requirement to Submit New Technical Data

- (1) Notify FEMA within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).
- (2) The property owner shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.
- (3) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.

4.3-6 Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.4.

4.3-7 Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility

should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

4.4 APPEAL AND VARIANCE PROCEDURE

4.4-1 Appeals Appeal of a decision by the Flood Hazard Administrator shall follow the appeal process as outlined in Curry County Zoning Ordinance Section 2.170 through 2.190 which provides appeal to the Planning Commission and then the Board of Commissioners.

- (1) All technical evaluations, all relevant factors, standards specified in other sections of this ordinance, shall be considered during an appeal and include evaluation of:
 - (i) The danger that materials may be swept onto other lands to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion damage;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) The importance of the services provided by the proposed facility to the community;
 - (v) The necessity to the facility of a waterfront location, where applicable;
 - (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) The compatibility of the proposed use with existing and anticipated development;
 - (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (1) Upon consideration of the factors of Section 4.4-1 (1-11) and the purposes of this ordinance, conditions to the granting of variances may be required as deemed necessary to further the purposes of this ordinance.
- (2) The Flood Hazard Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

4.4-2 Variance Procedure

- (1) The Planning Commission shall hear and decide written requests for variances from the requirements of this ordinance. In such hearings the burden of proof is on the applicant. The Planning Commission decision shall be reduced to a written order and shall contain findings of fact and conclusions of law which support the decision.
- (2) In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
 - (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (3) Variances shall only be issued upon findings that:
 - (i) the requested variance is consistent with the purposes of this ordinance as stated in Section 1.3;
 - (ii) there is a showing of good and sufficient cause;
 - (iii) failure to grant the variance would result in exceptional hardship to the applicant;
 - (iv) the requested variance is not contrary to public interest; and
 - (v) the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.4-2(2), or conflict with existing local laws or ordinances.
 - (vi) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (4) Variances shall not:
 - (i) grant, extend or increase any use of the property prohibited by the Curry County Zoning Ordinance;
 - (ii) be granted for a hardship based solely on an economic gain or loss;
 - (iii) be granted for a hardship which is self-created;
 - (iv) damage the rights or property of others in the area;
 - (v) permit a lower degree of flood protection in the floodplain than the base flood elevation; and
 - (vi) allow any floor, basement or crawlway below the base flood elevation for residential structures.
- (5) Upon consideration of the factors of Section 4.4-2(2) and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section, provided that the alteration will not preclude the structures designation as a "historic structure".
- (7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential and complies with the variance criteria of this ordinance.
- (8) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- (10) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the Base Flood Elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation and that such construction below the base flood elevation increases risks to life and property. Such notification shall be permanently maintained with the floodplain development permit.
- (11) The Flood Hazard Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

SECTION 5.0. SHALLOW FLOODING AREAS

5.1 INTRODUCTION

The provisions of this section are applicable to shallow flooding areas (AO zones).

5.1.1 Identification of and Standards for Shallow Flooding Areas

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

- (1) New construction and substantial improvements of residential structures and manufactured homes within AO zones have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified).
- (2) New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - (i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 - (ii) Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 9.2-2(3).
- (3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (4) Recreational vehicles placed on sites within AO Zones on the community's FIRM shall either:
 - (i) Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - (ii) Meet the requirements of section 5.1.1(1) and the elevation and anchoring requirements for manufactured homes.

SECTION 6.0. FLOODPLAIN PROVISIONS

6.1 INTRODUCTION

The provisions of this section are applicable to all floodplain areas.

6.1-1 Floodplain Identification

Floodplains are areas of Curry County which are adjacent to rivers or streams that are designated as areas of special flood hazard or are subject to a one percent or greater chance of flooding (100 year flood). The 100 year floodplain may include the floodway fringe, floodway and the stream channel.

6.1-2 Flood Insurance Zones

Lands within the floodplain are divided into flood insurance zones, each having specific flood potential or hazard. The official flood insurance zones are delineated on the Flood Insurance Rate Maps (FIRM). The FIRM show base flood elevation lines and the locations of the expected "whole-foot" water-surface elevations of the base (100 year) flood.

6.1-3 Before Regulatory Floodway Designation

In areas where a regulatory floodway has not been designated, and where the Flood Insurance Study indicates that it is possible to calculate a floodway, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not result in any increase in flood levels during the occurrence of the base flood discharge within the community.

SECTION 7.0. FLOODWAY PROVISIONS

7.1 INTRODUCTION

The provisions of this section are applicable to all floodway areas.

7.1-1 Floodway Identification

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. For streams, creeks, rivers and other watercourses where the county has not identified the floodway, the entire floodplain shall be treated as a floodway, or a study prepared by an Oregon registered professional engineer

and approved by the county and FEMA may be used to define the floodway limits for a stream section.

7.1-2 Floodway Provisions and Modification

- (1) Except as provided in paragraph (3) and (4), encroachments, including fill, new construction, substantial improvements, and other developments civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in base flood levels or floodway elevations when compared to pre-project conditions.
- (2) If the, requirements of 7.1-2(1) are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 9.0, PROVISIONS FOR FLOOD HAZARD REDUCTION or ASCE 24, whichever is more stringent.
- (3) Floodway modifications must be approved by FEMA.

7.1-3 Floodway Uses

- (1) The following open space uses are allowed in floodways:
 - (i) agricultural uses, such as farming, pasturing, outdoor plant nurseries, horticulture, viticulture, forestry, etc.;
 - (ii) nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips;
 - (iii) nonstructural private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, fish hatcheries, etc.;
 - (iv) uses accessory to open space uses, or essential for historic areas that are not in conflict with the purpose and intent of this ordinance;
- (2) Subject to County approval, the following uses may be allowed in floodways:
 - (i) extraction of sand and gravel or other related materials;
 - (ii) functionally dependent uses; and
 - (iii) public utilities, streets, roads, and bridges.

7.1-4 Prohibited Floodway Uses

- (1) Structures, in, on, or over floodway areas which are designed for human habitation are prohibited.
- (2) New installation of manufactured dwellings are prohibited. Manufactured dwellings may only be located in floodways according to one of the following conditions:
 - (i) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or

- (ii) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:
- (a) As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;
- (b) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with 5.1-1(2) above;
 - (i) The bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE;
 - (ii) The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and; Electrical crossover connections shall be a minimum of 12 inches above BFE identified on the Flood Insurance Rate Map;
- (c) The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;
- (d) The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;
- (e) The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and
- (f) Any other requirements deemed necessary by the authority having jurisdiction.

SECTION 8.0. COASTAL HIGH HAZARD AREAS

8.1 INTRODUCTION

The provisions of this section are applicable to all coastal high hazard areas. Coastal areas subject to this ordinance shall include all beaches, active foredunes, and other foredunes subject to ocean flooding, undercutting or wave overtopping.

8.1-1 Coastal High Hazard Area Identification

Coastal high hazard areas, designated as Zones V1-V30, VE and/or V, are located within the areas of special flood hazard established in Section 3.2 or described in Section 8.1. These areas have special flood hazards associated with high velocity waters from ocean waves and tidal surges and, therefore, in addition to meeting all provisions in this ordinance and state building codes, the following provisions shall also apply:

- (1) Residential developments and commercial and industrial buildings on beaches, active foredunes, on other foredunes that are subject to ocean flooding are prohibited. Excepted from this prohibition is residential development in any subdivision which, on October 8, 1991, was inside an acknowledged urban growth boundary, was serviced by roads and water and electrical utilities, and was developed with five or more residential dwellings. Further residential development in such a subdivision shall conform to the standards in Section 9.2-6 (2) through (12) of this ordinance.
- (2) All new construction and substantial improvements in Zones V1-V30 and VE, V (where base flood elevation data is available), and coastal A zones shall be elevated on pilings and columns such that:
 - (i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level; and
 - (ii) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in and given year (100-year mean recurrence interval);
- (3) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (i) and (ii) of this Section.
- (4) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- (5) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening

2018

Page 22 of 33

intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- (6) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
- (7) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- (8) Walls intended to break away under flood loads shall have flood openings that meet or exceed the following criteria:
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) If a building has more than one area enclosed by breakaway walls, each area shall be equipped with sufficient flood openings.
- (9) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- (10) Prohibit the use of fill for structural support of buildings.
- (11) All new construction shall be located landward of the reach of mean high tide.
- (12) Prohibit man-made alteration of sand dunes which would increase potential flood damage.
- (13) All manufactured homes to be placed or substantially improved within Zones V1-V30, V, VE or coastal A zones on the community's FIRM on sites meet the standards of paragraphs 8.1-1(1) through (11) of this section.

- (14) Recreational vehicles placed on sites within Zones V1-30, V, VE, or coastal A zones on the community's FIRM either:
- (i) Be on the site for fewer than 180 consecutive days,
 - (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - (iii) Meet the requirements of Section 4.1-1(Permitting requirements) and paragraphs 8.1-1(1) through (11) of this section.
- (15) For construction of new essential and new special occupancy structures refer to ORS 455.446 and 447 which states that new essential and new special occupancy structures may not be constructed in the Tsunami Inundation Zone. The Tsunami Inundation Zone would include V, A, and potentially other flood zones. If an exception is granted then the Coastal High Hazard Area construction standards in the model ordinance shall apply to the building of these new structures in the Tsunami Inundation Zone.
- (16) For coastal areas extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources where the county has not identified coastal high hazard areas, the coastal area shall be treated as a V zone or a study shall be prepared by an Oregon Registered Professional Engineer and approved by the county and FEMA to define the coastal high hazard area for a section of coastline. Primary frontal dunes will not be considered as effective barriers to base flood storm surges and associated wave action where the cross-sectional area of the primary frontal dune, as measured perpendicular to the shoreline and above the 100-year stillwater flood elevation and seaward of the dune crest, is equal to, or less than, 540 square feet.

8.1-2 Dune Modification

Foredune grading or sand removal from foredunes is not permitted.

SECTION 9.0. PROVISIONS FOR FLOOD HAZARD REDUCTION

9.1 GENERAL STANDARDS

Unless otherwise noted the standards set forth in this section are applicable to all areas of special flood hazard.

9.1-1 Review of Building Permits

Where elevation data is not available, either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), applications for building permits shall be reviewed by a licensed civil engineer at the applicant's

expense to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two (2) feet above grade in these zones may result in higher insurance rates.

9.1-2 Development Standards

- (1) No development shall be allowed that will:
 - (i) adversely restrict, alter, or increase the flow of floodwaters in the floodway;
 - (ii) adversely affect the efficiency or capacity of the floodway or the integrity or stability of flood protection facilities; or
 - (iii) increase water surface elevation within any area of special flood hazard or the location of the floodway during the base level flood beyond minimum FEMA standards.
- (2) All structures constructed in areas of shallow flooding shall have adequate drainage paths (ditches, culverts, storm drains, etc.) around them to guide floodwaters away from the structure. Structures constructed on slopes shall have drainage paths around them to guide floodwater safely down the slope in a natural flow pattern. Drainage paths used to comply with this section shall not direct floodwaters in a manner so as to cause an adverse effect on adjacent structures or property.
- (3) No dwelling shall be constructed in an area of special flood hazard if the lot or parcel contains sufficient, suitable, existing, buildable land area so as to permit construction at least one foot above the base flood elevation or outside the area of special flood hazard.

9.1-3 Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to; use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

9.1-4 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so

as to prevent water from entering or accumulating within the components during conditions of flooding.

9.1-5 Utilities

- (1) All new and replacement public water supply systems shall be floodproofed to one foot above base flood elevation to minimize or eliminate infiltration of flood waters into the system.
- (2) New and replacement public sanitary sewage systems shall be designed to flood proof to one foot above base flood elevation to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- (3) All new and replacement private water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (4) On-site waste water disposal systems shall be permitted only if located and designed to avoid impairment and to eliminate contamination during flooding consistent with the Oregon Department of Environmental Quality.
- (5) Electrical, telephone and television lines, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Poles and towers shall be constructed and placed to minimize risk of flood damage.
- (6) Construction of utilities shall be done in a way which minimizes the impact on the flood plain and drainage hazard area. The site shall be restored, as far as practicable, to its original state.
- (7) Drainage systems shall be designed and constructed according to the adopted master drainage plan for the area, if one has been completed.

9.1-6 Subdivision and Partitions

- (1) All subdivision and partitions shall not be allowed within any area of special flood hazard with the following exceptions:
 - (i) partitions or subdivisions that propose lots or parcels with existing structures outside of areas of special flood hazard either through elevation above the base flood level or by location outside the area of special flood hazard;
 - (ii) partitions or subdivisions that propose lots or parcels that are partially within areas of special flood hazard but have designated development sites which are located entirely outside an area of special flood hazard.
- (2) All subdivision and partition proposals shall be consistent with the need to minimize flood damage.
- (3) All subdivision and partition proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (4) All subdivision and partition proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (5) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision or partition

proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres, (whichever is less).

- (6) All proposed nonresidential use subdivision and partition lots shall have a setback from the ocean, lake, bay, riverfront or other body of water, to create a safety buffer consisting of a natural vegetative or contour strip. This buffer will be designated by the Flood Hazard Administrator according to the flood related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

9.1-7 Accessory Structures

Accessory Structures such as sheds, detached garages, etc., shall be exempt from elevation and floodproofing standards providing the following conditions are met:

- (1) Accessory structures can not be more than 10% of the Curry County Tax Assessor Real Market Value (RMV) of the main structure;
- (2) Accessory structures shall not be used for human habitation;
- (3) Accessory structures shall be designed to have low potential for flood damage;
- (4) Accessory structures shall be constructed and placed on a building site so as to offer minimum resistance to the flow of flood waters;
- (5) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures and must have flood openings;
- (6) Service facilities such as electrical, communication and heating equipment included within an accessory structure shall be elevated or floodproofed. Flood resistant materials must be used below the BFE;
- (7) Use of a detached garage shall be limited to parking or limited storage (i.e., no workshops, recreation rooms, etc.);
- (8) A garage must be built using unfinished and flood damage resistant materials below the BFE;
- (9) A garage must be adequately anchored to prevent flotation, collapse or lateral movement, and meet the requirement of section 9.2-1 (2) and (5);
- (10) Any mechanical and utility equipment in a garage must be elevated to or above the BFE or floodproofed;
- (11) A garage must not violate the floodway encroachment standard;
- and
- (12) All other requirements for the construction of structures in an area of special hazard or encroachment in a floodway shall be applicable to the construction of accessory structures, including the approval of a development permit.

9.1-7 AH and AO Zone Drainage

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

9.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following provisions are required:

9.2-1 Residential Construction

- (1) Fully enclosed areas below the lowest floor are prohibited or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above base flood elevation. Anchoring is required so as to prevent flotation, collapse or lateral movement of new construction or substantial improvement of any residential structure. Designs for meeting this requirement must be either certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to the flooding shall be provided;
 - (ii) the bottom of all openings shall be no higher than one foot above grade; and
 - (iii) openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of flood waters.
 - (iv) New construction and substantial improvements of residential structures within AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM and at least two (2) feet above grade if no depth number is specified.
- (2) Dwellings shall be placed on pilings when certified by an Oregon registered engineer as being of sufficient strength to resist collapse or movement during a one hundred (100) year flood, or, dwellings shall be placed on approved fill (except in the Coastal High Hazard Area) providing the building site, which includes the ground under the structure plus a twenty-five (25) foot setback around all sides of the structure, is above the base flood elevation, or, dwellings shall be placed on foundations which shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
- (3) Fill used to elevate dwellings above the Base Flood Elevation shall be designed to prevent erosion and scour from flood waters in accordance with the standards

set forth in FEMA Document #102 Flood proofing Non-Residential Structures dated May 1986.

- (4) All new construction and improvements to existing structures shall be done with materials and utility equipment resistant to flood damage, using construction methods and practices that minimize such damage.
- (5) All new construction and improvements to existing structures shall be anchored to resist flotation, collapse or lateral movement.

9.2-2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum of one (1) foot above the base flood elevation; except in an AO zone the lowest floor, including basement, shall be elevated above the highest adjacent grade of the building site, to or above the depth number on the FIRM and at least two (2) feet if no depth number is specified; or, together with attendant utility and sanitary facilities, shall:

- (1) be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water in accordance with the State Building Code;
- (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) be certified by a registered professional engineer or architect that the design and methods for construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certification shall be provided to the Flood Hazard Administrator as set forth in Section 4.3-3 (2).
- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 9.2-1 (2) and (5)
- (5) The Flood Hazard Administrator shall notify applicants who are floodproofing nonresidential buildings that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).
- (6) Applicants shall supply a Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

- (7) Applicants shall supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.

9.2-3 Manufactured Dwellings

- (1) Anchoring must resist flotation, collapse or lateral movement, by providing over-the-top and frame ties to ground anchors in accordance with the following:
- (i) require that over-the-top ties be provided at each of the four corners of the manufactured dwelling, with two (2) additional ties per side at intermediate locations. Manufactured dwellings less than fifty (50) feet long require only one additional tie per side;
 - (ii) require that frame ties be provided at each corner of the dwelling with five (5) additional ties per side at intermediate points. Manufactured dwellings less than fifty (50) feet long require only four (4) additional ties per side;
 - (iii) allow a manufactured dwelling to utilize only frame ties if:
 - (a) the dwelling was constructed in compliance with the Oregon Mobile Home Code in effect between 1972 and 1976 and bears a label to that effect;
 - (b) the dwelling was constructed in compliance with the "National Manufactured Housing Construction and Safety Standards Act";
 - (c) the dwelling is multisectional (double-wide or greater) or;
 - (d) the ground upon which the dwelling is located is at an elevation above the base flood level.
 - (iv) all components of the anchoring system must be capable of carrying a force of four-thousand-eight-hundred (4,800) pounds; and
 - (v) any additions to the manufactured dwelling must be similarly anchored.
- (2) Manufactured -dwellings shall be elevated and anchored according to the following standards:
- (i) Manufactured dwellings placed outside manufactured home parks/subdivisions or within expanded parks/subdivisions, must be elevated so the lowest floor is a minimum of 18 inches above base flood elevation, and anchored to a permanent foundation to prevent flotation, collapse, and lateral movement;
 - (ii) There are two options for manufactured dwellings placed within an existing park/subdivision: (1) meet the requirements in (i) or (2) elevate the manufactured home's chassis on reinforced concrete piers or other foundation system of equivalent strength, no less than three (3) feet above grade and meet the anchoring requirements in (i).
 - (iii) All manufactured dwellings -that have incurred substantial damage from a 100-year flood or ocean storm must be elevated so that the lowest floor is at least 18 inches above base flood elevation.
 - (iv) Parks or Subdivisions are required to have evacuation plans for residents of existing manufactured home parks or subdivisions. These plans are to be developed by the individual park owners. The complexity of the plan would depend on the severity of potential flood damage and the amount of warning

time available. The plans are to be filed with the appropriate county emergency management authority.

- (3) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with section 5;
- (4) The bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE;
- (5) The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
- (6) Electrical crossover connections shall be a minimum of 12 inches above BFE.

9.2-4 Recreation Vehicles

- (1) Recreation vehicles within a permitted RV Park placed on sites within the 100-year floodplain must:
 - (i) be on site for fewer than 180 consecutive days and be fully licensed and highway ready, or
 - (ii) meet the elevation and anchoring requirements for manufactured homes.
- (2) A recreation vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (3) Recreational Vehicles outside Recreational Vehicle parks in areas of special flood hazard must meet manufactured home requirements in 5.1-1(1), 8.1-1(13), 9.1-3(2), 9.2-3, 9.2-4(1b).

9.2-5 Below-grade crawl spaces

Below-grade crawlspace are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:

- (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (2) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

- (3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- (4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (5) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
- (6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- (7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
- (8) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

For more detailed information refer to FEMA Technical Bulletin 11-01.

9.2.7 Small Accessory Structures. Relief from elevation or dry-floodproofing as required in 9.2-1 and 9.2-2 may be granted for small accessory structures that are:

- (1) Less than 200 square feet and do not exceed one story;
- (2) Not temperature controlled;
- (3) Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;
- (4) Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall unless confined in a tank installed in compliance with this ordinance or stored at least one foot above Base Flood Elevation
- (5) Located and constructed to have low damage potential;
- (6) Constructed with materials resistant to flood damage;
- (7) Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood which may result in damage to other structures and must have flood openings

- (8) Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or
 - (i) provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
 - (iii) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.
- (9) Constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- (10) Constructed and placed on a building site so as to offer minimum resistance to the flow of flood waters
- (11) Service facilities such as electrical, communication and heating equipment included within an accessory structure shall be elevated or floodproofed. Flood resistant materials must be used below the BFE.
- (12) A garage must be built using unfinished and flood damage resistant materials below the BFE;
- (13) A garage must be adequately anchored to prevent flotation, collapse or lateral movement, and meet the requirement of section 9.2-1 (2) and (5); and
- (14) Any mechanical and utility equipment in a garage must be elevated to or above the BFE or floodproofed;
- (15) A garage must not violate the floodway encroachment standard;
- (16) All other requirements for the construction of structures in an area of special hazard or encroachment in a floodway shall be applicable to the construction of accessory structures, including the approval of a development permit.

9.2-7 Critical Facility

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

**BEFORE THE BOARD OF CURRY COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON**

**In the Matter of an Order Designating a)
County Flood Hazard Administrator) ORDER NO. _____
)
)**

WHEREAS, Curry County Ordinance 2018-06 sets forth the duties of the County Flood Hazard Administrator as well as the duties of that position; and

WHEREAS, in the absence of a full-time Planning Director, the County must determine an alternative individual to serve as the Flood Hazard Administrator; and

WHEREAS, the designation of a Flood Hazard Administrator would continue to ensure the County's eligibility for State and Federal grants; and

WHEREAS, Scott Fein, County Surveyor, is capable of serving as Flood Hazard Administrator, and has expressed his willingness to serve in that role.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT Scott Fein, County Surveyor, is designated as the Curry County Flood Hazard Administrator.

DATED this 21st day of December, 2023.

BOARD OF CURRY COUNTY COMMISSIONERS

John Herzog, Chair

Brad Alcorn, Vice Chair

Approved as to Form:

Michael E. Fitzgerald, OSB #950738
County Legal Counsel

Jay Trost, Commissioner



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:		Agenda Item Title:	
December 21, 2023		Re-appointment of member to Mountain Drive Special District	
Time Needed:			
Financial Impact:		Description and Background:	
		Position #1, currently held by Leo Appel expires on December 31, 2023.	
Category:		Leo has re-applied for this position.	
<input type="checkbox"/>	Action/Discussion		
<input checked="" type="checkbox"/>	Consent		
<input type="checkbox"/>	Executive Session		
<input type="checkbox"/>	Hire Order		
<input type="checkbox"/>	Presentation		
Requested Motion:			
Re-appoint Leo Appel to Position #1 to the Mountain Drive Special District to expire December 31, 2027			
Attachments:		Instructions Once Approved:	
1. Order			
2. Application			
3.			
4.			
5.			
Contact Person – Name and Department:			Date Submitted:
Natasha Tippetts – BOC Admin			12/13/2023

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Order Re-Appointing a)
Member to the Mountain Drive Special) **ORDER NO. _____**
District)

WHEREAS, Position #1 on the Mountain Drive Special Road District has become vacant due to a term expiration; and

WHEREAS, The County has duly advertised the vacancy of position #1; and

WHEREAS, Leo Appel has applied and indicated his desire to be re-appointed.

NOW, THEREFORE, IT IS HEREBY ORDERED that Leo Appel is re-appointed to Position #1 of the Mountain Drive Special Road District effected January 1, 2024 with the said term to expire December 31, 2027.

DATED this 21st day of December, 2023. **BOARD OF CURRY COUNTY COMMISSIONERS**

John Herzog, Chair

Approved as to Form:

Brad Alcorn, Vice Chair

Michael E. Fitzgerald, OSB #950738
Curry County Legal Counsel

Jay Trost, Commissioner



Application: Volunteer Boards, Commissions, Councils,
Committees or Task Forces Board of Curry County Commissioners

94235 Moore Street, Suite 122 Gold Beach, OR 97444

Phone: 541-247-3296 Fax: 541-247-2718

Email: BOC_Office@co.curry.or.us

Please complete both pages of this form. Information submitted as part of this application is available and shall be considered public information as it pertains to Oregon Public Records.

RECEIVED

DEC 07 2023

Please print or type clearly

Name: Leo Appel 4

Date: 12/1/23

BY: [Signature]

Please indicate which Board, Commission, Council, Committee, or Task Force on which you are interested in serving.

<input type="checkbox"/>	Ambulance Service Area Advisory Committee
<input type="checkbox"/>	Board of Property Tax Appeals
<input type="checkbox"/>	Budget Committee
<input type="checkbox"/>	Planning Commission
<input type="checkbox"/>	Solid Waste Advisory Committee
<input type="checkbox"/>	Compensation Board
<input type="checkbox"/>	Coos Curry Housing Authority
<input type="checkbox"/>	Fair Board
<input type="checkbox"/>	Local Public Safety Coordinating Council
<input type="checkbox"/>	CCD Business Development Corporation
<input type="checkbox"/>	Suicide Awareness and Prevention Council
<input type="checkbox"/>	Destination Leadership Team - Travel Curry Coast

Are you currently serving on a Board,
Commission, Council, Committee, or Task
Force for Curry County?

☒ Yes ☐ No ☐

Date Received:

✓ Mountain Drive Special Road District

If yes, list which committee(s):

What experience, training, or qualifications do you, have for this Board, Commission, Council, Committee, or Task Force?

served 23 years as a board member of the MDSRD and 5 years working to
become the district resident of the district for 35 years

What community topics concern you that relate to this Board, Commission, Council, Committee, or Task Force?

maintaining & improving Mountain Drive

Describe your previous experience in this appointed position or a similar position:

23 years as a board member



Application: Volunteer Boards, Commissions, Councils,
Committees or Task Forces Board of Curry County Commissioners

94235 Moore Street, Suite 122 Gold Beach, OR 97444

Phone: 541-247-3296 Fax: 541-247-2718

Email: BOC_Office@co.curry.or.us

Other Volunteer activities: Head of the Sea Community Kitchen, patient care volunteer for hospice, volunteer chaplain at PBSB, Catholic choir and teacher.

Circle one:

Does your schedule allow you to attend daytime meetings?

☒ Yes

☐ No

Does your schedule allow you to attend evening meetings?

☒ Yes

☐ No

Does your schedule limit the days you could attend meetings?

☐ Yes

☒ No

If yes, please explain:

Signature: 

Date: 12/1/23

My signature above indicates my desire to serve Curry County in a voluntary capacity as a member of one of its Boards, Commissions, Councils, Committees, or Task Forces. I understand that there is no financial compensation for serving.

Per ORS 192.502(3), the following can only be disclosed to the public following a public record request that shows clear and convincing evidence that the public interest requires disclosure.

Your Mailing Address: 

Best Phone Number to Call: 

Email Address: 

Thank you for your application. Please return your completed application to the Curry County Commissioners' Office at the address or email listed on page one of this form or you may submit your application on the county's website at

www.co.curry.or.us

NOTE: A separate application may be required for each Board, Commission, Council, Committee, or Task Force for which you are applying.



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:		Agenda Item Title:	
December 21, 2023		County Clerk Fees	
Time Needed:			
Financial Impact:		Description and Background:	
		The County Clerk has proposed an update on their current fees. Attached is	
Category:		the current fees they are using and the proposed fees to be implemented at	
<input checked="" type="checkbox"/>	Action/Discussion	the first of the year. A Public Hearing must be opened for discussion prior	
<input checked="" type="checkbox"/>	Consent	to the vote	
<input type="checkbox"/>	Executive Session		
<input type="checkbox"/>	Hire Order		
<input type="checkbox"/>	Presentation		
Requested Motion:			
Open Public Hearing			
Approve the proposed fees for the Curry County Clerk's Office			
Attachments:		Instructions Once Approved:	
1. Order			
2. Proposed fees			
3.			
4.			
5.			
Contact Person – Name and Department:			Date Submitted:
Natasha Tippetts – BOC Admin			12/13/2023

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON**

**In the Matter of an Order Approving the)
County Clerk Fees) ORDER NO. _____
)**

WHEREAS, Curry County Clerk's office collects fees for services related to recording, elections, vital records, and Passports; and

WHEREAS, County Clerk Shelley Denney is submitting a request to adopt fee increases to go into effect on January 1, 2023; and

NOW, THEREFORE, IT IS HEREBY ORDERED that the proposed Clerk Office Fees, filed within, are adopted and be implemented on January 1, 2024.

DATED this 21st day of December, 2023. **BOARD OF CURRY COUNTY COMMISSIONERS**

John Herzog, Chair

Approved as to Form:

Brad Alcorn, Vice Chair

Michael E. Fitzgerald, OSB #950738
Curry County Legal Counsel

Jay Trost, Commissioner



Curry County Clerk's Office
Shelley Denney
County Clerk

Recording • Elections • Vital Records • Board of Property Tax Appeals • Passports

Clerk's Office Fees
2023

	<u>Current</u>	<u>Proposed</u>
Secured Web Query Access	\$75.00/mo	\$100.00/mo
Secured Web Query Access Setup Fee	\$25.00	\$ 50.00
Recorded Instruments Image File Transfer	¢.10/image	¢.25/image
Recorded Instruments on CD	¢.10/image	¢.25/image
Marriage License Amendment	\$25.00	\$50.00
Marriage License Waiver 3 Day Waiting Period	\$10.00	\$15.00
Marriage License Consent of Minor	\$10.00	\$15.00
Marriage Ceremony Witness Fee	\$10.00	\$15.00
Microfilm Copy	¢.25/each page	¢.25/each page
Passport Photo	\$15.00	\$15.00
Technology Fee	\$5.00/document	\$10.00/document
Restoration & Preservation Fee	\$5.00/document	\$10.00/document

Postage & Handling

1-4 Copies	\$3.25	\$4.49
5-7 Copies (Change to 5-10)	\$3.50	\$4.73
11-15 Copies	\$4.75	\$4.97
16-20 Copies	\$5.50	\$13.78
20 + weighed		

Property Value Appeals Board FKA Board of Property Tax Appeals

Filing Fee	N/A	\$30
------------	-----	------



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:		Agenda Item Title:	
12/21/2023		Approval of revised Rural Roots Collaborative Contract for Content creation during off season months	
Time Needed:			
5 minutes			
Financial Impact:		Description and Background:	
above spending authority		<p>This contract approval requested pertains to the delivery of content creation services for four social media accounts. Travel Curry Coast on Facebook and Instagram, and "Cliff's Adventure Club" also on Instagram and Facebook. The contract stipulates a frequency of 2-3 posts per week for the specified accounts.</p> <p>The work involved in this contract encompasses the creation of social media posts, which includes tasks such as graphic design and ad copy writing. This contractor must obtain approval for each post prior to scheduling the material by the Economic Development Administrator. This service will address a marketing need during our off-peak season of events, ensuring continued audience engagement. Upon approval, the contract will be revised by Miranda Plagge Economic Development Administrator and to include insurance provisions.</p>	
Category:			
<input checked="" type="checkbox"/>	Action/Discussion		
<input type="checkbox"/>	Consent		
<input type="checkbox"/>	Executive Session		
<input type="checkbox"/>	Hire Order		
<input type="checkbox"/>	Presentation		
Requested Motion:			
Approve Economic Development Administrator to enter into a revised contract with Rural Roots subject to Legal Counsel review			
Attachments:		Instructions Once Approved:	
1. Contract		File with Clerk	
2. Insurance Indemnity			
3. _____			
4. _____			
5. _____			
Contact Person – Name and Department:		Date Submitted:	
Miranda Plagge		12/13/2023	



Marketing Agreement

This contract (the "Agreement") is entered into by and between the below named parties (the "Parties"). This offer will expire at the close of business on October 1, 2023 if not accepted in writing by counter-signing this Agreement by the aforementioned date.

Client (the "Client")

Travel Curry Coast
County Department of Economic Dev.
Curry County
94235 Moore St. Ste 122
Gold Beach, Oregon 97444
www.travelcurrycoast.com
541-425-1646
plaggem@co.curry.or.us

Contractor (the "Contractor")

Rural Roots Collaborative Inc.
PO Box 631
Gold Beach, Oregon 97444
www.ruralrootscollab.com
Tel: 541-251-0119
team@ruralrootscollab.com

Duration of Contract

The Client is currently seeking assistance from the Contractor for social media management of two facebook accounts and two instagram accounts starting in October of 2023 and ending in April of 2024.

In October 2023, the Contractor will work with the Client to support development of social media posts for November, as we work one (1) month ahead.

From November 2023 to March 2024, the Contractor will manage posts on social media and prepare the next month's content.

In April 2024, the Contractor will provide ongoing wrap-up support, manage posts on social media, and transition to ensure consistency between the Contractor and the Client's future Contractor or Client.

For the full duration of the contract, the Contractor will provide the client with any pre-determined deliverables including but not limited to social media statistics, any analytical data that will assist the Client in determining any changes they may want to make.

Scope of Work

The Contractor will be responsible for managing a total of four social media accounts including two Instagram accounts and two Facebook accounts. The Contractor and Client have reached an agreement for a posting frequency of 2-3 times per week for each account, resulting in a total of 8-12 posts weekly.



As stated on the Rural Roots Collaborative Bundle Content Management Sheet shared at the initial meeting, the Contractor is responsible to create all content. The Client will provide clear expectations for post branding, colors, and consistency in appearance requirements to the Contractor prior to initiation of any work done.

The Contractor will provide consistency in messaging across all social media platforms managed by the Contractor for the Client based on instructions given by the Client.

Travel Curry Coast Voice: The voice should be friendly and humorous, akin to a local showing a friend around. It should also emphasize high level customer service and recognize every holiday.

Stewardship Messaging: With "Cliff" the mascot as the face, the focus is on environmental care, engaging the youth, and ensuring local buying. The message should be authoritative without being overly restrictive.

The Contractor will also maintain clear contact with the Client's representative to ensure constant communication and approval of posts in a timely manner. There will be up to three modifications allowed for each post.

The Contractor will deliver a minimum of one month's worth of posts at least one week prior to the conclusion of the preceding month to provide sufficient time for any necessary revisions. Revisions will be made and re-submitted up to three times. This requires constant communication between the Client's representative and the Contractor.

The Contractor and the Client will have a discussion regarding event posts and decide whether to categorize them as 'additional' or as part of the standard advertising when developing the posts. If event posts are classified as 'additional,' any associated costs will be mutually agreed upon by both parties before proceeding with their creation.

The Contractor will be responsible for engaging with followers, responding to comments and messages, and monitoring the performance of posts that are created and posted on the Client's Facebook and Instagram accounts.

The Contractor will be providing performance reports once a month to the Client. This will include metrics predetermined by the Parties including but not limited to reach, engagement, and follower growth.



For urgent posts, the Client will give the Contractor up to 24 hours to respond and coordinate with the Client. These posts are considered outside of normal scope and are subject to additional fees.

Ownership

The Client retains full ownership of all posts developed by the Contractor during the contract period. However, the Client grants the Contractor permission to showcase these posts in their portfolio as examples of their work.

Financials

The Contractor will submit an invoice for work done during the month on the first of the month. Payments shall be made by the Client to the Contractor by the 15th day of the month. The preferred method of payment is check or direct deposit, and all payments shall be made in US Dollars. The Contractor will provide all direct deposit information at the time of implementation of this agreement. If a check is written, the Contractor will regard the payment as made based on the date stamped on the envelope when the check is sent out.

The Client shall reimburse the Contractor for any documented and pre-approved expenses incurred during the performance of services, including but not limited to advertising costs and stock photo purchases. The Contractor shall not expend funds on behalf of the Client without obtaining prior written approval for each specific expense. Expense receipts and details will be provided by the Contractor. Reimbursement will be coordinated with monthly payments by the Contractor.

The Contractor and the Client have agreed to a \$500 setup fee for the four accounts that the Contractor will be managing, with a \$125 startup fee per account. The Contractor will submit an invoice within 5 business days of receiving the signed Marketing Agreement. Payment of the setup fee is due by October 15th.

The Contractor and Client have reached an agreement for a posting frequency of 2-3 times per week for each account, resulting in a total of 8-12 posts weekly. The estimated time required for managing this volume of content is between 8 and 12 hours per week, with an additional allocation of up to 7 hours per month for content management, calendar creation, and the preparation of statistics and metrics reports.

The Parties have mutually agreed upon an hourly rate of \$50.



Termination of Contract

The Client or the Contractor may terminate this Agreement with 30 days' written notice in the event of a material breach of its terms by the other party or for any other valid reason as mutually agreed upon.

Confidentiality

Each party shall maintain, to the strictest confidence, all Confidential Information (as defined in the next sentence) of the other party. "Confidential Information" means all (i) nonpublic information [at the time of disclosure] disclosed by one party to the other party under this Agreement, provided such information is marked or indicated by the disclosing party to be confidential; (ii) and any information which ought to be reasonably considered confidential with regard to the circumstances surrounding disclosure, whether or not such information is marked as "Confidential".

In the event a party is required to disclose "Confidential Information" pursuant to a judicial or other governmental order, such party shall, to the maximum extent permitted by applicable law or opinion of counsel, provide the other party with prompt notice prior to such disclosure so that the disclosing party or its client may seek other legal remedies to maintain the confidentiality of such "Confidential Information".

Each party receiving Confidential Information shall be responsible for any breach of this provision that is caused by any of its employees, affiliates, representatives, or agents and such party agrees to indemnify and hold harmless the other party from and against any liabilities, claims, damages, losses, costs and expenses resulting, directly or indirectly, from any breach by the other party or any of its employees or independent contractors, of any provision of this Agreement. The obligations of this Section shall survive termination of this Agreement for a period of three (3) years.

Liabilities and Indemnities

The Client and Contractor shall each be responsible for their own acts and omissions. Neither party shall be liable for consequential, special, or indirect damages. The Client agrees to indemnify and hold harmless the Contractor from any claims or liabilities arising from the content or use of social media posts.

Force Majeure

Neither party shall be liable for any failure or delay in performance caused by circumstances beyond their control. Circumstances beyond their control, often referred to as "force majeure events" or "acts of God," are unforeseeable and uncontrollable events or circumstances that



may disrupt, impede, or prevent the performance of contractual obligations. These events are typically considered to be outside the reasonable control of the parties involved and include natural disasters, acts of terrorism, war, government actions, strikes, and other extraordinary occurrences that make it impossible or impractical for a party to fulfill their contractual duties. The definition of such circumstances is important in a force majeure clause to specify the types of events that can trigger relief from contractual obligations.

Dispute Resolution

Any disputes arising from this Agreement shall first be subject to mediation or arbitration in accordance with the State of Oregon. Legal action shall be considered as a last resort.

Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any legal action or proceedings arising from or relating to this Agreement shall be brought exclusively in the federal or state courts located within the State of Oregon.

Termination for Non-Payment

In the event of a late payment by the Client, a late fee of \$75.00 shall be assessed for every five days the payment is overdue. The Contractor may suspend services until payment is received in full.

By signing this contract, you acknowledge that you have reviewed and fully accept the terms outlined herein.


Miranda Plagge Destination Development Coordinator - Travel Curry Coast


Date

Anna Marie Curtis Founder - Rural Roots Collaborative

Date



Dispute Resolution

Any disputes arising from this Agreement shall first be subject to mediation or arbitration in accordance with the State of Oregon. Legal action shall be considered as a last resort.


Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any legal action or proceedings arising from or relating to this Agreement shall be brought exclusively in the federal or state courts located within the State of Oregon.

Termination for Non-Payment

In the event of a late payment by the Client, a late fee of \$75.00 shall be assessed for every five days the payment is overdue. The Contractor may suspend services until payment is received in full.

By signing this contract, you acknowledge that you have reviewed and fully accept the terms outlined herein.



Miranda Plagge Representative - Travel Curry Coast



Date

Anna Marie Curtis Founder - Rural Roots Collaborative

Date

SUBMITTER: _____ DEPARTMENT: _____

BOARD APPROVAL REQUIRED? ☐ Yes ☐ No DATE OF BOARD APPROVAL: _____

Any **BUDGETED** purchases or contracts under \$10,000.00 do **NOT** require Board approval.

DOLLAR AMOUNT OF PROCUREMENT: \$ _____

CATEGORY:

☐ Good / Service ☐ Personal Service * ☐ Public Improvement ☐ Other: _____

**Please provide certificate of liability insurance or written verification that insurance will be obtained.*

DESCRIPTION: _____

FREQUENCY OF PAYMENT: ☐ One-Time ☐ Annual ☐ Monthly ☐ Other – describe: _____

IS THIS A BUDGETED PURCHASE OR CONTRACT? ☐ Yes ☐ No

Unless Exempted by Section 6.11, all **UNBUDGETED** purchases or contracts **MUST** be approved by the Board.

PAYMENT TO BE DEBITED FROM GL ACCOUNT # : _____

MANNER OF PROCUREMENT:

For all except Exempt procurements, documentation demonstrating the manner of procurement must be attached.

- ☐ Competitive Sealed Proposals
- ☐ Competitive Sealed Bidding
- ☐ Quotes (*Purchases up to \$150,000.00*)
- ☐ Emergency Contract
- ☐ Sole Source (*determination **MUST** be made based on written findings*)
- ☐ Procurement Exempt under Contract Review Rules – specify:
☐ 6.1 ☐ 6.2 ☐ 6.3 ☐ 6.4 ☐ 6.5 ☐ 6.6 ☐ 6.7 ☐ 6.8 ☐ 6.9 ☐ 6.10 ☐ 6.11

IS FEDERAL FUNDING INVOLVED? ☐ Yes ☐ No

If yes, requirements of Contract Review Rules Section 5.3.1 **MUST** be completed **PRIOR** to procurement review.

IS GRANT FUNDING INVOLVED? ☐ Yes ☐ No

If yes, the Grant Agreement or other documentation regarding use of funds must be attached.

IS SIGNATURE AUTHORITY REQUESTED? ☐ Yes ☐ No

If yes, name of authorized signer: _____

If no signature authority is requested, the Director of County Operations is the authorized signer.



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:	Agenda Item Title:	
12/21/23	Agreement with ODOT - N. Bank Rogue River Road - permanent fix	
Time Needed:		
15 minutes		
Financial Impact:	Description and Background:	
TBD	<p>The County should consider the approval of an agreement allowing ODOT to construct a permanent repair of North Bank Rogue River Road at milepost 3.07.</p> <p>The County performed emergency repairs, however, this agreement would allow ODOT to perform the permanent repair. The estimated project cost is approximately \$3.4 million.</p>	
Category:		
<input checked="" type="checkbox"/> Action/Discussion		
<input type="checkbox"/> Consent		
<input type="checkbox"/> Executive Session		
<input type="checkbox"/> Hire Order		
<input type="checkbox"/> Presentation		
Requested Motion:		
Approve the ODOT ER Agreement subject to Legal Counsel review.		
Attachments:	Instructions Once Approved:	
1. ODOT ER Draft Agreement	Send Agreement to ODOT for Signature; copy to Road Department Office.	
2.		
3.		
4.		
5.		
Contact Person – Name and Department:		Date Submitted:
Ted Fitzgerald, Director of County Operations		12/13/23

**ODOT Delivered Federal Project
On Behalf of Curry County**
Project Name: N. Bank Road at MP 3.07, Curry County

THIS AGREEMENT ("Agreement") is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and CURRY COUNTY, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually as "Party" and collectively as "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities and units of local governments for the performance of any or all functions and activities that a party to the Agreement, its officers, or agents have the authority to perform.
2. N. Bank Road is a part of the county road system under the jurisdiction and control of Agency.
3. Agency has agreed that State will deliver this project on behalf of the Agency.
4. The Project was selected as a part of the Emergency Relief (ER) program and may include a combination of federal and state funds. "Project" is defined under Terms of Agreement, paragraph 1 of this Agreement.
5. The Stewardship and Oversight Agreement On Project Assumption and Program Oversight By and Between Federal Highway Administration, Oregon Division and the State of Oregon Department of Transportation ("Stewardship Agreement") documents the roles and responsibilities of the State with respect to project approvals and responsibilities regarding delivery of the Federal Aid Highway Program. This includes the State's oversight and reporting requirements related to locally administered projects. The provisions of that agreement are hereby incorporated and included by reference.

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

TERMS OF AGREEMENT

1. Under such authority, Agency and State agree to State delivering the N. Bank Road at MP 3.07, Curry County project on behalf of Agency, hereinafter referred to as "Project." Project includes stabilizing the east roadway, address drainage needs and replace asphalt roadway. The location of the Project is approximately as shown on the map attached hereto, marked "Exhibit A," and by this reference made a part hereof.

2. Agency agrees that, if State hires a consultant to design the Project, State will serve as the lead contracting agency and contract administrator for the consultant contract related to the work under this Agreement.
3. Project Costs and Funding.
 - a. The total Project cost is estimated at \$3,470,7000.00, which is subject to change. Federal funds for this Project shall be limited to \$3,114,259.11. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal funds, and the percent match for all eligible costs. Any unused funds obligated to this Project will not be paid out by State, and will not be available for use by Agency for this Agreement or any other projects. "Total Project Cost" means the estimated cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds.
 - b. With the exception of Americans with Disabilities Act of 1990-related design standards and exceptions, State shall consult with Agency on Project decisions that impact Total Project Cost involving the application of design standards, design exceptions, risks, schedule, and preliminary engineering charges, for work performed on roadways under local jurisdiction. State will allow Agency to participate in regular meetings and will use all reasonable efforts to obtain Agency's concurrence on plans. State shall consult with Agency prior to making changes to Project scope, schedule, or budget. However, State may award a construction contract up to ten (10) percent (%) over engineer's estimate without prior approval of Agency.
 - c. Federal funds under this Agreement are provided under Title 23, United States Code.
 - d. ODOT does not consider Agency to be a subrecipient or contractor under this Agreement for purposes of federal funds. The Catalog of Federal Domestic Assistance (CFDA) number for this Project is 20.205, title Highway Planning and Construction.
 - e. State will submit the requests for federal funding to the Federal Highway Administration (FHWA). The federal funding for this Project is contingent upon approval of each funding request by FHWA. Any work performed outside the period of performance or scope of work approved by FHWA will be considered nonparticipating and paid for at Agency expense.
 - f. Agency guarantees the availability of Agency funding in an amount required to fully fund Agency's share of the Project.
4. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.
5. Termination.

- a. This Agreement may be terminated by mutual written consent of both Parties.
- b. State may terminate this Agreement upon 30 days' written notice to Agency.
- c. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - i. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - ii. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - iii. If Agency fails to provide payment of its share of the cost of the Project.
 - iv. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - v. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.
- d. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

6. Americans with Disabilities Act Compliance:

- a. **When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:**
 - i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;

- iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>; and
 - b. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - c. Applicable permitting and regulatory actions are consistent with ADA requirements.
7. State shall ensure compliance with the Cargo Preference Act and implementing regulations (46 CFR Part 381) for use of United States-flag ocean vessels transporting materials or equipment acquired specifically for the Project. Strict compliance is required, including but not limited to the clauses in 46 CFR 381.7(a) and (b) which are incorporated by reference. State shall also include this requirement in all contracts and ensure that contractors include the requirement in their subcontracts.
8. Agency grants State the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.
9. The Parties acknowledge and agree that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Parties which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of the Project and final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the requesting party.

10. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are incorporated by this reference and made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The Parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.
11. Agency shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to FHWA, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement.
12. Agency and State are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
13. State and Agency hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
14. Notwithstanding anything in this Agreement or implied to the contrary, the rights and obligations set out in the following paragraphs of this Agreement shall survive Agreement expiration or termination, as well as any provisions of this Agreement that by their context are intended to survive: Terms of Agreement Paragraphs 3.e (Funding), 5.d (Termination), 6.b (ADA maintenance), 9-14, 17 (Integration, Merger; Waiver); and Attachment 2, paragraphs 1 (Project Administration), 7, 9, 11, 13 (Finance), and 37-41 (Maintenance and Contribution).
15. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
16. This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
17. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached exhibits will control over Project application and documents provided by Agency to State. There are no understandings, agreements, or representations, oral

or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. Notwithstanding this provision, the Parties may enter into a Right Of Way Services Agreement in furtherance of the Project.

18. State's Contract Administrator for this Agreement is Teresa DeWald, Transportation Project Manager, 3500 NW Stewart Parkway, Roseburg, OR 97470, 541-580-0610, Teresa.l.dewald@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

19. Agency's Contract Administrator for this Agreement is Ted Fitzgerald, Curry County Director of Operations, 94235 Moore Street, Ste. 123, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

Agency/State
Agreement No. 73000-00026152

CURRY COUNTY, by and through its
elected officials

By _____

Title _____

Date _____

By _____

Title _____

Date _____

**LEGAL REVIEW APPROVAL (If required
in Agency's process)**

By _____

Agency Counsel

Date _____

Agency Contact:

Ted Fitzgerald
Curry County Director of Operations
94235 Moore Street, Ste. 123
Gold Beach, OR 97444
541-247-7097
fitzgerald@co.curry.or.us

State Contact:

Teresa DeWald
Transportation Project Manager
3500 NW Stewart Parkway
Roseburg, OR 97470
541-580-0610
Teresa.l.dewald@odot.oregon.gov

STATE OF OREGON, by and through
its Department of Transportation

By _____

Delivery & Operations Division
Administrator

Date _____

APPROVAL RECOMMENDED

By _____

Region 3 Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____

Assistant Attorney General

Date _____

EXHIBIT A – Project Location Map



ATTACHMENT NO. 1 to AGREEMENT NO. 73000-00026152
SPECIAL PROVISIONS

1. State or its consultant shall conduct all work components necessary to complete the Project, except for those responsibilities specifically assigned to Agency in this Agreement.
 - a. State or its consultant shall conduct preliminary engineering and design work required to produce final plans, specifications, and cost estimates in accordance with current state and federal laws and regulations; obtain all required permits; acquire necessary right of way and easements; and arrange for all utility relocations and adjustments.
 - b. State will advertise, bid, and award the construction contract. Upon State's award of the construction contract, a consultant hired and overseen by the State shall be responsible for contract administration and construction engineering & inspection, including all required materials testing and quality documentation. State shall make all contractor payments.
 - c. State will perform project management and oversight activities throughout the duration of the Project. The cost of such activities will be billed to the Project.
2. State and Agency agree that the useful life of this Project is defined as 20 years.
3. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.

ATTACHMENT NO. 2 FEDERAL STANDARD PROVISIONS

PROJECT ADMINISTRATION

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

PROJECT FUNDING REQUEST

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

FINANCE

6. Federal funds shall be applied toward Project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount for the federal funds and any portion of the Project, which is not covered by federal funding, unless otherwise agreed to and specified in the intergovernmental Agreement (Project Agreement). Agency must obtain written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement. If federal funds are used, State will specify the Catalog of Federal Domestic Assistance (CFDA) number in the Project Agreement. State will also determine and clearly state in the Project Agreement if recipient is a subrecipient or contractor, using the criteria in 2 CFR 200.331.

7. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall pay one hundred (100) percent of the cost of any item in which FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds or allocations of State Highway Trust Funds to Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration that result in items being declared non-participating by FHWA, such items deemed non-participating will be negotiated between Agency and State. Agency agrees that costs incurred by State and Agency for services performed in connection with any phase of the Project shall be charged to the Project, unless otherwise mutually agreed upon by the Parties.
8. Agency's estimated share and advance deposit.
 - a) Agency shall, prior to commencement of the preliminary engineering and/or right of way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
 - b) Agency's construction phase deposit shall be one hundred ten (110) percent of Agency's share of the engineer's estimate and shall be received prior to award of the construction contract. Any additional balance of the deposit, based on the actual bid, must be received within forty-five (45) days of receipt of written notification by State of the final amount due, unless the contract is cancelled. Any balance of a cash deposit in excess of amount needed, based on the actual bid, will be refunded within forty-five (45) days of receipt by State of the Project sponsor's written request.
 - c) Pursuant to Oregon Revised Statutes (ORS) 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool), and an Irrevocable Limited Power of Attorney is sent to State's Active Transportation Section, Funding and Program Services Unit, or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash or check submitted to the Oregon Department of Transportation.
9. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear one hundred (100) percent of all costs incurred as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear one hundred (100) percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all costs, whether incurred by State or Agency, either directly or through contract services, and State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.
10. Agency shall make additional deposits, as needed, upon request from State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the Project.
11. Agency shall, upon State's written request for reimbursement in accordance with Title 23, CFR part 630.112(c) 1 and 2, as directed by FHWA, reimburse State for federal-aid funds distributed to Agency if any of the following events occur:

- a) Right of way acquisition is not undertaken or actual construction is not started by the close of the twentieth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized for right of way acquisition. Agency may submit a written request to State's Liaison for a time extension beyond the twenty (20) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
 - b) Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the federal fiscal year in which the federal-aid funds were authorized. Agency may submit a written request to State's Liaison for a time extension beyond the ten (10) year limit with no repayment of federal funds and State will forward the request to FHWA. FHWA may approve this request if it is considered reasonable.
12. State shall, on behalf of Agency, maintain all Project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that the Project is completed in conformance with approved plans and specifications.
 13. State shall submit all claims for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. State shall pay all reimbursable costs of the Project. Agency may request a statement of costs-to-date at any time by submitting a written request. When the final total cost of the Project has been computed, State shall furnish Agency with an itemized statement. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal one hundred (100) percent of the final total cost of the Project. Any portion of deposits made in excess of the final total cost of the Project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the Project expenditure account(s) and will be included in the final total cost of the Project.

DESIGN STANDARDS

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

meet AASHTO standards must be justified and documented by means of a design exception. State shall review any design exceptions on the Oregon State Highway System and retain authority for said approval. FHWA shall review any design exceptions for projects subject to Project of Division Interest and retains authority for their approval.

17. ODOT agrees all traffic control devices and traffic management plans shall meet the requirements of the current edition of the Manual on Uniform Traffic Control Devices and Oregon Supplement as adopted in Oregon Administrative Rule (OAR) 734-020-0005. State or its consultant shall, on behalf of Agency, obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal, or illumination to be installed on a state highway pursuant to OAR 734-020-0430.

PRELIMINARY & CONSTRUCTION ENGINEERING

18. Preliminary engineering and construction engineering may be performed by either a) State, or b) a State-approved consultant. Engineering work will be monitored by State to ensure conformance with FHWA rules and regulations. Project plans, specifications and cost estimates shall be performed by either a) State, or b) a State-approved consultant. State shall review and approve Project plans, specifications and cost estimates. State shall, at project expense, review, process and approve, or submit for approval to the federal regulators, all environmental statements. State shall offer Agency the opportunity to review the documents prior to advertising for bids.
19. Architectural, engineering, photogrammetry, transportation planning, land surveying and related services (A&E Services) as needed for federal-aid transportation projects must follow the State's processes to ensure federal reimbursement. State will award, execute, and administer the contracts. State's personal services contracting process and resulting contract document will follow Title 23 CFR part 172, 2 CFR part 1201, ORS 279A.055, 279C.110, 279C.125, OAR 731-148-0130, OAR 731-148-0220(3), OAR 731-148-0260 and State Personal Services Contracting Procedures, as applicable and as approved by the FHWA. Such personal services contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or the state approved consultant prior to receiving authorization from State to proceed.
20. The State or its consultant responsible for performing preliminary engineering for the Project shall, as part of its preliminary engineering costs, obtain all Project related permits necessary for the construction of said Project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
21. State shall prepare construction contract and bidding documents, advertise for bid proposals, award all construction contracts, and administer the construction contracts.
22. Upon State's award of a construction contract, State shall perform quality assurance and independent assurance testing in accordance with the FHWA-approved Quality Assurance Program found in State's Manual of Field Test Procedures, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the Project.
23. State shall, as a Project expense, assign a liaison to provide Project monitoring as needed throughout all phases of Project activities (preliminary engineering, right-of-way acquisition, and construction). State's liaison shall process reimbursement for federal participation costs.

Disadvantaged Business Enterprises (DBE) Obligations

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

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

25. State and Agency agree to comply with all applicable civil rights laws, rules and regulations, including Title V and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
26. The Parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, incorporated herein by reference and made a part hereof; Title 23 CFR parts 1.11, 140, 635, 710, and 771; Title 49 CFR parts 24 and 26; , 2 CFR 1201; Title 23, USC, Federal-Aid Highway Act; Title 41, Chapter 1, USC 51-58, Anti-Kickback Act; Title 42 USC; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, the provisions of the FAPG and *FHWA Contract Administration Core Curriculum Participants Manual & Reference Guide*. State and Agency agree that FHWA-1273 Required Contract Provisions shall be included in all contracts and subcontracts verbatim and not by reference.

RIGHT OF WAY

27. Right of Way activities shall be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FAPG, CFR, and the *ODOT Right of Way Manual*, Title 23 CFR part 710 and Title 49 CFR part 24.
28. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of projects. State or its consultant may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project in accordance with the *ODOT Right of Way Manual*, and with the prior approval from State's Region Right of Way office.
29. If the Project has the potential of needing right of way, to ensure compliance in the event that right of way is unexpectedly needed, a right of way services agreement will be required. State, at Project expense, shall be responsible for requesting the obligation of project funding from FHWA. State, at Project expense, shall be entirely responsible for project acquisition and coordination of the right of way certification.
30. State or its consultant shall ensure that all project right of way monumentation will be conducted in conformance with ORS 209.155.

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

RAILROADS

32. State shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through the State's Liaison, who will contact State's Railroad Liaison on behalf of Agency. Only those costs allowable under Title 23 CFR part 140 subpart I, and Title 23 part 646 subpart B shall be included in the total Project costs; all other costs associated with railroad work will be at the sole expense of Agency, or others.

UTILITIES

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

GRADE CHANGE LIABILITY

34. Agency, if a County, acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
35. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.
36. Agency, if a City, by execution of the Project Agreement, gives its consent as required by ORS 373.030(2) to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, in connection with or arising out of the Project covered by the Project Agreement.

MAINTENANCE RESPONSIBILITIES

37. Agency shall, at its own expense, maintain operate, and provide power as needed upon Project completion at a minimum level that is consistent with normal depreciation and/or service demand and throughout the useful life of the Project. The useful life of the Project is defined in the Special Provisions. State may conduct periodic inspections during the life of the Project to verify that the Project is properly maintained and continues to serve the purpose for which federal funds were provided. Maintenance and power responsibilities shall survive any termination of the Project Agreement. In the event the Project will include or affect a state highway, this provision does not address maintenance of that state highway.

CONTRIBUTION

38. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
39. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
40. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

ALTERNATIVE DISPUTE RESOLUTION

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

WORKERS' COMPENSATION COVERAGE

42. All employers, including Agency, that employ subject workers who work under this Project Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability Insurance with coverage limits of not less than five hundred thousand (\$500,000) must be

included. State and Agency shall ensure that each of its contractors complies with these requirements.

LOBBYING RESTRICTIONS

43. Agency certifies by signing the Agreement that:

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

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing this Agreement, Agency agrees to fulfill the responsibility imposed by 2 CFR Subpart C, including 2 CFR 180.300, 180.355, 180.360, and 180.365, regarding debarment, suspension, and other responsibility matters. For the purpose of this provision only, Agency is considered a participant in a covered transaction. Furthermore, by signing this Agreement, Agency is providing the certification for its principals required in Appendix to 2 CFR part 180 – Covered Transactions.



CURRY COUNTY BOARD OF COMMISSIONERS
REQUEST FOR AGENDA ITEM
BUSINESS MEETING

Agenda Date:	Agenda Item Title:	
12/21/23	Animal Control	
Time Needed:		
15 minutes		
Financial Impact:	Description and Background:	
TBD	<p>The Director of County Operations will give an update regarding current and future animal control services. This is a continuance of the discussion held at the December 6th Board Meeting.</p> <p>The BOC may choose to meet in Executive Session regarding some aspects of this issue, to extent that one is allowed by ORS 192.660(h).</p>	
Category:		
<input checked="" type="checkbox"/> Action/Discussion		
<input type="checkbox"/> Consent		
<input type="checkbox"/> Executive Session		
<input type="checkbox"/> Hire Order		
<input type="checkbox"/> Presentation		
Requested Motion:		
N/A		
Attachments:	Instructions Once Approved:	
1. Shelter Termination Letter / Contract 2. County Code- Animal Control 3. ORS - County Impound Requirements 4. Animal Shelter Historical Documents 5.		
Contact Person – Name and Department:		Date Submitted:
Ted Fitzgerald, Director of County Operations		12/13/23



MICHAEL E. “TED” FITZGERALD

COMMUNITY DEVELOPMENT DIRECTOR
DIRECTOR OF COUNTY OPERATIONS
COUNTY LEGAL COUNSEL

94235 Moore Street | Suite 123
Gold Beach, OR 97444
(541) 247-3291
CountyCounsel@co.curry.or.us

December 20, 2023

Wild Rivers Animal Rescue
P.O. Box 1883
Gold Beach, OR 97444
info@wildriversanimalrescue.org
kdschlack@aol.com

**Re: Wild Rivers Animal Rescue
County Animal Shelter Services**

To whom it may concern:

After reading WRAR’s recent social media postings, I am pleased to learn that WRAR is willing to continue to provide animal sheltering services to Curry County. This contradicts the notice of termination dated November 30, 2023, delivered to my office by your agents. You may recall, upon our verbal conversation of September 1, 2023, followed by your email dated September 5, 2023, requesting to increase the annual fee nearly double its prior amount, I asked for your organization’s justification for the increase in cost. To date, none has been provided. Please understand that it is not normal practice for the Board to approve a rate increase without some rationalization other than subjective opinion.

Based on the County’s continuing need and legal obligation to provide an animal shelter facility for the Dog Control District, and in an effort to mitigate potential future expenses incurred in the provision of the same, an increase in cost is reasonable. According to my calculations, the CPI increase between the date of the 2021 Agreement and today’s date is 17.4%. Relying on that figure, an increase of \$2,792.25 would be appropriate.

I am willing to recommend a rate increase of \$2,800.00 to the Board of Commissioners. However, I do not find the 2021 revisions to the service agreement regarding WRAR’s discretionary power

to refuse to accept any dog post impoundment to fall within the schematic for a County Animal Shelter. Refusing a dog post-impoundment creates an ethical dilemma for the County, as that would require expenditures in order to place the dog at an alternative location, or if that is not possible, to dispose of the dog in an alternative manner. Neither I, nor the Commissioners, find it acceptable to euthanize an animal due to a shelter facility's refusal to accept that animal.

Therefore, my proposal is as follows:

- 1) In consideration for services performed, WRAR shall receive \$19,225.00 from the County annually, paid in two installments of \$9,612.50 due on January 1st of each year and July 1st of each year. The Agreement will thereafter be subject to a CPI increase annually on May 1st, to be effective at the beginning of the fiscal year beginning July 1st.
- 2) Additional kenneling space exceeding three kennels shall be billed by WRAR at the rate of \$20 daily. There will be no cap on payment by the County for additional kennel space.
- 3) WRAR may not refuse any dog post impoundment.
- 4) County shall have 24/7 access to the WRAR shelter facility, including indoor kennels.
- 5) The Animal Impound Form will be completed by the impounding party and provided to WRAR immediately upon the impound of an animal.
- 6) County shall provide WRAR with a list of all Animal Control employees and law enforcement officers who will have access to the Animal Shelter facility and shall not allow any individuals other than those specifically set forth therein to enter upon the premises.
- 7) WRAR shall maintain general liability, umbrella coverage, and bodily injury insurance as to the Agreement, and shall provide the County with the certificate of such insurance.

If you are agreeable to the above terms and conditions, I will incorporate them into a revised contract for Services and place it before the Board for final approval. Please advise as to WRAR's response at your earliest convenience.

Sincerely,



Ted Fitzgerald

CURRY COUNTY ~~DOG CONTROL~~ANIMAL SHELTER SERVICES AGREEMENT

This agreement, is made by and between Curry County, a political subdivision of the state of Oregon ("Curry", "County" or "county"), and Wild Rivers Animal Rescue ("WRAR", "Animal Shelter" or "animal shelter"), an Oregon public benefit corporation.

WHEREAS, this agreement supersedes and replaces in its entirety, the parties' prior agreement~~(s)- recorded in the Curry County Commissioners Journal, CJ2012-383-08/24/2012 (#4623)~~; and

WHEREAS, Curry County operates a Dog Control District pursuant to ORS 609.030; and

WHEREAS, the Curry County Commissioners serve as the Board of Supervisors of the Dog Control District and have authority to issue licenses and enforce all of the County and state laws relating to the control of dogs within the county including, but not limited to, dog control services identify in ORS chapter 609 (the "Dog Control Services" and "Animal Control Services"); and

WHEREAS statute requires all funds derived from dog control services under ORS 609.035 to 609.110 and 433.340 to 433.385 to be turned over to the county treasurer and held in the "Dog License Fund"; and

WHEREAS, in connection with the powers of a governing body of the Dog Control District, County, through a bargain and sale deed recorded in the Curry County land records, 2015-01675 (05/21/2015) deeded to Pennies for Pooches property located at 29921 Airport Way, Gold Beach, Oregon, ("Animal Shelter"); and

WHEREAS, said deed is subject to a reverter clause to wit:

The property described herein shall be subject to a possibility of reverter such that if the property, within the next 20 years from the date of recording of the deed is no longer uses an animal shelter, the interest of the grantee shall automatically terminate, and fee simple title shall revert to the Grantor. At such time, Grantor may enter and terminate this estate and the property shall revert to the Grantor.

and

WHEREAS, as part of the Dog Control Services, the above-referenced animal shelter serves as a dog impoundment facility in accordance with the requirements in ORS chapter 609 provide an "adequate and sanitary facility to hold dogs; and

WHEREAS, since that time of the prior agreement~~(s)~~ and the deed of the property, the county has hired Code Enforcement Officers to perform animal control services, obtained code enforcement software, and equipped vehicles for code enforcement activity, all of which combined allow for the issuance of licenses in enforcement of dog control ordinances and laws; and

WHEREAS, WRAR ~~changed its name from~~~~is the successor in interest to~~ Pennies for Pooches; and

WHEREAS, County desires to enter into a service contract with WRAR to provide Dog Control Shelter Services in exchange for consideration as set forth herein.

WHEREAS, WRAR is willing and able to provide such Dog Control Shelter Services (as defined below) pursuant to this agreement.

NOW, THEREFORE, in consideration of the agreements and covenants contained herein the parties hereby agree as follows:

1. WRAR Obligations:

1.1 Provide Facilities and Services:

- 1.1.a WRAR shall provide dog control shelter services~~maintain and operate the animal shelter~~ consistent with the requirements of ORS 609.090 (2) for the impoundment of dogs that are seized by the County and other law enforcement agencies pursuant to ORS 609.0310 et seq. ("Dog Control Shelter Services").
- 1.1.b WRAR, ~~in accordance with ORS 609.090(2),~~ shall be responsible for providing adequate and sanitary pound facilities for all animals impounded by the County during the impound period in accordance with ORS 609.090(2). ~~;~~ and for WRAR will provide~~ing~~ daily supervision of all animals impounded; ~~and for provide~~ing~~ basic care services to include: feeding, access to potable water, environmental climate control, kennel cleaning, and kennel security. The costs for additional services authorized by the County, the costs therein related, shall be the responsibility of the County.~~
- 1.1.c WRAR shall keep animals ~~in~~impounded for bite quarantine or that are infected with a contagious disease in isolation from all other animals as required by law, as per the direction of code enforcement in accordance with ORS.090(1)(c), or in the exercise of sound veterinarian practices.
- 1.1.d WRAR ~~S~~shall keep animals designated as dangerous dog or animal, as defined by ORS 609.098, in a secure kennel during the impoundment. Upon request of the County.
- 1.1.e WRAR shall keep animals that were ~~in~~impounded for their protection either at the request of law enforcement, code enforcement, or on behalf of their owners and secure kennel during the impoundment. Upon request of the impounding authority (County).
- 1.1.1 WRAR ~~W~~ill be responsible for all materials, equipment, and personnel necessary to perform services described herein and operate the animal shelter.

L2 Access.

- 1.2.a WRAR has sole discretion to establish the specific hours of operation of the animal shelter; ~~provided that,~~ County personnel and other law enforcement agencies shall have access to two outside covered kennels (on the southside of the building)~~the facilities~~ for the purpose of delivering ~~or releasing~~ impounded dogs~~animals~~ when the animal shelter is closed~~at all times~~. WRAR ~~S~~shall advise the County of any anticipated changes in public hours as soon as is reasonably possible prior to implementation.
- 1.2.b WRAR shall provide the County with the necessary key and/or access codes for such purposes.
- 1.2.c County shall be responsible for securing the well-being of the dogs delivered and securing the kennels and facilities upon departure in the event that no WRAR staff is available.
- 1.2.d WRAR shall maintain three secure double kennels, food, and servicing of said kennels to be available for the impound of animals by the County in exchange of \$31,755~~16,425.00~~ for the first twelve months of this agreement~~per fiscal year~~. For every twelve months thereafter, the fee shall increase by three percent (3%).

1.2.e Additional kennels may be provided by WRAR upon request of County at a rate of ~~\$29.00~~~~15.00~~ per day to be paid by the County.

1.2.1 WRAR shall maintain impound records, including information as to the identification, address, telephone number and description of animals, for any animal redeemed by its owner which was impounded as per the authority of the County.

1.2.g

Impound fees, daily boarding fees, reimbursement for medical expenses, payment of dog license fee, for animals return to their owners during the period in which an animal is ~~in~~ imponded by the County, shall be collected by WRAR, as per the direction of County staff, from all owners authorized to redeem their animal by the County. These funds shall be remitted to the county once a month no later than the fifteenth day of each month~~within 30 days~~.

1.2.h All animals who have not been redeemed by their owners, upon expiration of any/all impound requirements ("Post Impoundment"), ~~may~~shall be released to WRAR ~~for adoption, euthanasia, or other lawful purpose~~. WRAR may refuse to accept any animals ~~on~~ Post ~~impoundment~~.

Fees for adoption, counseling, medical care, or other services provided by WRAR after an animal has been surrendered by the County are not the response ability of the County. The collection of adoption fees, boarding costs, medical reimbursement cost for animals released to WRAR is not regulated by the County.

1.3 Dog licenses pursuant to Oregon ORS 609.100 and County ordinance 4.01.050 (2) are required for all dogs maintained within their jurisdictions. Before any dog is redeemed or adopted compliance with these requirements is mandatory. Licenses may be purchased through Curry County either at the code enforcement offices, via online licensing page maintained by Curry County, by the dog's owner or keeper. In addition, WRAR, on behalf of the County, may assist¹ or sell a license to an owner or keeper, by completing the online licensing process maintained by the County.

1.3.a The keeper or owner of a dog that is redeemed following an impound by the County shall be required to purchase a Curry County Dog License. The County will provide WRAR with access to the licensing svstem and training in its use. All license fees collected by WRAR shall be remitted to the County once a month no later than the fifteenth day of each month~~within thirty days of receipt~~.

1.3.b WRAR shall be compensated at the amount of 50% of the license cost for each license sale ~~it~~they processes.

1.3.c County will control all information regarding license registration that has been input into County's computer system. WRAR, like any other person after making public records request for same may use any licensing records maintained for the purposes of this agreement to market, gain volunteers, educate the public, and solicit contributions for the benefit of the animal shelter, provided that they do not represent themselves as a Governmental agency. A Public Record request response shall include terms or conditions wherein the information requested may only be used or maintained in a manner which protects the confidentiality of owners and / or keepers.

- ~~1.4~~ Compliance with Laws; Inspections: WRAR shall operate the facility in a humane and sanitary manner in compliance with all applicable state and local laws, ordinances, and regulations, including ORS 609.090~~2~~(2).
- 1.4.a The County Code Enforcement Officer, director of operations or designee shall be entitled ~~to inspect and examine the premises and~~ to examine the records kept of all ~~in-im~~ impounded animals to ensure compliance with this agreement during normal business hours. The County shall provide WRAR with one business day~~24-hour~~ advance notice of any such inspection. Nothing contained herein shall make the County responsible for the manner of operation or maintenance of facilities.
- 1.5.a Hold Period; Notice; Transfer: WRAR shall hold all impounded dogs delivered by the County or other Law Enforcement agencies for the requisite period of time in ORS 609.090(2), ~~or as per the direction of the Curry County Code Enforcement Officer or their designee.~~
- 1.5.b WRAR is authorized to adopt out, convey or euthanize or otherwise dispose of a dog in any lawful manner only after release by the County and:
- 1.5.b.1 Expiration of the requisite impoundment, and
- 1.5.b.2 Execution of an owner-relinquishment form from an impounded dog's keeper or owner, or
- 1.5.b.3 Issuance of a release, order, by County Code Enforcement, or other agreement, authorizing WRAR to take ownership of an impounded dog.
- 1.6. WRAR accepts all responsibility for its discretionary decision.
- 1.7 Intentionally Omitted~~Other Agreements:~~
~~During the period wherein this agreement is in force, the County and WRAR may entered into additional service agreements upon consent of both parties for services to be provided by WRAR at the request of the County, which benefit animals, the Community, animal owners or keepers, such as vaccination clinics, spay/neuter clinics, animal behavioral or obedience training program.~~

~~Such terms, conditions, and remuneration for program costs shall be defined within any additional service agreements entered into by both parties. Funds to cover such additional costs may only be paid out of the Dog Licensing Fund. With Consent of the Governing Board (Curry County Board of Commissioners), funds for additional services may come from other County funds.~~

~~Any such other agreement(s) shall incorporate the general terms and conditions as to responsibility, liability, and authority as detailed within this agreement.~~
- 1.8 Legal Proceedings: WRAR staff shall participate as requested by District Attorney, County Counsel, Law Enforcement, Code Enforcement or County Executive Officer, in legal proceedings involving impounded or sheltered animals. Such proceeding shall include, but not be limited to, hearings, proceedings, or other actions (such as impoundment or quarantine) under ORS 609.03~~1~~0 et seq and/or Curry County Code, or otherwise.
- 1.8.a County will be responsible for the payment of a reasonable ~~fees required by law~~ to WRAR ~~staff for any participation of its staff in such legal proceedings as a result of this agreement.~~

- 1.8.b Deposits: WRAR shall deposit all fees, fines and charges collected on behalf of the County, pursuant to this agreement ~~at least every 30 days~~ with the County once a month no later than the fifteenth day of each month, whether paid to WRAR by cash, check, credit card or other means along with a transaction register; to the County Treasurer via the Code Enforcement office.
- 1.8.c WRAR may provide its own credit card machine if ~~it~~ chooses to accept credit card payments, at its own expense, for fees, fines and charges collected pursuant to this agreement. Or WRAR may assist owners in keepers in the payment of these charges using the County's online payment provider.
- 1.9 Public Complaints: WRAR shall refer all public complaints and inquiries regarding animal control services or actions to the Curry County Code Enforcement Officer or County Director of Operations.
- 1.10 Records: WRAR shall keep and maintain all required records in compliance with all applicable state and local laws, ordinances, and regulations, which shall include but not be limited to: complete financial records covering fees, fines, and other charges; as well as records of the type and number of animals ~~in~~ impounded. A copy of required records shall be provided by WRAR to County Code Enforcement.
- 1.10.a WRAR shall provide a monthly report of impounded animals received and the final dispositions of the animals. All records required under this agreement shall be subject to inspection and review by the County upon its request. The records shall be retained by WRAR for no less than required by applicable Oregon records retention laws.
- 2.0 County Obligations:
- 2.1 Notice of Delivery and Special Directions: During Animal Shelter open hours, County shall notify WRAR as soon as practical of ~~its~~ intent to deliver dogs to the facility for inbound. When WRAR is closed, County shall deliver dogs to the designated outside covered kennels, complete the Curry County Impoundment Animal Form, and deposit such form in the exterior drop box.
- 2.1.a County shall provide information concerning the nature of the impound and indicate any special directions it believes that may be necessary for the proper handling, care, and treatment of the dog(s).
- 2.2 Images: If County is required to provide its permission for use of images, County shall allow WRAR to use ~~animal shelter property and images to for the return of animals to their owners or keepers, the adoption of animals, or to sell and market items, at County discretion,~~ related to the Dog Control Shelter Services or as otherwise required ~~WLR mission of providing Animal Control services.~~ "
- 2.3 Dog Control Authority: County shall maintain governance functions with respect to the dog control district.
- 2.3.a County shall have exclusive right to enforce all county and state laws relating to the control of dogs within the county, appoint any animal/dog control officers necessary to enforce such laws, and otherwise provide for the administration and enforcement of a dog control program. County shall provide WRAR with a list of all current animal/dog control officers, and

notify WRAR of any newly appointed officers at the time of hire by the County or upon the execution of any contractual arrangement for similar services. Without limiting the foregoing, in no event will a person have access to the kennels or its facilities without WRAR being notified of such person accessing the kennels and/or facilities.

- 2.4 **Community Service:** County shall consider the animal shelter in circumstances in which the Sheriff's office has discretion about where to recommend or sign people for community service hours. WRAR shall have veto rights over any potential shelter volunteer.
- 2.5 **Impound Notice:** County shall require deputies and code enforcement to record an entry in the animal shelter impoundment notice, describing the circumstances of the impound, any known health problems, or behavioral problems with the dog, and any known contact information for the owners of the dog(s).
- 2.6 **Found** animals brought to the shelter by the public, shall be immediately reported by WRAR to the County Code Enforcement Department. Upon receipt of a found animal reported by WRAR, an appropriate impound order shall be issued as appropriate by the County.
- 2.6.a **Surrendered** animals brought to the shelter by the public, do not require any notification by WRAR to the County Code Enforcement Department, unless there is reason to believe that the animal constitutes a health or safety risk, or is a victim of recent animal cruelty.
- 2.7 Animals placed in the shelter by the county, pursuant to this agreement, for protective custody, shall be maintained in a secure location. The protective impoundment is to be established by the county; and conditions of retention of the animal shall also be established by the County in accordance with this agreement.
- 2.8 **Authorization for Additional Services:** In those incidents wherein animals being housed at the shelter pursuant to a County Impound order, which may require additional services, such as medical care, flea treatments, or other discretionary needs, authorization for such service shall be obtained from the County Code Enforcement Office. Payment for such approved service costs during the impound period shall be the responsibility of the County.
3. **Insurance:** on or before the effective date of this agreement, WRAR shall obtain and maintain general liability insurance with minimum limits of liability, per occurrence, of \$2,000,000 for bodily injury and \$1,000,000 for property damage, and umbrella coverage with minimum limits of liability, per our occurrence, of bodily injury and \$1,000,000 for property damage, ~~and shall provide County with copies of certificates of insurance naming County as an additional insured. A copy of the policy or certificate of insurance acceptable to the County shall be submitted to the County prior to actually providing any services pursuant to this agreement.~~ WRAR further agrees to maintain such insurance throughout the term of this agreement and to provide County thirty (30) days advance written notice of cancellation (without replacing) or any material change thereof.
- 3.1 **Indemnification:** WRAR shall hold harmless, indemnify, and defend County, and its officers, agents, subcontractors, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from, arising out of, or related to the activities of WRAR or its officers, employees, subcontractors, volunteers, or agents under this agreement. County will hold harmless, indemnify, and defend WRAR, and its officers, employees, volunteers, subcontractors, or agents against all claims, suits, actions,

losses, damages, ~~liabilities, costs~~ and expenses of any nature resulting from, or arising out of, or related to the activities of County, its officers, employees, or agents under this agreement.

4. Payments: Once a month beginning thirty days after execution of this document, County shall remit to WRAR an amount equal to 1/12 of the \$~~31,755~~^{16,425}.00 or as amended in section 1.2.d. Payment shall be made automatically without the need to submit a bill or claim to the County.

WRAR shall submit a bill on a monthly basis for any additional expense claims for services provided as per this agreement.

~~In no event, shall total payment to WRAR exceed \$25,000.00, per year without the authorization of the County Commissioners.~~

5. Termination: either party may terminate this agreement with or without cause by providing ~~fifteen (15)~~^{sixty (60)} days written notice to the other party. Neither party shall be liable for any liability or damages caused by such termination.

6. Miscellaneous:

- 6.1 Waiver: no waiver of any provision of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, if made, shall be effective only in the specific instant and for the specific purpose given. The failure of a party to enforce any provision of this agreement shall not constitute a waiver by that party of that or any other provision of this agreement.

- 6.2 Notices: all notices or other communications required under this agreement shall be in writing and shall be given by personal delivery or by certified mail, return receipt requested, to the address set forth below or to such other person at such other place as may be furnished in writing. Any notice so addressed in mail shall be deemed to be key given three (3) days after mailing. Any notice by personal delivery shall be deemed to be given when actually delivered.

- 6.2.a Wild Rivers Animal Rescue, Curry County Animal Shelter, Post Office Box 1883, Gold Beach, OR 97444. ^u

- 6.2.b Curry County Legal Counsel, 94235 Moore Street, Suite 123, Gold Beach, OR 97444.

- 6.3 Expenses: Each party shall be responsible for and pay its own expenses and fees of its counsel, accountants, and other experts.

- 6.4 Force Majeure: Neither County nor WRAR shall be held responsible for delay or default caused by fires, riot, civil disobedience, acts of God, or war, where such cause was beyond the control of either party. Both parties shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this agreement.

- 6.5 Governing Law: the validity, performance and enforcement of this agreement shall be governed by the laws of the state of Oregon.

- 6.6 Compliance with Law: the parties shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to this agreement, including but not limited to all applicable provisions of ORS 609.0~~3~~⁴ et seq.

- 6.7 Successors and Assigns: This agreement may only be assigned in writing signed by both parties. If so, this agreement shall be binding upon and inure to the benefit of any successors and permitted assigns of the parties hereto.
- 6.8 No Third Party Beneficiary: County and WRAR are the only parties to this agreement and are the only parties entitled to enforce its terms. Nothing in this agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to 3^d persons unless such 3^d persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this agreement.
- 6.9 Entire Agreement: the agreement constitutes the entire agreement between parties with respect to the performance of the dog control services. This agreement shall supersede all previous negotiations, commitments, and writings with respect to the transfer. There are no other understandings, agreements, or representations, written or oral, regarding this agreement.
- 6.10 Non-Appropriation: County is a governmental entity, and the validity of this agreement is based upon the availability of public funding under the authority of its statutory mandate. In the event public funds are unavailable and not appropriated for the performance of the County's obligations under this agreement, then this agreement shall automatically expire without penalty to the County thirty (30) days after written notice to WRAR of the unavailability and non-appropriation of public funds. County shall not activate this non—appropriation provision for its convenience or to circumvent the requirements of this agreement, but only as an emergency-fiscal measure during a substantial fiscal crisis, which affects generally the County's governmental operations.
- 6.11 Dispute Resolution: with respect to any dispute between the parties regarding and/or arising out of this agreement, the parties will attempt in good faith to first discuss the dispute and use the best efforts to reach an agreement on the matters in dispute.

DATED this day of ~~WILD RIVERS ANIMAL RESCUE~~

CURRY COUNTY BOARD OF COMMISSIONERS

Approved as to Form:

Michael E. Fitzgerald~~John Hutt~~, Curry County
Legal Counsel

, 2023.

John Herzog~~Court Boice~~, Chair

Brad Alcorn~~John Herzog~~, Vice Chair

Jay Trost~~Christopher Paasch~~, Commissioner

WILD RIVERS ANIMAL RESCUE

Signature

Print Name

Title

November 30, 2023

Curry County
c/o Curry County Legal Counsel
94235 Moore Street, Suite 123
Gold Beach, Oregon 97444

RE: Outstanding Accounts Receivable Balance and Termination of Service Agreement

Dear Commissioners Herzog, Alcorn and Trost, and Legal Counsel Fitzgerald,

As discussed many times in the previous months, Wild River Animal Rescue ("WRAR") has been suffering a substantial loss with the sheltering of animals for the County when its animal control officers impound such animals under the Curry County Animal Shelter Services Agreement dated March 24, 2021 ("Service Agreement"). Because WRAR is losing money and can no longer subsidize the County, WRAR has provided the County with a revised service agreement that would permit WRAR to break even with the cost of providing the services. To be clear, it is not WRAR's intent to profit from the County, but only to be compensated for the cost of the services provided.

Since the discussions have started, the County has not made its payments as promised under the Service Agreement. In fact, the November payment has not been paid as of this date and therefore, please accept this letter as a formal demand for payment in the amount of \$1,368.75. Please make payment on or before December 1, 2023.

Because WRAR can no longer carry this loss and WRAR has not received a signed copy of the revised service agreement, WRAR finds itself in the difficult position of the need to terminate the Service Agreement.

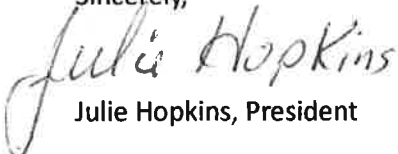
Pursuant to Section 5 of the Services Agreement, WRAR is hereby providing written notification of termination. The Agreement will therefore be terminated sixty (60) days from November 29, 2023, on January 28, 2024.

If the County is interested in WRAR providing shelter services beyond January 28, 2024, please execute the revised service agreement on or before December 31, 2023.

Wild Rivers Animal Rescue expressly reserves any and all rights that may be available to it, whether under contract, in law, equity or otherwise. No communication between the parties nor anything herein shall be deemed a waiver of any of Wild Rivers Animal Rescue's rights.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Julie Hopkins".

Julie Hopkins, President

Wild Rivers Animal Rescue

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

An Order Authorizing a Contract)
With Wild Rivers Animal Rescue)
Amending and Superseding Prior)
Agreement with Pennies for Pooches)

ORDER NO. _____

WHEREAS, Curry County and Pennies for Pooches have an existing Animal Shelter Services Agreement Commissioners' Journal number CJ: 2012-383 filed August 4, 2012; and

WHEREAS, on February 16, 2017, Pennies for Pooches, filed a change of articles of incorporation to register with the Oregon Secretary of State the name Wild Rivers Animal Rescue; Oregon Secretary of State Registry Number 555610-98, and ;

WHEREAS, since the time of making that agreement, the County has hired code enforcement officers and purchased software to participate in the licensing of animals and other animal control related functions and desire to amend the agreement to reflect the change in circumstances; and

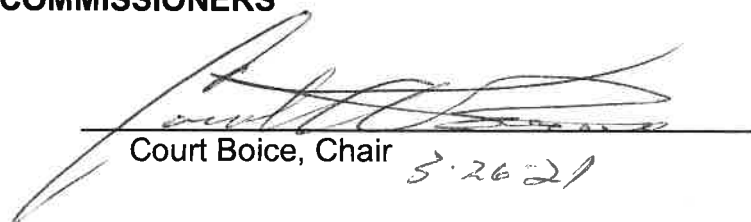
WHEREAS, the Curry County Board of Commissioners determines that it is in the public interest to amend and restate the 2012 agreement;

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDERS


Amended and Restated Contract for Animal Shelter Services is Authorized to reflect changes of the relationship, including but not limited to the name change of Pennies For Pooches to Wild Rivers Animal Rescue; and the changes in the County with respect to Code Enforcement and Animal Control functions staffing, and computer software functions.

DATED this day of , 2021.


CURRY COUNTY BOARD OF COMMISSIONERS



Court Boice, Chair 5.26.21



John Herzog, Vice Chair



Christopher S. Paasch, Commissioner

Approved as to Form:



John Hutt
Curry County Legal Counsel

CURRY COUNTY ANIMAL SHELTER SERVICES AGREEMENT

This agreement, is made by and between Curry County, a political subdivision of the state of Oregon ("Curry"), and Wild Rivers Animal Rescue ("WRAR"), an Oregon public benefit corporation.

WHEREAS, this agreement supersedes and replaces in its entirety, the parties' prior agreement recorded in the Curry County Commissioners Journal, CJ2012-383 08/24/2012 (#4623); and

WHEREAS, Curry County operates a Dog Control District pursuant to ORS 609.030; and

WHEREAS, the Curry County Commissioners serve as the Board of Supervisors of the Dog Control District and have authority to issue licenses and enforce all of the County and state laws relating to the control of dogs within the county including, but not limited to, dog control services identify in ORS chapter 609 (the "Dog Control Services" and "Animal Control Services"); and

WHEREAS statute requires all funds derived from dog control services under ORS 609.035 to 609.110 and 433.340 to 433.385 to be turned over to the county treasurer and held in the "Dog License Fund"; and

WHEREAS, in connection with the powers of a governing body of the Dog Control District, County, through a bargain and sale deed recorded in the Curry County land records, 2015-01675 (05/21/2015) deeded to Pennies for Pooches property located at 29921 Airport Way, Gold Beach, Oregon, ("Animal Shelter"); and

WHEREAS, said deed is subject to a reverter clause to wit:

The property described herein shall be subject to a possibility of reverter such that if the property, within the next 20 years from the date of recording of the deed is no longer uses an animal shelter, the interest of the grantee shall automatically terminate, and fee simple title shall revert to the Grantor. At such time, Grantor may enter and terminate this estate and the property shall revert to the Grantor.

and

WHEREAS, as part of the Dog Control Services, the above-referenced animal shelter serves as a dog impoundment facility in accordance with the requirements in ORS chapter 609 provide an "adequate and sanitary" facility to hold dogs; and

WHEREAS, since that time of the prior agreement and the deed of the property, the county has hired Code Enforcement Officers to perform animal control services, obtained code enforcement software, and equipped vehicles for code enforcement activity, all of which combined allow for the issuance of licenses in enforcement of dog control ordinances and laws; and

WHEREAS, WRAR is the successor in interest to Pennies for Pooches; and

WHEREAS, County desires to enter into a service contract with WRAR to provide Dog Control Shelter Services in exchange for consideration as set forth herein.

WHEREAS, WRAR is willing and able to provide such Dog Control Shelter Services pursuant to this agreement.

NOW, THEREFORE, in consideration of the agreements and covenants contained herein the parties hereby agree as follows:

1. **WRAR Obligations:**

1.1 **Provide Facilities and Services:**

- 1.1.a WRAR shall maintain and operate the animal shelter consistent with the requirements of ORS 609.090 (2) for the impoundment of dogs that are seized by the County and other law enforcement agencies pursuant to ORS 609.010 et seq.
- 1.1.b WRAR, in accordance with ORS 609.090(2), shall be responsible for providing adequate and sanitary pound facilities for all animals impounded by the County during the impound period; and for providing daily supervision of all animals impounded; and for providing basic care services to include: feeding, access to potable water, environmental climate control, kennel cleaning, and kennel security. The costs for additional services authorized by the County, the costs therein related, shall be the responsibility of the County.
- 1.1.c WRAR shall keep animals in pound for bite quarantine or that are infected with a contagious disease in isolation from all other animals as required by law, as per the direction of code enforcement, or in the exercise of sound veterinarian practices.
- 1.1.d WRAR Shall keep animals designated as dangerous dog or animal, as defined by ORS 609.098, in a secure kennel during the impoundment. Upon request of the County.
- 1.1.e WRAR shall keep animals that were in pound for their protection either at the request of law enforcement, code enforcement, or on behalf of their owners and secure kennel during the impoundment. Upon request of the impounding authority (County).
- 1.1.f WRAR Will be responsible for all materials, equipment, and personnel necessary to perform services described herein and operate the animal shelter.

1.2 **Access.**

- 1.2.a WRAR has sole discretion to establish the specific hours of operation of the animal shelter; provided that, County personnel and other law enforcement agencies shall have access to the facilities for the purpose of delivering or releasing impounded animals at all times. WRAR Shall advise the County of any anticipated changes in public hours prior to implementation.
- 1.2.b WRAR shall provide the County with the necessary key and/or access codes for such purposes.
- 1.2.c County shall be responsible for securing dogs delivered and securing the facilities upon departure in the event that no WRAR staff is available.
- 1.2.d WRAR shall maintain three secure double kennels, food, and servicing of said kennels to be available for the impound of animals by the County in exchange of \$16,425.00 per fiscal year.
- 1.2.e Additional kennels may be provided by WRAR upon request of County at a rate of \$15.00 per day to be paid by the County.
- 1.2.f WRAR shall maintain impound records, including information as to the identification, address, telephone number and description of animals, for any animal redeemed by its owner which was impounded as per the authority of the County.

- 1.2.g Impound fees, daily boarding fees, reimbursement for medical expenses, payment of dog license fee, for animals return to their owners during the period in which an animal is in pounds by the County, shall be collected by WRAR, as per the direction of County staff, from all owners authorized to redeem their animal by the County. These funds shall be remitted to the county within 30 days.
- 1.2.h All animals who have not been redeemed by their owners; upon expiration of any/all impound requirements, shall be released to WRAR for adoption, euthanasia, or other lawful purpose. WRAR may refuse to accept any animals post impoundment.
- Fees for adoption, counseling, medical care, or other services provided by WRAR after an animal has been surrendered by the County are not the response ability of the County. The collection of adoption fees, boarding costs, medical reimbursement cost for animals released to WRAR is not regulated by the County.
- 1.3 Dog licenses pursuant to Oregon ORS 609.100 and County ordinance 4.01.050 (2) are required for all dogs maintain within their jurisdictions. Before any dog is redeemed or adopted compliance with these requirements is mandatory. Licenses may be purchased through Curry County either at the code enforcement offices, via online licensing page maintained by Curry County, by the dog's owner or keeper. In addition, WRAR, on behalf of the County, may assist or sell a license to an owner or keeper, by completing the online licensing process maintained by the County.
- 1.3.a The keeper or owner of a dog that is redeemed following an impound by the County shall be required to purchase a Curry County Dog License. The County will provide WRAR with access to the licensing system and training in its use. All license fees collected by WRAR shall be remitted to the County within thirty days of receipt.
- 1.3.b WRAR shall be compensated at the amount of 5% of the license cost for each license sale they process.
- 1.3.c County will control all information regarding license registration that has been input into County's computer system. WRAR, like any other person after making public records request for same may use any licensing records maintained for the purposes of this agreement to market, gain volunteers, educate the public, and solicit contributions for the benefit of the animal shelter, provided that they do not represent themselves as a Governmental agency. A Public Record request response shall include terms or conditions wherein the information requested may only be used or maintained in a manner which protects the confidentiality of owners and or keepers.
- 1.4 **Compliance with Laws: Inspections:** WRAR shall operate the facility in a humane and sanitary manner in compliance with all applicable state and local laws, ordinances, and regulations, including ORS 609.092(2).
- 1.4.a The County Code Enforcement Officer, director of operations or designee shall be entitled to inspect and examine the premises and to examine the records kept of all in pounds animals to ensure compliance with this agreement during normal business hours. The County shall provide WRAR with 24-hour advance notice of any such inspection. Nothing contained herein shall make the County responsible for the manner of operation or maintenance of facilities.

- 1.5.a **Hold Period; Notice; Transfer:** WRAR shall hold all impounded dogs delivered by the County or other Law Enforcement agencies for the requisite period of time in ORS 609.090(2), or as per the direction of the Curry County Code Enforcement Officer or their designee.
- 1.5.b WRAR is authorized to adopt out, convey or euthanize or otherwise dispose of a dog in any lawful manner only after release by the County and:
- 1.5.b.1 Expiration of the requisite impoundment, and
- 1.5.b.2 Execution of an owner-relinquishment form from an impounded dog's keeper or owner, or
- 1.5.b.3 Issuance of a release, order, by County Code Enforcement, or other agreement, authorizing WRAR to take ownership of an impounded dog.
- 1.6. WRAR accepts all responsibility for its discretionary decision.
- 1.7 **Other Agreements:**
During the period wherein this agreement is in force, the County and WRAR may entered into additional service agreements upon consent of both parties for services to be provided by WRAR at request of the County, which benefit animals, the Community, animal owners or keepers, such as vaccination clinics, spay/neuter clinics, animal behavioral or obedience training program.
- Such terms, conditions, and remuneration for program costs shall be defined within any additional service agreements entered into by both parties. Funds to cover such additional costs may only be paid out of the Dog Licensing Fund. With Consent of the Governing Board (Curry County Board of Commissioners), funds for additional services may come from other County funds.
- Any such other agreement(s) shall incorporate the general terms and conditions as to responsibility, liability, and authority as detailed within this agreement.
- 1.8 **Legal Proceedings:** WRAR staff shall participate as requested by District Attorney, County Counsel, Law Enforcement, Code Enforcement or County Executive Officer, in legal proceedings involving impounded or sheltered animals. Such proceeding shall include, but not be limited to, hearings, proceedings, or other actions (such as impoundment or quarantine) under ORS 609.010 et seq and/or Curry County Code, or otherwise.
- 1.8.a County will be responsible for the payment of any witness fees required by law to WRAR staff as a result of this agreement.
- 1.8.b **Deposits:** WRAR shall deposit all fees, fines and charges collected on behalf of the County, pursuant to this agreement at least every 30 days with the County, whether paid to WRAR by cash, check, credit card or other means along with a transaction register; to the County Treasurer via the Code Enforcement office.
- 1.8.c WRAR may provide its own credit card machine if he chooses to accept credit card payments, at its own expense, for fees, fines and charges collected pursuant to this agreement. Or WRAR may assist owners in keepers in the payment of these charges using the County's online payment provider.

- 1.9 **Public Complaints:** WRAR shall refer all public complaints and inquiries regarding animal control services or actions to the Curry County Code Enforcement Officer or County Director of Operations.
- 1.10 **Records:** WRAR shall keep and maintain all required records in compliance with all applicable state and local laws, ordinances, and regulations, which shall include but not be limited to: complete financial records covering fees, fines, and other charges; as well as records of the type and number of animals in pounds. A copy of required records shall be provided by WRAR to County Code Enforcement.
- 1.10.a WRAR shall provide a monthly report of impounded animals received and the final dispositions of the animals. All records required under this agreement shall be subject to inspection and review by the County upon its request. The records shall be retained by WRAR for no less than required by applicable Oregon records retention laws.
- 2.0 **County Obligations:**
- 2.1 **Notice** of Delivery and Special Directions: During Animal Shelter open hours, County shall notify WRAR as soon as practical of his intent to deliver dogs to the facility for inbound.
- 2.1.a County shall provide information concerning the nature of the impound and indicate any special directions it believes that may be necessary for the proper handling, care, and treatment of the dog(s).
- 2.2 **Images:** County shall allow WRAR to use animal shelter property and images to sell and market items, at County discretion, related to the WRAR mission of providing Animal Control services.
- 2.3 **Dog Control Authority:** County shall maintain governance functions with respect to the dog control district.
- 2.3.a County shall have exclusive right to enforce all county and state laws relating to the control of dogs within the county, appoint any dog control officers necessary to enforce such laws, and otherwise provide for the administration and enforcement of a dog control program.
- 2.4 **Community Service:** County shall consider the animal shelter in circumstances in which the Sheriff's office has discretion about where to recommend or sign people for community service hours. WRAR shall have veto rights over any potential shelter volunteer.
- 2.5 **Impound Notice:** County shall require deputies and code enforcement to record an entry in the animal shelter impoundment notice, describing the circumstances of the impound, any known health problems, or behavioral problems with the dog, and any known contact information for the owners of the dog(s).
- 2.6 **Found** animals brought to the shelter by the public, shall be immediately reported by WRAR to the County Code Enforcement Department. Upon receipt of a found animal reported by WRAR, an appropriate impound order shall be issued as appropriate by the County.
- 2.6.a **Surrendered** animals brought to the shelter by the public, do not require any notification by WRAR to the County Code Enforcement Department, unless there is reason to believe that the animal constitutes a health or safety risk, or is a victim of recent animal cruelty.

- 2.7 Animals placed in the shelter by the county, pursuant to this agreement, for protective custody, shall be maintained in a secure location. The protective impoundment is to be established by the county; and conditions of retention of the animal shall also be established by the County.
- 2.8 **Authorization for Additional Services:** In those incidents wherein animals being housed at the shelter pursuant to a County Impound order, which may require additional services, such as medical care, flea treatments, or other discretionary needs, authorization for such service shall be obtained from the County Code Enforcement Office. Payment for such approved service costs during the impound period shall be the responsibility of the County.
3. **Insurance:** on or before the effective date of this agreement, WRAR shall obtain and maintain general liability insurance with minimum limits of liability, per occurrence, of \$2,000,000 for bodily injury and \$1,000,000 for property damage, and umbrella coverage with minimum limits of liability, per our occurrence, of bodily injury and \$1,000,000 for property damage, and shall provide County with copies of certificates of insurance naming County as an additional insured. A copy of the policy or certificate of insurance acceptable to the County shall be submitted to the County prior to actually providing any services pursuant to this agreement. WRAR further agrees to maintain such insurance throughout the term of this agreement and to provide County thirty (30) days advance written notice of cancellation or any material change thereof.
- 3.1 **Indemnification:** WRAR shall hold harmless, indemnify, and defend County, and its officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from, arising out of, or related to the activities of WRAR or its officers, employees, subcontractors, volunteers, or agents under this agreement. County will hold harmless, indemnify, and defend WRAR against all claims, suits, actions, losses, damages, and expenses of any nature resulting from, or arising out of, or related to the activities of County, its officers, employees, or agents under this agreement.
4. **Payments:** Once a month beginning thirty days after execution of this document, County shall remit to WRAR an amount equal to 1/12 of the \$16,425.00 or as amended in section 1.2.d. Payment shall be made automatically without the need to submit a bill or claim to the County.
- WRAR shall submit a bill on a monthly basis for any additional expense claims for services provided as per this agreement.
- In no event, shall total payment to WRAR exceed \$25,000.00, per year without the authorization of the County Commissioners.
5. **Termination:** either party may terminate this agreement with or without cause by providing sixty (60) days written notice to the other party. Neither party shall be liable for any liability or damages caused by such termination.
6. **Miscellaneous:**
- 6.1 **Waiver:** no waiver of any provision of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, if made, shall be effective only in the specific instant and for the specific purpose given. The failure of a party to enforce any provision of this agreement shall not constitute a waiver by that party of that or any other provision of this agreement.

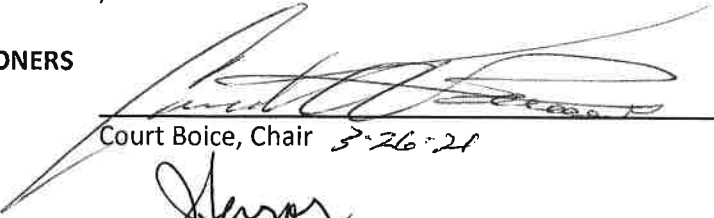
- 6.2 Notices: all notices or other communications required under this agreement shall be in writing and shall be given by personal delivery or by certified mail, return receipt requested, to the address set forth below or to such other person at such other place as may be furnished in writing. Any notice so addressed in mail shall be deemed to be key given three (3) days after mailing. Any notice by personal delivery shall be deemed to be given when actually delivered.
- 6.2.a Wild Rivers Animal Rescue, Curry County Animal Shelter, Post Office Box 1883, Gold Beach, OR 97444.
- 6.2.b Curry County Legal Counsel, 94235 Moore Street, Suite 123, Gold Beach, OR 97444.
- 6.3 **Expenses:** Each party shall be responsible for and pay its own expenses and fees of its counsel, accountants, and other experts.
- 6.4 **Force Majeure:** Neither County nor WRAR shall be held responsible for delay or default caused by fires, riot, civil disobedience, acts of God, or war, where such cause was beyond the control of either party. Both parties shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this agreement.
- 6.5 **Governing Law:** the validity, performance and enforcement of this agreement shall be governed by the laws of the state of Oregon.
- 6.6 **Compliance with Law:** the parties shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to this agreement, including but not limited to all applicable provisions of ORS 609.010 et seq.
- 6.7 **Successors and Assigns:** This agreement may only be assigned in writing signed by both parties. If so, this agreement shall be binding upon and inure to the benefit of any successors and permitted assigns of the parties hereto.
- 6.8 **No Third Party Beneficiary:** County and WRAR are the only parties to this agreement and are the only parties entitled to enforce its terms. Nothing in this agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to 3rd persons unless such 3rd persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this agreement.
- 6.9 **Entire Agreement:** the agreement constitutes the entire agreement between parties with respect to the performance of the dog control services. This agreement shall supersede all previous negotiations, commitments, and writings with respect to the transfer. There are no other understandings, agreements, or representations, written or oral, regarding this agreement.
- 6.10 **Non-Appropriation:** County is a governmental entity, and the validity of this agreement is based upon the availability of public funding under the authority of its statutory mandate. In the event public funds are unavailable and not appropriated for the performance of the County's obligations under this agreement, then this agreement shall automatically expire without penalty to the County thirty (30) days after written notice to WRAR of the unavailability and non-appropriation of public funds. County shall not activate this non--

appropriation provision for its convenience or to circumvent the requirements of this agreement, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally the County's governmental operations.

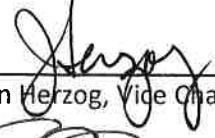
- 6.11 **Dispute Resolution:** with respect to any dispute between the parties regarding and/or arising out of this agreement, the parties will attempt in good faith to first discuss the dispute and use the best efforts to reach an agreement on the matters in dispute.

DATED this day of , 2021.

CURRY COUNTY BOARD OF COMMISSIONERS



Court Boice, Chair 3-26-21

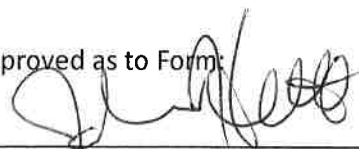


John Herzog, Vice Chair



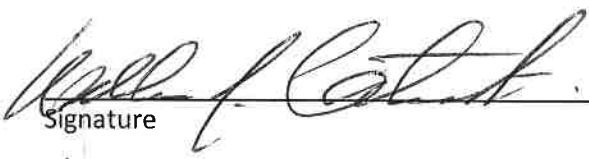
Christopher Paasch, Commissioner

Approved as to Form:

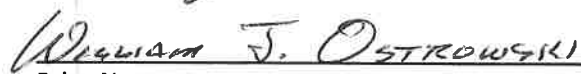


John Hutt, Curry County Legal Counsel

WILD RIVERS ANIMAL RESCUE



Signature



Print Name



Title

ARTICLE FOUR - ANIMAL CONTROL AND PROTECTION

DIVISION ONE DOG CONTROL REGULATIONS

SECTION 4.01.010 RESERVED

SECTION 4.01.020 RESERVED

SECTION 4.01.030 PURPOSE STATEMENT

The purpose of this division shall be as follows:

- (1) To ensure that all dogs within Curry County are properly licensed; and
- (2) To make certain that all such dogs are vaccinated against rabies; and
- (3) To ensure that dogs shall not become a nuisance to the people within Curry County; and
- (4) To protect livestock from predatory dogs.

SECTION 4.01.040 JURISDICTION

- (1) The provisions of this division dealing with the licensing of dogs, and the prohibiting of dogs from running at large shall apply to all areas of Curry County.
- (2) All other provisions of this division apply only to the unincorporated areas of Curry County.

SECTION 4.01.050 DOG LICENSING

- (1) All dogs which have a set of permanent canine teeth or are six (6) months old, whichever comes first, are required to be duly licensed in accordance with this division by Curry County.
- (2) An owner or keeper who acquires an unlicensed dog must license said dog within thirty (30) days after becoming owner or keeper of the dog.
- (3) An owner who acquires a dog already licensed in Curry County must notify the licensing authority of the change of ownership within ten (10) days after the transfer of ownership. The license shall remain valid until the expiration date, if proper notice was given.
- (4) The license shall be valid for one (1) year from the date of issuance.

SECTION 4.01.060 PUBLIC NUISANCE

The owner or keeper of any dog shall not allow his/her dog to be a public nuisance.

SECTION 4.01.070 DEFINITIONS OF PUBLIC NUISANCE

Except as provided in Section 4.01.080, a dog is deemed to be a public nuisance if it:

- (1) Bites a person.
- (2) Chases any person or vehicle.
- (3) Damages or destroys property of persons other than the dog's owner.
- (4) Scatters garbage.
- (5) Trespasses on private property of persons other than the dog's owner.
- (6) Disturbs any person by frequent or prolonged noises.
- (7) Is a female in heat and running at large

SECTION 4.01.080 EXCLUSIONS TO PUBLIC NUISANCE

A dog shall not be considered a public nuisance under Section 4.01.070 if it bites a person who is wrongfully assaulting the dog or the dog's owner, or if it bites a person unlawfully trespassing upon premises owned or occupied by the dog's owner after being provoked by that person.

SECTION 4.01.090 PUBLIC NUISANCE PROCEDURE

(1) Any person who has cause to believe a dog is being maintained as a public nuisance may make a complaint either orally or in writing to the County. The complaint shall be considered sufficient cause for the County to investigate the matter and determine if the owner or keeper of this dog is in violation of Section 4.01.070.

(2) When a dog is found to be a public nuisance in accordance with Section 4.01.070, it may be impounded by the Sheriff's Deputy or Animal Control Officer, and the owner or keeper may be cited into court. Should a citation to appear in court be issued to the owner or keeper for keeping a dog which is a public nuisance, that person cited shall be allowed the option of forfeiture of bail in lieu of appearance in court in accordance with ORS. 609.092.

(3) If a dog has been impounded as a public nuisance for killing or injuring a person, it may be killed in a humane manner.

(4) Notwithstanding the provisions of this section, any dog impounded for biting a person shall be held for not less than ten (10) days before redemption

or destruction to determine if the dog is rabid.

(5) Except as provided in Section 4.01.090 (3) and (4), all dogs taken up and impounded as a nuisance shall be kept for at least three (3) days if the dog is without a license or identification tag and for at least five (5) days if it has a license or identification tag or unless sooner redeemed by the owner. If no owner redeems the dog within the allotted time, the dog may be released to a responsible person upon receiving assurance that the person will properly care for the dog and not allow it to become a nuisance, and upon payment of sum established by the Board of County Commissioners, and purchase of a license if required. Should no person redeem or request the dog within the three or five days, whichever applies, the dog may be disposed of in a humane manner.

(6) If an owner redeems his dog, he shall pay a fee set by the Board of County Commissioners. The owner shall also pay the expense of keeping the dog during its confinement. If the dog is unlicensed, the owner shall purchase a license and pay the applicable penalty, if any, for failure to have a license.

(7) If a dog has been repeatedly found to be a public nuisance under Section 4.01.070, the court may order such disposition of the dog as the court considers necessary for the safety or health of the public.

SECTION 4.01.100 DOG RUNNING AT LARGE

In accordance with that election held by the citizens of Curry County in 1964, Curry County has been declared to be a Dog Control District. No dog is allowed to run at large within the confines of Curry County

SECTION 4.01.110 EXCLUSIONS TO DOG RUNNING AT LARGE

As used in this Section, running at large does not include:

- (1) Use of a dog under supervision of a person in order to legally hunt, chase or tree wildlife.
- (2) Use to control or protect livestock.
- (3) Use in any other related agricultural activities.

SECTION 4.01.120 DOG RUNNING AT LARGE PROCEDURE

(1) A reasonable effort shall be made to notify the dog's owner before it is removed from impoundment.

(2) If no owner appears to redeem his/her dog within the allotted time (as outlined in Section 4.01.090 (5)), the dog may be released to a responsible person upon receiving assurance from that person that they will properly license and care for the dog and not allow the dog to become a nuisance, and upon payment of a sum set by the Board of Commissioners which will cover the cost of keeping the dog during its impoundment. The person shall

thereafter be liable as owner of the dog as provided by this section.

(3) Should no person redeem or request the dog within three or five days, whichever applies, the dog may be disposed of in a humane manner.

(4) It is the policy of Curry County that all dogs found running at large shall be returned to the owner or keeper, if at all possible. The Animal Control Officer shall have total discretion in exercising this policy.

(5) If the owner redeems his/her dog, he/she shall pay a fee set by the Board of County Commissioners. The owner shall also pay the expense of keeping the dog during its confinement. If the dog is unlicensed the owner shall purchase a license and pay the applicable penalty, if any, for failure to have a license.

SECTION 4.01.130 ADDITIONAL PROHIBITED ACTIVITY

No person shall own, harbor, or keep any dog with knowledge that, while the dog was off the premises owned or under the control of its owner or keeper and while not acting under the direction of its master or the agents or employees of such master, the dog kills or seriously injures any person.

SECTION 4.01.140 RESERVED

SECTION 4.01.150 DOG INJURING LIVESTOCK

No owner or keeper shall allow or permit his/her dog(s) to kill, wound, injure, worry harass or chase livestock in Curry County.

SECTION 4.01.160 DEFINITIONS

For purposes of Sections 4.01.150-4.01.170, the following definitions apply unless the context otherwise indicates:

(1) "Livestock": Livestock means horses, mules, jackasses, cattle, sheep, goats, swine, domesticated fowl and any fur-bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches.

(2) "Owner": Owner means the person assuming the care and welfare of the dog at the time of the damage.

(3) "Keeper": Keeper means any person assuming the care and welfare of the dog at the time of the damage.

SECTION 4.01.170 DOG INJURING LIVESTOCK PROCEDURE

(1) Any dog whether licensed or not, which while off the premises owned or under the control of its owner or keeper, that kills, wounds or injures any livestock not belonging to the master of such dog is a public nuisance and may be killed immediately by any person, with the following exception: no person shall kill any dog for killing, wounding or chasing chickens upon a public place,

highway or within the corporate limits of any city.

(2) Any dog not immediately killed in the act of killing, wounding or causing injury to livestock shall be bound over to the County Animal Control Officer or other Law Enforcement Officers and impounded in a shelter to be established under the County General Fund or Dog Licensing Fund.

(3) Any dog impounded under Section 4.01.170 (2) shall not be released until a determination is made by the County Governing Body.

(4) If any dog not under the control of its owner or keeper is found chasing livestock or feeding upon the warm carcass of livestock not the property of such owner or keeper, this shall be deemed Prima Facie evidence that the dog has engaged in killing, wounding or causing injury to livestock.

(5) If there is reason to believe that reasonable testing of the dog is required, the dog will be impounded.

(6) It shall be within the discretion of the County Animal Control Officer to determine if a fecal examination or examination of the teeth of the dog will provide substantial evidence as to whether the dog has been engaged in killing, wounding or chasing livestock. Such examination shall be done by a licensed veterinarian.

(7) The County Governing Body shall determine whether the dog has been engaged in killing, wounding, chasing or causing injury to livestock. If the County Governing Body determines that the dog has been so engaged, the dog shall be killed in a humane manner, and the cost of keeping and testing of the dog during impoundment shall be paid by the owner of the dog.

(8) If the County Governing Body determines that the dog has not been so engaged, the dog shall be released to its owner and no costs assessed against the owner.

(9) If the dog had been impounded upon receipt of evidence from a complainant, and the Governing Body determines that the dog has not been so engaged, the complainant may be ordered to pay the cost of keeping and testing of the dog during impoundment.

(10) There is a disputable presumption that a dog kills, wounds or causes injury to livestock if:

(a) The dog is found chasing livestock not the property of the owner of the dog in an area where freshly killed or damaged livestock are found;

(b) The dog is found feeding upon a warm carcass of a livestock animal;

(c) An examination of the dog's feces indicated ingestion of portions of the anatomy or covering of the anatomy of livestock; or

(d) An examination of the dog's teeth indicate ingestion of the anatomy or covering of the anatomy of the livestock, unless the dog is regularly used for the purpose of herding livestock.

SECTION 4.01.180

KEEPING A DOG WITH KNOWLEDGE IT HAS
KILLED OR INJURED LIVESTOCK

(1) No person shall own, harbor, or keep any dog with knowledge that it has killed or injured any livestock.

(2) However no person shall be liable for harboring or keeping such dog with knowledge that it has killed or injured chickens unless the owner fails to pay full damages within three (3) days after receipt of demand for such damages from the owner.

SECTION 4.01.190

CLAIMS BY OWNERS OF LIVESTOCK

(1) The owner of any livestock killed, chased or injured by any dog may, within ten (10) days after the killing, chasing or injuring occurred or, became known to him, present to the County Governing Body a verified statement containing a full account of the incident stating in detail the amount of damage claimed on account thereof, and the name and address of the owner or keeper of the dog, if known. The claim shall be supported by the affidavit of at least one (1) disinterested person as to all material facts contained in it.

(2) It shall be the livestock owner's responsibility to notify the Curry County Sheriff's Department of the incident as soon as he/she becomes aware of it. The owner shall leave all slain livestock where found until the investigation has been completed.

(3) Upon being contacted by the livestock owner pursuing a claim, the Animal Control Officer shall investigate the claim and submit a written report to the Board.

(4) No claims shall be heard by the County Governing Board until all of the following has been completed:

(a) The livestock owner has submitted to the Board a written claim on the form adopted by the County.

(b) The livestock owner has notified the Curry County Sheriff's Department of the incident.

(c) The Sheriff's Department has completed the investigation and submitted a written report to the board.

(5) All claims presented to the County Governing Board shall be heard at the first regular session after their presentation, or as soon thereafter as may be practicable.

(6) If the Board determines that any livestock has been damaged by being

injured, chased, wounded or killed, it shall file and enter a record of the value of the livestock and order a warrant drawn for the amount of damages thus found or any portion thereof that is considered just, to be paid by the County Treasurer out of the Dog Fund. If it considers the claim unjust, it shall disallow it and enter that fact upon its record.

(7) No claim shall be allowed where it appears that the injury or damage complained of was caused by a dog owned or controlled by the claimant or the agent of the claimant.

(8) The rate of payment shall be up to the following amounts: Sheep - \$25.00 each; Lambs - \$15.00 each; and all other livestock to be determined by the County Governing Board, but not to exceed \$50.00 each.

(9) In each case where a claim against the Dog Fund of Curry County has been paid by the County Governing Board the County shall be subrogated to all the rights of the owner of the livestock killed, wounded, chased or injured against the owner of the dog for damages. The District Attorney or County Counsel shall proceed properly in a lawful way to collect the damages. Any money so collected shall be paid over immediately to the County Treasurer and credited to the Dog Fund.

SECTION 4.01.200 FEES

The Board of Curry County Commissioners, may by appropriate Order, establish such fees (not previously referenced by this division) which are necessary or expedient for the dog control program. Such fees may include, but shall not be limited to, charges for euthanasia and the renting of live traps.

ARTICLE FOUR

DIVISION TWO

HARMING OR INTERFERING WITH POLICE DOGS

SECTION 4.02.010

DEFINITIONS

As used in Article 4, Division 2, "police dog" means a dog used in police work under the control of a peace officer as defined in ORS 161.015.

SECTION 4.02.020

HARMING A POLICE DOG

A person commits the offense of harming a police dog if the person intentionally kills, disables, tortures or injures any police dog, knowing the dog to be a police dog while the dog is being caged, kenneled, transported, exhibited, exercised or used in discharging or attempting to discharge any lawful duty of function as a police dog.

SECTION 4.02.030

INTERFERING WITH A POLICE DOG

(1) A person commits the offense of interfering with a police dog if the person intentionally torments, kicks, strikes, chokes, throws an object at or in any other way tampers or interferes with any police dog, knowing the dog to be a police dog, while the dog is being caged, kenneled, transported, exhibited, exercised and used in discharging or attempting to discharge any lawful duty or function as a police dog.

(2) The offense of interfering with a police dog is a lesser included offense of harming a police dog.

ARTICLE FOUR

DIVISION THREE

RESTRICTION ON THE SALE OF ANIMALS IN RETAIL ESTABLISHMENTS

SECTION 4.03.010

PURPOSE

Due to the historical lack of enforcement resources at local, state and federal levels allowing many inhumane animal mills to operate with impunity, the County finds it reasonable to restrict the sale of dogs and cats to only those sourced from legitimate organizations in an effort to increase demand for animals from legitimate organizations, as well as reducing the number of homeless animals and animal control costs.

SECTION 4.03.020

DEFINITIONS

The following terms used in this Division shall have the meanings set forth below:

“Animal Rescue Organization” means any non-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United State Internal Revenue Code, whose mission and practice, is in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include an entity that is a breeder or broker or one that obtains animals from a breeder or broker for profit or compensation.

“Board” means the Curry County Board of Commissioners.

“Breeder/Non-Commercial Breeder” means a person that maintains a dog, cat, or rabbit for the purpose of breeding and selling their offspring. This excludes any commercial breeder of dogs and cats.

“Broker/Commercial Broker” means a person that transfers a dog or cat from a breeder for resale by another person.

“Commercial Breeder” means a person or organization that provides dogs, cats, or bunnies for sale to commercial retail establishments through a broker or a person/entity accomplishing the actions of a commercial broker.

“Offer” for sale means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, or otherwise sell a dog or cat.

“Online Sales” means a retail establishment operating as a “Pet Store” which also engages in the sale of dogs or cats via the internet.

“Pet Store” means a retail establishment where dogs or cats are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail. Such definition shall not include any Animal Rescue Organization or Humane Society.

SECTION 4.03.030 RESTRICTION ON THE SALE OF ANIMALS

No pet store shall sell, deliver, offer for sale, barter, auction, give away engage in on-line sales, or otherwise transfer or dispose of dogs, cats, or rabbits. Nothing in this section prohibits pet stores from collaborating with legitimate animal rescue organizations to offer space for such entities to showcase adoptable dogs, cats, or rabbits, provided the pet store does not have any ownership interest in the animals offered for adoption and does not receive a fee for providing space for the adoption of any of these animals. Nor does this section prohibit pet store sales of dogs, cats, or rabbits obtained from non-commercial breeders as long as the dogs, cats or rabbits have not been procured through a commercial broker.

SECTION 4.03.040 PENALTIES & ENFORCEMENT

4.03.041 Fine

Violation of any provision of this Division is punishable by a fine not less than \$1,000.00 nor more than \$3,000.00 for the first offense, and for the second and subsequent offenses, not less than \$2,000.00, nor more than \$5,000.00.

4.03.042 Separate Offenses

Each day that a violation occurs will be considered a separate offense. Each dog or cat offered for sale in violation of this chapter shall constitute a separate violation.

SECTION 4.03.050 NONEXCLUSIVE REMEDY

The remedies described in this chapter shall not be the exclusive remedies of the County for violations of this Division.

ORS 609.090

Impounding certain dogs

- procedure for county disposition of impounded dogs
- impoundment fees and costs
- release of dog

Text Annotations 1

- (1)** A law enforcement officer or dog control officer may cite a keeper, impound a dog, or both if:
- (a)** The dog is found running at large in violation of ORS 609.060 (Notice of county prohibition on dogs running at large);
 - (b)** The dog is a public nuisance as described by ORS 609.095 (Dog as public nuisance); **or**
 - (c)** The officer has probable cause to believe that the dog is a dangerous dog as defined in ORS 609.098 (Maintaining dangerous dog).
- (2)** All dogs impounded under this section and ORS 609.030 (Establishing dog control district) shall be held in an adequate and sanitary pound to be provided by the county governing body from the general fund or out of funds obtained from dog licenses and from the redemption of dogs so impounded. However, in lieu of the establishment of a dog pound, the county governing body may contract for the care of the dogs. Unless claimed by its keeper, a dog shall be impounded for at least three days if the dog is without a license or identification tag and for at least five days if it has a license or identification tag. A reasonable effort shall be made to notify the keeper of a dog before the dog is removed from impoundment.
- (3)** Unless the dog control board or county governing body provides otherwise, if the keeper appears and redeems the dog, the keeper shall pay a sum of not less than \$10 for the first

impoundment and not less than \$20 for each subsequent impoundment and also pay the expense of keeping the dog during the time it was impounded. If the dog is unlicensed the keeper shall also purchase a license and pay the applicable penalty for failure to have a license. If the keeper is not the owner of the dog, the keeper may request that a license purchased by the keeper under this subsection be issued in the name of the dog owner.

- (4)** In addition to any payment required pursuant to subsection (3) of this section, a dog control board or county governing body may require as a condition for redeeming the dog that the keeper agree to reasonable restrictions on the keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions. As used in this subsection, "reasonable restrictions" may include, but is not limited to, sterilization.
- (5)** A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under subsection (4) of this section or if a keeper fails to provide acceptable proof of compliance to the dog control board or county governing body on or before the 10th day after issuance of the order imposing the restrictions. If the board or governing body finds the proof submitted by the keeper unacceptable, the board or governing body shall send notice of that finding to the keeper no later than five days after the proof is received.
- (6)** If no keeper appears to redeem a dog within the allotted time, the dog may be killed in a humane manner. The dog control board or county governing body may release the dog to a responsible person upon receiving assurance that the person will properly care for the dog and upon payment of a sum established by the county governing body plus cost of keep during its impounding, and purchase of a license if required. The person shall thereafter be the keeper of the dog for purposes of ORS 609.035 (Definitions for ORS 609.035 to 609.110 and 609.990) to 609.110 (Dog License Fund).
- (7)** If the keeper of a dog is not charged with violating ORS 609.095 (Dog as public nuisance) (2) or (3) or ORS 609.098 (Maintaining dangerous dog), and the dog control board or county governing body finds that the dog has menaced or chased a person when on premises other than the premises from which the keeper may lawfully exclude others or has bitten a person, the dog control board or county governing body may order that the

dog be killed in a humane manner. Before ordering that the dog be killed, the board or governing body shall consider the factors described in ORS 609.093 (Considerations prior to disposing of chasing, menacing or biting dog) and issue written findings on those factors. Notwithstanding ORS 34.030 (Jurisdiction to grant writ), if the disposition order issued by the board or governing body provides that the dog is to be killed, a petition by the keeper for a writ of review must be filed no later than the 10th day after the dog control board or county governing body sends notice of the order to the keeper. Notwithstanding ORS 19.270 (Appellate jurisdiction of Supreme Court and Court of Appeals), 19.330 (Stays generally) and 34.070 (Stay of proceedings), the order for the killing of the dog may not be carried out during the period that the order is subject to review or appeal. If the dog is not killed, the board or governing body may impose reasonable restrictions on the keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions.

- (8)** If the keeper of a dog is charged with violating ORS 609.095 (Dog as public nuisance) (2) or (3) or 609.098 (Maintaining dangerous dog), upon conviction of the keeper the court may determine the disposition of the dog as provided under ORS 609.990 (Penalties for ORS 609.060, 609.095, 609.098, 609.100, 609.169 and 609.405).
- (9)** Notwithstanding subsections (2), (3), (6), (7) and (8) of this section, any dog impounded for biting a person shall be held for at least 10 days before redemption or destruction to determine if the dog is rabid.
- (10)** Notwithstanding subsections (2) and (3) of this section, if the keeper is charged with violating ORS 609.098 (Maintaining dangerous dog), the dog shall be kept in impoundment pending resolution of the charges. A court may order the keeper to post a deposit with the dog control board or county governing body to cover the cost of keeping the dog in impoundment. If the keeper is convicted of violating ORS 609.098 (Maintaining dangerous dog), the court may order the deposit forfeited to the board or governing body.
- (11)** A dog control board or county governing body may impose lesser fees or penalties under subsections (3) and (6) of this section for certain senior citizens under certain

circumstances. [Amended by 1953 c.571 §2; 1957 c.79 §2; 1963 c.237 §1; 1963 c.585 §1; 1967 c.495 §2; 1969 c.677 §4; 1973 c.655 §3; 1975 c.499 §1; 1977 c.802 §6; 1999 c.658 §§6,6a; 2001 c.636 §7; 2005 c.840 §5]

4623

ANIMAL SHELTER SERVICES AGREEMENT

This Agreement, effective as of September 1, 2012, is made by and between Curry County, a political subdivision of the State of Oregon ("County"), and Pennies For Pooches Curry County Animal Shelter ("PFP"), an Oregon public benefit corporation.

WHEREAS, Curry County operates a dog control district pursuant to ORS 609.030;

WHEREAS, the Curry County Commissioners serve as the Board of Supervisors of the dog control district and have the authority to issue licenses and enforce all of the county and state laws relating to the control of dogs within the county including, but not limited to, the dog control services identified in ORS Chapter 609 (the "Dog Control Services");

WHEREAS, Oregon statute requires all funds derived from Dog Control Services under ORS 609.035 to 609.110 and 433.340 to 433.385 be turned over to the County Treasurer and held in the "Dog License Fund;"

WHEREAS, in connection with the dog control district, County, through the Curry County Sheriff's Office, operates an animal shelter located at 29921 Airport Way (the "Animal Shelter");

WHEREAS, as part of the Dog Control Services, the Animal Shelter serves as a dog impoundment facility in accordance with the requirements in ORS Chapter 609 to provide an "adequate and sanitary" facility to hold dogs;

WHEREAS, declining revenue and rising costs in Curry County have created an uncertain financial future for the County which threatens the ability of the County to continue to operate the Animal Shelter, and it is in the best interest of the County to downsize its workforce and outsource services;

WHEREAS, the Board of Commissioners passed a resolution on February 1, 2012, authorizing the County to begin negotiations with a freestanding non-profit organization who would assume responsibility for the operations of the Animal Shelter;

WHEREAS, subsequently, PFP has agreed to assume operations of the Animal Shelter;

WHEREAS, PFP and County have entered into a separate agreement transferring the operations of the Animal Shelter, except for performance of the Dog Control Services, to PFP;

WHEREAS, County desires to enter into a service contract with PFP to provide certain Dog Control Services in exchange for consideration;

WHEREAS, PFP is willing and able to provide such Dog Control Services to County pursuant to this Agreement;

NOW, THEREFORE, in consideration of the agreements and covenants contained herein the parties hereby agree as follows:

1. PFP Obligations.

1.1 Provide Facilities and Services. PFP shall maintain and operate the Animal Shelter consistent with the requirements of ORS 609.090(2) for the impoundment of dogs that are seized by the County and other local law enforcement agencies pursuant to ORS 609.010 *et seq.* PFP shall provide all services necessary for the impound, care, transfer, and euthanasia of all dogs delivered by the County and other law enforcement agencies to the Animal Shelter. PFP shall keep animals impounded for bite quarantine or that are infected with a contagious disease in isolation from all other animals as required by law or in the exercise of sound veterinary practices. PFP will be solely responsible for all materials, equipment and personnel necessary to perform the services described herein and operate the Animal Shelter.

1.2 Access. PFP has sole discretion to establish the specific hours of operation of the Animal Shelter; provided that, County personnel and other law enforcement agencies shall have access to the facilities for the purpose of delivering impounded animals at all times. PFP shall provide the County with the necessary key and/or access codes for such purposes. County shall be responsible for securing dogs delivered and securing the facilities upon departure in the event no PFP staff is available.

1.3 Licenses. PFP shall have nonexclusive authority as an agent of the County to issue dog licenses and collect requisite fees in compliance with all applicable state and local laws, ordinances and regulations. PFP shall keep a record of all dog licenses issued and supply a suitable identification tag with each issued license. PFP may legally pursue delinquent licensees on behalf of the County by sending a letter to the animal owners. PFP may use any licensing records maintained for purposes of this Agreement to market, gain volunteers, educate the public, and solicit contributions for benefit of the Animal Shelter.

1.4 Collection of Fees & Fines. PFP shall have authority to collect impoundment, license and associated fines, fees and charges as an agent on behalf of County. These fines, fees and charges shall be set by the County in accordance with state and local laws.

1.5 Compliance with Laws; Inspections. PFP shall operate the facility in a humane and sanitary manner and in compliance with all applicable state and local laws, ordinances and regulations, including ORS 609.090(2). The County Sheriff or his designee shall be entitled to inspect and examine the premises and to examine the records kept of impounded animals to ensure compliance with this Agreement during normal business hours. Nothing contained herein shall make the County responsible for the manner of operation or maintenance of the facilities.

1.6 Hold Period; Notice; Transfer. PFP shall hold all dogs delivered by the County and other law enforcement agencies for the requisite period of time in ORS 609.090

(2). PFP shall make a reasonable effort to notify the keeper of any impounded dog before it is removed from impoundment. After the expiration of the requisite impoundment period, upon execution of an owner-relinquishment form from an impounded dog's keeper, or after issuance of an order or other agreement authorizing PFP to take ownership of an impounded dog, PFP is thereafter authorized to adopt out, convey, euthanize or otherwise dispose of the dog in whatever manner it deems appropriate. PFP accepts sole responsibility for its discretionary decision.

1.7 Legal Proceedings. PFP staff shall participate as requested by County Counsel or the Sheriff in legal proceedings involving impounded or sheltered animals. Such proceedings shall include, but not be limited to, hearings, proceedings or other actions (such as impoundment or quarantine) under ORS 609.010 *et seq* and/or Curry County Code. County will be responsible payment of any witness fees required by law to PFP staff as a result of this provision.

1.8 Deposits. At least once per month, PFP shall deposit all fees, fines and charges collected pursuant to this Agreement, whether paid in cash, check or credit card, into the County Dog License Fund at such bank designated by the County Treasurer. PFP shall submit a turnover and deposit slip to the County Treasurer immediately after each deposit. PFP shall provide its own credit card machine if it chooses to accept credit card payments for fees, fines and charges collected pursuant to this Agreement.

1.9 Public Complaints. PFP shall refer all public complaints and inquiries regarding animal control to the County Sheriff's office.

1.10 Records. PFP shall keep and maintain all required records in compliance with all applicable state and local laws, ordinances and regulations, which shall include but not be limited to, complete financial records covering fees, fines and other charges as well as records of the type and number of animals impounded. PFP shall provide a monthly report of the number of impounded animals received and the final dispositions of the animals. All records required under this Agreement shall be subject to inspection and review by the County upon its request. The records shall be retained by PFP for no less than five (5) years after the termination of this Agreement.

1.11 Assignment. PFP shall not assign this Agreement or the management of the Animal Shelter to another party without County approval, but will have the sole right to enter into agreements with other entities in order to support and assist in the management, operations, and promotion of the Animal Shelter, and may do so without the specific or individual approval of the County. PFP will disclose these agreements to the County as they are executed.

2. County Obligations.

2.1 Notice of Delivery and Special Directions. County shall notify PFP as soon as practical of its intent to deliver dogs to the facility for impound. County shall provide

information concerning the nature of the impound and indicate any special directions it believes may be necessary for the proper handling, care and treatment of the dog(s).

2.2 Images. County shall allow PFP to use the Animal Shelter property and images to sell and market items, at its discretion, related to the PFP mission of providing funding for the Animal Shelter.

2.3 Records. County shall provide PFP with health department and animal rescue records it possesses on a quarterly basis.

2.4 Name. County shall give PFP the exclusive rights to use, promote and manage the name "Curry County Animal Shelter" for the duration of this Agreement.

2.5 Dog Control Authority. County shall maintain exclusive right to enforce all County and state laws relating to the control of dogs within the County, appoint any dog control officers necessary to enforce such laws, and otherwise provide for the administration and enforcement of a dog control program. In his sole discretion, the County Sheriff may deputize willing PFP employees and/or volunteers to serve as dog control officers with authority to cite a dog keeper or impound a dog as provided in ORS 609.090.

2.6 Assistance. County shall use law enforcement dispatch and databases to assist PFP in contacting owners of dogs at large.

2.7 Community Service. County shall consider the Animal Shelter in circumstances in which the Sheriff's Office has discretion about where to recommend or assign people for community service hours. PFP shall have veto rights over any potential shelter volunteer.

2.8 Impound Log. County shall require deputies to record an entry in the Animal Shelter activity log describing the circumstances of the impoundment, any known health problems or behavioral problems with the dog, and any known contact information for owners of the dog(s).

3. Insurance. On or before the effective date of this Agreement, PFP shall obtain and maintain General Liability Insurance with minimum limits of liability, per occurrence, of \$2,000,000 for bodily injury and \$1,000,000 for property damage, and umbrella coverage with minimum limits of liability, per occurrence, of \$1,000,000 for bodily injury and \$1,000,000 for property damage, and shall provide County with copies of Certificates of Insurance naming County as additional insured. A copy of the policy or certificate of insurance acceptable to the County shall be submitted to the County prior to actually providing any services pursuant to this Agreement. PFP further agrees to maintain such insurance throughout the term of this Agreement and to provide County thirty (30) days advance written notice of cancellation or any material change thereof.

4. Indemnification. PFP shall hold harmless, indemnify and defend County, and its officers, agents and employees from and against all claims, suits, actions, losses, damages,

liabilities, costs and expenses of any nature resulting from, arising out of, or related to the activities of PFP or its officers, employees, subcontractors, volunteers or agents under this Agreement. County will hold harmless, indemnify, and defend PFP against all claims, suits, actions, losses, damages, and expenses of any nature resulting from, arising out of, or related to the activities of County, its officers, employees, or agents under this Agreement.

5. Payments. Once per month beginning in September 2012, County shall remit to PFP an amount equal to one-hundred percent (100%) of the Dog License Fund balance, excluding any amounts collected by County as fines or fees for violation of state or local dog control laws, on the last day of the month immediately preceding payment. Payment shall be made automatically without the need to submit a bill or claim to County.

6. Termination. Either party may terminate this Agreement with or without cause by providing sixty (60) days written notice to the other party. Neither party shall be liable for any liability or damages caused by such termination.

7. Miscellaneous.

7.1 Waiver. No waiver of any provision of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision of this Agreement.

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

7.3 Notices. All notices or other communications required under this Agreement shall be in writing and shall be given by personal delivery or by certified mail, return receipt requested, to the address set forth below or to such other person at such other place as may be furnished in writing. Any notice so addressed and mailed shall be deemed to be given three (3) days after mailing. Any notice by personal delivery shall be deemed to be given when actually delivered.

To PFP:

Pennies For Pooches Curry County Animal
Shelter
PO Box 1883
Gold Beach, Oregon 97444

To County:

Curry County Legal Counsel
94235 Moore Street, Suite 123
Gold Beach, OR 97444

7.4 Expenses. Each party shall be responsible for and pay its own expenses and fees of its counsel, accountant, and other experts.

7.5 Force Majeure. Neither County nor PFP shall be held responsible for delay or default caused by fires, riot, civil disobedience, acts of God, or war where such cause was beyond the control of either party. Both parties shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

7.6 Governing Law. The validity, performance and enforcement of this Agreement shall be governed by the laws of the State of Oregon.

7.7 Compliance with Law. The parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to this Agreement, including but not limited to all applicable provisions of ORS 609.010 *et seq.*

7.8 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the any successors and permitted assigns of the parties hereto.

7.9 No Third Party Beneficiary. County and PFP are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

7.10 Entire Agreement. This Agreement constitutes the entire Agreement between the parties with respect to the performance of the Dog Control Services. This Agreement shall supersede all previous negotiations, commitments and writings with respect to the transfer. There are no other understandings, agreements, or representations, written or oral, regarding this Agreement.

7.11 Non-Appropriation. County is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this Agreement, then this Agreement shall automatically expire without penalty to County thirty (30) days after written notice to PFP of the unavailability and non-appropriation of public funds. County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

7.12 Dispute Resolution. With respect to any dispute between the parties regarding and/or arising out of this Agreement, the parties will attempt in good faith first to discuss the dispute and use their best efforts to reach agreement on the matters in dispute.

[SIGNATURE PAGE FOLLOWS]

County:

BOARD OF CURRY COUNTY COMMISSIONERS



David G. Itzen, Chair

DATE: 8/22/12

~ Absent ~

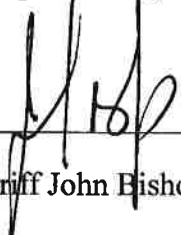
Bill Waddle, Vice Chair

DATE: 8/22/12



George Rhodes, Commissioner

DATE: 8-22-12



Sheriff John Bishop

DATE: 8-22-12

PFP:

PENNIES FOR POOCHES Curry County Animal Shelter

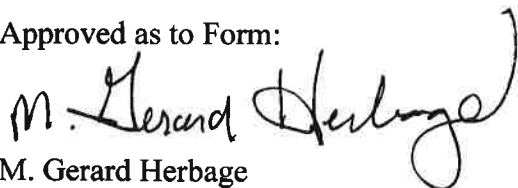


DATE: 8/22/12

By: Eric Bryant

Its: Authorized Member of Board of Directors.

Approved as to Form:



M. Gerard Herbage

Curry County Legal Counsel

2013 ORS § 609.090¹

Impounding certain dogs

- **procedure for county disposition of impounded dogs**
- **impoundment fees and costs**
- **release of dog**

- (1) A law enforcement officer or dog control officer may cite a keeper, impound a dog, or both if:
 - (a) The dog is found running at large in violation of ORS 609.060 (Notice of county prohibition on dogs running at large);
 - (b) The dog is a public nuisance as described by ORS 609.095 (Dog as public nuisance); or
 - (c) The officer has probable cause to believe that the dog is a dangerous dog as defined in ORS 609.098 (Maintaining dangerous dog).
- (2) All dogs impounded under this section and ORS 609.030 (Establishing dog control district) shall be held in an adequate and sanitary pound to be provided by the county governing body from the general fund or out of funds obtained from dog licenses and from the redemption of dogs so impounded. However, in lieu of the establishment of a dog pound, the county governing body may contract for the care of the dogs. Unless claimed by its keeper, a dog shall be impounded for at least three days if the dog is without a license or identification tag and for at least five days if it has a license or identification tag. A reasonable effort shall be made to notify the keeper of a dog before the dog is removed from impoundment.
- (3) Unless the dog control board or county governing body provides otherwise, if the keeper appears and redeems the dog, the keeper shall pay a sum of not less than \$10 for the first impoundment and not less than \$20 for each subsequent impoundment and also pay the expense of keeping the dog during the time it was impounded. If the dog is unlicensed the keeper shall also purchase a license and pay the applicable penalty for failure to have a license. If the keeper is not the owner of the dog, the keeper may request that a license purchased by the keeper under this subsection be issued in the name of the dog owner.

- (4) In addition to any payment required pursuant to subsection (3) of this section, a dog control board or county governing body may require as a condition for redeeming the dog that the keeper agree to reasonable restrictions on the keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions. As used in this subsection, reasonable restrictions may include, but is not limited to, sterilization.
- (5) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under subsection (4) of this section or if a keeper fails to provide acceptable proof of compliance to the dog control board or county governing body on or before the 10th day after issuance of the order imposing the restrictions. If the board or governing body finds the proof submitted by the keeper unacceptable, the board or governing body shall send notice of that finding to the keeper no later than five days after the proof is received.
- (6) If no keeper appears to redeem a dog within the allotted time, the dog may be killed in a humane manner. The dog control board or county governing body may release the dog to a responsible person upon receiving assurance that the person will properly care for the dog and upon payment of a sum established by the county governing body plus cost of keep during its impounding, and purchase of a license if required. The person shall thereafter be the keeper of the dog for purposes of ORS 609.035 (Definitions for ORS 609.035 to 609.110 and 609.990) to 609.110 (Dog License Fund).
- (7) If the keeper of a dog is not charged with violating ORS 609.095 (Dog as public nuisance) (2) or (3) or ORS 609.098 (Maintaining dangerous dog), and the dog control board or county governing body finds that the dog has menaced or chased a person when on premises other than the premises from which the keeper may lawfully exclude others or has bitten a person, the dog control board or county governing body may order that the dog be killed in a humane manner. Before ordering that the dog be killed, the board or governing body shall consider the factors described in ORS 609.093 (Considerations prior to disposing of chasing, menacing or biting dog) and issue written findings on those factors. Notwithstanding ORS 34.030 (Jurisdiction to grant writ), if the disposition order issued by the board or governing body provides that the dog is to be killed, a petition by the keeper for a writ of review must be filed no later than the 10th day after the dog control board or county governing body sends notice of the order to the keeper. Notwithstanding ORS 19.270 (Appellate jurisdiction of Supreme Court and Court of Appeals), 19.330 (Stays generally) and 34.070 (Stay of proceedings), the order for the killing of the dog may not be carried out during the period that the order is subject to review or appeal. If the dog is not killed, the board or governing body may impose reasonable restrictions on the

keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions.

- (8) If the keeper of a dog is charged with violating ORS 609.095 (Dog as public nuisance) (2) or (3) or 609.098 (Maintaining dangerous dog), upon conviction of the keeper the court may determine the disposition of the dog as provided under ORS 609.990 (Penalties for ORS 609.060, 609.095, 609.098, 609.100, 609.169 and 609.405).
- (9) Notwithstanding subsections (2), (3), (6), (7) and (8) of this section, any dog impounded for biting a person shall be held for at least 10 days before redemption or destruction to determine if the dog is rabid.
- (10) Notwithstanding subsections (2) and (3) of this section, if the keeper is charged with violating ORS 609.098 (Maintaining dangerous dog), the dog shall be kept in impoundment pending resolution of the charges. A court may order the keeper to post a deposit with the dog control board or county governing body to cover the cost of keeping the dog in impoundment. If the keeper is convicted of violating ORS 609.098 (Maintaining dangerous dog), the court may order the deposit forfeited to the board or governing body.
- (11) A dog control board or county governing body may impose lesser fees or penalties under subsections (3) and (6) of this section for certain senior citizens under certain circumstances. [Amended by 1953 c.571 §2; 1957 c.79 §2; 1963 c.237 §1; 1963 c.585 §1; 1967 c.495 §2; 1969 c.677 §4; 1973 c.655 §3; 1975 c.499 §1; 1977 c.802 §6; 1999 c.658 §§6,6a; 2001 c.636 §7; 2005 c.840 §5]

...

Notes of Decisions

Where plaintiff underwent series of rabies shots because defendant city destroyed dog that bit him before determination of whether dog did or did not have rabies, this section could be used to measure standard of care of officials who impounded dog in determining whether conduct of officials was reasonable under existing circumstances. *Jones v. City of Prairie City*, 86 Or App 701, 740 P2d 236 (1987)

Chapter 609

Atty. Gen. Opinions

Possession and administration of sodium pentobarbital by county animal control program, (1982) Vol 42, p 297

Related Statutes³

- 609.093
Considerations prior to disposing of chasing, menacing or biting dog
- 609.155
Impoundment for harming or chasing livestock

¹ Legislative Counsel Committee, *CHAPTER 609—Dogs; Exotic Animals; Dealers*, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors609.html (2013) (last accessed Apr. 27, 2014).

² Legislative Counsel Committee, *Annotations to the Oregon Revised Statutes, Cumulative Supplement - 2013, Chapter 609*, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ano609.html (2013) (last accessed Apr. 27, 2014).

³ OregonLaws.org assembles these lists by analyzing references between Sections. Each listed item refers back to the current Section in its own text. The result reveals relationships in the code that may not have otherwise been apparent.

Currency Information

Copyright 2013 by WebLaws.org
www.oregonlaws.org



Curry County Counsel

M. Gerard Herbage
P.O. Box 746
Gold Beach, Oregon 97444
(541) 247-3291
(541) 247-2718 Fax

February 1, 2012

Brent Jensen
Labor Representative
Teamsters Local 223
PO Box 3580
Ashland, OR 97520

Re: Resolution of the Board of Curry County Commissioners

Dear Mr. Jensen:

Please be advised that on February 1, 2012, the Board of Curry County Commissioners adopted the attached resolution "Authorizing Curry County to Proceed with the Investigation of the Transition of the Animal Shelter Duties from the County Sheriff's Office to a Freestanding Nonprofit Entity." This is your notice of that resolution.

Should you have any questions regarding this matter, please contact me at (541) 247-3291.

Sincerely,


M. Gerard Herbage
Curry County Legal Counsel

Cc: The Board of Curry County Commissioners
Sheriff John Bishop
Undersheriff Bob Rector

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of a Resolution)	
Authorizing Curry County to)	
Proceed with the Transition)	
of the Animal Shelter Duties)	RESOLUTION
from the County Sheriff's Office)	
to a Freestanding Nonprofit)	

WHEREAS, Curry County, through the Curry County Sheriff's Office, operates an animal shelter located in Gold Beach, Oregon (the "Animal Shelter"); and

WHEREAS, the Animal Shelter serves as a dog impoundment facility in accordance with the requirements of ORS Chapter 609 to provide an "adequate and sanitary" facility to meet the law enforcement needs of the County; and

WHEREAS, in addition, the Animal Shelter accepts and cares for dogs surrendered by the public, provides adoption services, licensing of dogs in accordance with law, assistance in medical services in connection with local veterinarians, and promotes the humane treatment of animals; and

WHEREAS, the Animal Shelter is funded through a combination of resources, including County general fund dollars via the Sheriff's Office, licensing fees collected and placed in a separate fund maintained by the County in accordance with ORS Chapter 609, and private donations; and

WHEREAS, Curry County is experiencing a significant reduction in available general fund resources and must make extensive cuts in services and personnel throughout the County system; and

WHEREAS, the Sheriff's Office and Board of Commissioners would like to investigate ways to effectively, efficiently and affordably provide Animal Shelter services beyond the end this fiscal year; and

WHEREAS, the Sheriff's Office would like to pursue a strategic agreement with a freestanding nonprofit organization to operate the Animal Shelter and provide related services on behalf of the County in exchange for consideration; and

WHEREAS, the Board of Commissioners is in support of this proposal;

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS
RESOLVES AS FOLLOWS:

- 1) Curry County is authorized to begin the process of due diligence and strategic planning to transition the operation of the Animal Shelter from the County Sheriff's Office to a freestanding entity.
- 2) Curry County is authorized to engage in negotiations with a freestanding entity and other necessary parties regarding the transition of the Animal Shelter operation and related activities described in ORS Chapter 609.
- 3) The target date for the transition is no later than June 30, 2012.

DATED this 1st day of February, 2012.

BOARD OF CURRY COUNTY COMMISSIONERS




David G. Itzen, Chair



Bill Waddle, Vice Chair



George Rhodes, Commissioner

Curry County Sheriff


John Bishop

Approved as to Form:



Jeni Meyer
Curry County Assistant Legal Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of a Resolution)
Authorizing Curry County to)
Proceed with the Transition)
of the Animal Shelter Duties) RESOLUTION
from the County Sheriff's Office)
to a Freestanding Nonprofit)

WHEREAS, Curry County, through the Curry County Sheriff's Office, operates an animal shelter located in Gold Beach, Oregon (the "Animal Shelter"); and

WHEREAS, the Animal Shelter serves as a dog impoundment facility in accordance with the requirements of ORS Chapter 609 to provide an "adequate and sanitary" facility to meet the law enforcement needs of the County; and

WHEREAS, in addition, the Animal Shelter accepts and cares for dogs surrendered by the public, provides adoption services, licensing of dogs in accordance with law, assistance in medical services in connection with local veterinarians, and promotes the humane treatment of animals; and

WHEREAS, the Animal Shelter is funded through a combination of resources, including County general fund dollars via the Sheriff's Office, licensing fees collected and placed in a separate fund maintained by the County in accordance with ORS Chapter 609, and private donations; and

WHEREAS, Curry County is experiencing a significant reduction in available general fund resources and must make extensive cuts in services and personnel throughout the County system; and

WHEREAS, the Sheriff's Office and Board of Commissioners would like to investigate ways to effectively, efficiently and affordably provide Animal Shelter services beyond the end this fiscal year; and

WHEREAS, the Sheriff's Office would like to pursue a strategic agreement with a freestanding nonprofit organization to operate the Animal Shelter and provide related services on behalf of the County in exchange for consideration; and

WHEREAS, the Board of Commissioners is in support of this proposal;

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS
RESOLVES AS FOLLOWS:

- 1) Curry County is authorized to begin the process of due diligence and strategic planning to transition the operation of the Animal Shelter from the County Sheriff's Office to a freestanding entity.
- 2) Curry County is authorized to engage in negotiations with a freestanding entity and other necessary parties regarding the transition of the Animal Shelter operation and related activities described in ORS Chapter 609.
- 3) The target date for the transition is no later than June 30, 2012.

DATED this 1st day of February, 2012.

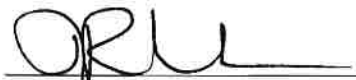
BOARD OF CURRY COUNTY COMMISSIONERS



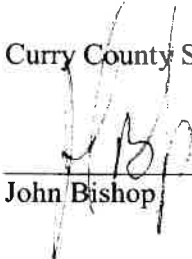
David G. Itzen, Chair



Bill Waddle, Vice Chair



George Rhodes, Commissioner

Curry County Sheriff


John Bishop

Approved as to Form:



Jeni Meyer
Curry County Assistant Legal Counsel

ANIMAL SHELTER TRANSFER AGREEMENT

4624

This Agreement, effective as of September 1, 2012, is made by and between Curry County, a political subdivision of the State of Oregon ("County"), and Pennies For Pooches Curry County Animal Shelter ("PFP"), an Oregon public benefit corporation.

WHEREAS, County operates a dog control district pursuant to ORS 609.030;

WHEREAS, the Curry County Commissioners serve as the Board of Supervisors of the dog control district and have the authority to issue licenses and enforce all of the county and state laws relating to the control of dogs within the county including, but not limited to, the dog control services identified in ORS Chapter 609 (the "Dog Control Services");

WHEREAS, Oregon statute requires all funds derived from Dog Control Services under ORS 609.035 to 609.110 and 433.340 to 433.385 be turned over to the County Treasurer and held in the "Dog License Fund;"

WHEREAS, in connection with the dog control district, County, through the County Sheriff's Office, operates an animal shelter located at 29921 Airport Way, Gold Beach (the "Animal Shelter");

WHEREAS, as part of the Dog Control Services, the Animal Shelter issues licenses and serves as a dog impoundment facility in accordance with the requirements in ORS Chapter 609 to provide an "adequate and sanitary" facility to house impounded dogs;

WHEREAS, in addition, the Animal Shelter accepts and cares for dogs and other animals surrendered by the public, provides adoption services, assists with vaccination services through local veterinarians, boards dogs and promotes the humane treatment of animals (the "Transferred Services").

WHEREAS, declining revenue and rising costs in Curry County have created an uncertain financial future for County which threatens the ability of County to continue to operate the Animal Shelter, and it is in the best interest of the County to downsize its workforce and outsource services;

WHEREAS, County desires that the citizens of Curry County continue to receive Animal Shelter services, and to that end, the Board of Commissioners passed a resolution on February 1, 2012, authorizing the County to begin negotiations with a freestanding non-profit organization who would assume responsibility for operation of the Animal Shelter;

WHEREAS, subsequently, PFP has agreed to assume operations of the Animal Shelter;

WHEREAS, PFP desires to receive from County, and County desires to transfer to PFP, the duties and responsibilities of operating the Animal Shelter, including, at PFP discretion, providing any Transferred Services to Curry County citizens;

WHEREAS, the Dog Control Services are specifically excluded from this Transfer Agreement, and County desires to enter into a separate service contract with PFP to provide certain Dog Control Services in exchange for consideration (the "Services Agreement");

NOW, THEREFORE, in consideration of the agreements and covenants contained herein the parties hereby agree as follows:

1. DEFINITIONS. As used in this Agreement, the following words and phrases shall have the following meanings:

1.1 "Acquired Assets" means those assets listed in Section 2 to be transferred by County to PFP in accordance with this Agreement.

1.2 "Closing" or "Closing Date" means the transfer of employees, assets and equipment at 12:00 a.m. on September 1, 2012.

1.3 "County" means Curry County, Oregon, acting by and through the Curry County Sheriff and Curry County Board of Commissioners.

1.4 "Employment Records" means all records used to make decisions about an employee's employment, including records related to hiring decisions, promotions or demotions, records used to determine pay raises or pay cuts, performance evaluations, disciplinary notices or warnings, and records related to termination or transfer, including any soft or supervisor files.

1.5 "Liabilities" means all debts, adverse claims, liabilities (including contingent liabilities), or obligations, known or unknown, including those arising under any law, rule or regulation, or imposed by any court, arbitrator, or other tribunal, and those arising in connection with any contracts, agreements, leases, commitments, undertakings, or acts of County.

1.6 "Material default or breach" means any acts or omissions that jeopardize the health, safety or security of any person; misuse of funds; intentional falsification of records; malfeasance by either party's officers, agents, or employees; intentional refusal to comply with the provisions of this Agreement; or a pattern of repeated non-material breaches, which pattern rises to the level of a material breach.

1.7 "Transferred Employees" means those employees of the County Sheriff's Office listed on Schedule 10 who are duly employed by Curry County on July 31, 2012, and whose employment is duly transferred to PFP as of September 1, 2012.

2. TRANSFER AND RECEIPT

2.1 Closing. The Closing of the transfer contemplated hereby shall take place at 12:00 a.m. on September 1, 2012.

2.2 Acquired Assets. At Closing, County shall assign, transfer, convey and deliver to PFP, and PFP shall acquire, accept, and receive the following Acquired Assets, all of

County's right, title and interest in and to all of the Acquired Assets, as they existed on and as they may have been adjusted as the result of the normal operations of the Animal Shelter through, to and including the Closing:

- A. Furniture, Computers, and Equipment. All furniture, fixtures, computers, monitors, keyboards, servers equipment, materials, and supplies of the Animal Shelter, except the County phones and the County-leased credit card machine;
- B. Books and Materials. All books, manuals, handbooks, reference materials, educational materials, files, and papers which are used in or relate to the operation of the Animal Shelter, including computer processing information, notebooks, journals, reports, and any other materials or compilations used by employees to operate the Animal Shelter;
- C. Computer Software. All computer software and data used by employees in operations of the Animal Shelter;
- D. Employment Records. A copy of the Employment Records of each of the Transferred Employees.

2.3 **Vehicles**. The two County vehicles currently used in operation of the Animal Shelter are excluded from the Acquired Assets.

2.4 **Contracts**. All Contracts used in the operation of the Animal Shelter have been previously transferred to Pennies for Pooches/Curry County Animal Shelter or terminated, and are excluded from the Acquired Assets.

2.5 **"As Is" Condition**. County shall transfer to all Acquired Assets in an "as is" condition.

2.6 **Payment by County to PFP**. In consideration for PFP acceptance of the operation of the Animal Shelter, and in addition to the Acquired Assets to be transferred at Closing, the County will pay PFP an amount equal to one-hundred percent (100%) of the balance of the Dog License Fund on the Closing Date.

2.7 **Accounts Payable** PFP may submit to the County accounts payable claims that were incurred on or before August 31, 2012, by the County as a result of the operation of the Animal Shelter, and the County shall pay said claims. In addition, PFP may submit claims to the County for payment of utilities (including water, sewer, garbage, electricity, telephone and internet bills) incurred during September 2012, and the County shall pay said bills. County shall not be responsible for utilities expenses incurred after September 30, 2012, or for other accounts payable claims incurred after August 31, 2012. County will only accept charges described herein that are submitted to the County on or before October 31, 2012. PFP will notify all utility providers in writing that it is assuming responsibility for the Animal Shelter service accounts effective October 1, 2012.

2.8 **Accounts Receivable**. The parties acknowledge and agree that all amounts collected for the Transferred Services after Closing shall be the property of PFP.

Amounts remitted to PFP for Dog Control Services shall be deposited in the Dog License Fund in accordance with the terms of the Services Agreement.

2.9 Gifts, Donations and Bequests. All gifts, donations and bequests, of whatever kind or nature, to or for the benefit of County Animal Shelter, its programs or which are related to the operation of the Animal Shelter in Curry County, which are made, received, distributed or which become effective on or after the Closing Date, shall be the sole and exclusive property of PFP. County shall execute all documents and shall take all steps necessary to transfer all right, title and interest in and to such gifts, donations and bequests to PFP.

2.10 Animal Shelter Agreement. County will retain ownership of the Animal Shelter building and grounds, and will lease to PFP under the terms of a separate lease agreement.

3. REPRESENTATIONS AND WARRANTIES OF COUNTY. County represents and warrants to PFP, and agrees as follows:

3.1 Organization of County. County is a political subdivision of the State of Oregon and is duly organized, validly existing and in good standing under the laws of this State, and has full corporate power to own its properties and operate the Animal Shelter.

3.2 Authority Relative to this Agreement. The execution, delivery and performance of this Agreement by the County has been duly authorized and approved by all requisite corporate action.

3.3 Power and Authority. County has the full power and authority to do and perform all acts and things required to be done under this Agreement. This Agreement and any other agreements and instruments required to be delivered by County, when duly executed and delivered by County, will constitute valid and binding obligations of County and will be enforceable in accordance with their respective terms.

3.4 Modification of Employee Salaries. From the date of this Agreement to the Closing Date, County shall not make or agree to make any material change in any employee salary, except for those changes already in progress as of the date of this Agreement, and those changes required by applicable law, contract, or bargaining agreement.

4. REPRESENTATIONS AND WARRANTIES OF PFP. PFP represents and warrants to County and agrees as follows:

4.1 Organization. PFP is a non-profit corporation duly organized, validly existing, and in good standing under the laws of the State of Oregon, and has full corporate power to own its properties, acquire leasehold interests, and to operate the Animal Shelter and provide the Transferred Services.

4.2 Authority Relative to this Agreement. The execution, delivery and performance of this Agreement by PFP has been duly authorized and approved by all requisite corporate action.

4.3 Power and Authority. PFP has full power and authority to do and perform all acts and things required to be done under this Agreement. This Agreement and any other agreements and instruments required to be delivered by PFP, when duly executed and delivered by PFP, will constitute valid and binding obligations of PFP and will be enforceable in accordance with their respective terms.

5. ACTION PRIOR TO THE CLOSING DATE. The following actions have been or will be taken on or before the Closing Date:

5.1 Preservation of Representations and Warranties. Both parties shall refrain from taking any action which would render any representation or warranty contained in Sections 3 and 4 of this Agreement inaccurate in any material respect as of the Closing Date. County will promptly notify PFP, and PFP will promptly notify County, of any lawsuits, claims, proceedings or investigations that may be threatened, brought, asserted or commenced against them or their respective officers or directors which involve the transactions required by this Agreement, or which may have a material adverse effect on the Animal Shelter or its financial condition or operations.

5.2 Best Efforts. County and PFP shall each use its best efforts to fulfill all of the conditions set forth in this Agreement over which it has control or influence and to perform the transactions contemplated herein.

5.3 Certificate of Insurance. On or before the Closing Date, PFP shall obtain and maintain General Liability Insurance with minimum limits of liability, per occurrence, of \$2,000,000 for bodily injury and \$1,000,000 for property damage, and umbrella coverage with minimum limits of liability, per occurrence, of \$1,000,000 for bodily injury and \$1,000,000 for property damage, and shall provide County with copies of Certificates of Insurance naming County as additional insured.

6. INFORMATION AND RECORDS CONCERNING THE BUSINESS

6.1 PFP' Access to Information and Records Before Closing. Subject to federal, state, and local confidentiality laws, from the date of this Agreement through the Closing Date, County shall provide PFP, its employees, counsel, accountants and other representatives, full access to the Animal Shelter's books, contracts, and records, and shall furnish to PFP during such period all such information concerning the Animal Shelter as PFP may reasonably request. Representatives of PFP shall be allowed to have unrestricted contact with employees employed in the Animal Shelter for the purpose of accomplishing an orderly transfer of the Animal Shelter to PFP on the Closing Date.

6.2 Access After Closing. Subject to federal, state, and local confidentiality laws, after the Closing Date, both County and PFP shall allow representatives of the other party

reasonable access to necessary records upon reasonable notice for such purposes as responding to an audit or prospective litigation.

7. CONDITIONS PRECEDENT TO OBLIGATIONS OF PFP. The obligations of PFP under this Agreement shall be subject to the satisfaction, on or prior to the Closing Date, of the following conditions, any one of which may be waived by PFP:

7.1 No Misrepresentations. PFP shall not have discovered any material error, misstatement or omission in the representations and warranties made by County herein.

7.2 Representations and Warranties Accurate. All representations and warranties of County contained in this Agreement shall have been true in all material respects when made, and shall be true in all material respects at and as of the Closing Date.

7.3 Performance by County. County shall have performed and complied in all material respects with all agreements and conditions required by this Agreement to be performed prior to or on the Closing Date.

8. CONDITIONS PRECEDENT TO OBLIGATIONS OF COUNTY. The obligations of County under this Agreement shall be subject to the satisfaction, on or prior to the Closing Date, of the following conditions, any one or more of which may be waived by County.

8.1 No Misrepresentations. County shall not have discovered any material error, misstatement or omission in the representations and warranties made by PFP herein.

8.2 Representations and Warranties Accurate. All representations and warranties of PFP contained in this Agreement shall have been true in all material respects when made, and shall be true in all material respects at and as of the Closing Date.

8.3 Performance by PFP. PFP shall have performed and complied in all material respects with all agreements and conditions required by this Agreement to be performed prior to or on the Closing Date.

8.4 Legal Prohibition. On the Closing Date, there shall exist no significant lawsuit or injunction or final judgment, law or regulation prohibiting or which may prohibit the consummation of the transactions in whole or in part to a material degree, as contemplated by this Agreement.

9. LIABILITIES AND INDEMNIFICATION

9.1 County's Liabilities. Unless otherwise agreed in writing, County shall assume and pay, perform or discharge any and all liabilities relating to events, occurrences, or services occurring or provided on or before the Closing Date, including any workers' compensation claims, if the date of the accident or occurrence that is the subject of such claim is before Closing.

9.2 PFP's Liabilities. Unless otherwise agreed in writing, PFP shall assume and pay, perform or discharge any and all liabilities relating to events, occurrences, or services

occurring or provided after the Closing Date, including any workers' compensation claims, if the date of the accident or occurrence that is the subject of such claim is on or after the Closing Date. Except as provided in Section 2.7, PFP shall assume and pay and be responsible for all accounts payable incurred by PFP in the operation of the Animal Shelter and performance of services on or after Closing.

9.3 Indemnification by County. To the extent permitted by law and subject to the limitations of indemnification by public bodies as provided for by Oregon statute, County shall defend, indemnify and hold PFP harmless from and against all matters in connection with the following:

- A. Any claims, liabilities, demands, damages, actions or proceedings resulting from any misrepresentation, breach of warranty, or non-fulfillment of any covenant by County under this Agreement;
- B. Any and all claims, liabilities, demands, damages, actions or proceedings arising from or relating to the negligence, wrongful acts, or omissions of County, its officers, agents, and employees, in connection with the performance of any services or operation of the Animal Shelter, arising on or before the Closing Date;

9.4 Indemnification by PFP. PFP shall defend, indemnify and hold County harmless from and against all matters in connection with the following:

- A. Any claims, liabilities, demands, damages, actions or proceedings resulting from any misrepresentation, breach of warranty, or non-fulfillment of any covenant by PFP under this Agreement; and
- B. Any and all claims, liabilities, demands, damages, actions or proceedings arising from or relating to the negligence, wrongful acts, or omissions of PFP, its officers, agents, and employees, in connection with the performance of any services or operation of the Animal Shelter, arising after the Closing Date.
- C. Any and all claims, liabilities, demands, damages, actions or proceedings arising from or relating to PFP's failure to comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to this Agreement, including but not limited to all applicable provisions of ORS 236.605 et seq, regarding transfer of public employees.

9.5 Tort Claims Act. PFP shall not be deemed an agent of the County under the Oregon Tort Claims Act.

10. EMPLOYEE RELATIONS AND BENEFITS

10.1 Employee Transfer. As of Closing, all employees listed in Schedule 10 who are employees of the County as of 11:59 p.m. on August 31, 2012, shall be considered Transferred Employees of PFP.

10.2 Salary. Transferred Employees shall not have their salary reduced as a result of the transfer during the first twelve (12) months of employment with PFP. After the first twelve (12) months of employment with PFP, Transferred Employees shall be placed at the closest salary for the position as designated under PFP's salary schedule.

10.3 Accrued Compensatory Time. County shall liquidate accrued compensatory time at the time of transfer, consistent with any applicable statutes or collective bargaining agreement.

10.4 Sick and Vacation Leave. After the Closing Date, PFP shall grant Transferred Employees any leaves according to its rules or any applicable bargaining agreement.

10.5 Health Insurance Waiting Periods. In the event that any Transferred Employee is subject to a waiting period for coverage of pre-existing conditions under PFP's health insurance plan, PFP shall arrange for a waiver of such waiting period with its health insurer. The County shall reimburse PFP for the additional premium costs, if any, resulting from such waiver, for a period of not to exceed 12 months.

10.6 Employment Records. County shall furnish complete copies of the Employment Records of all Transferred Employees to PFP on or before September 1, 2012.

10.7 Status of Transferred Employees. PFP shall place all Transferred Employees on its employee roster, subject to the following:

A. If the Transferred Employee was serving a probationary period with the County at the time of transfer, the past service of the Transferred Employee on probation shall be applied toward the regular probation requirements of PFP.

B. If the Transferred Employee meets the qualifications therefor, the Transferred Employee may elect to participate in the retirement system available to employees of PFP.

C. Transferred Employees shall retain all seniority accrued under employment with the County, but no regular employee of PFP shall be demoted or laid off by reason of that seniority at the time of transfer. After the Closing Date, the Transferred Employees' seniority from the County shall be regarded as seniority acquired under PFP.

D. Subject to the provisions of ORS 236.605 *et seq.*, Transferred Employees shall enjoy the same privileges, including benefits, hours and conditions of employment, and be subject to the same regulations, as other employees of PFP.

10.8 Authority of PFP. PFP shall place Transferred Employees in a position comparable to the position the Transferred Employee enjoyed with the County on the Closing Date, subject to the following:

A. PFP, in determining a comparable position, shall consider the Transferred Employee's educational and physical qualifications, experience, and the salary, duties and responsibilities of prior employment with the County.

B. If PFP finds that no comparable position exists under subsection (A) above, PFP shall offer the Transferred Employee a lesser position, if such position is available, according to the qualifications of the Transferred Employee.

C. If PFP finds that no comparable position exists, the Transferred Employee shall be listed as a regular laid-off employee with PFP, and shall have priority to appointment over other persons eligible for any position for which the employee is qualified, subject to any applicable collective bargaining agreement.

D. The finding and action of PFP under subsections (B) and (C) above shall be subject to a hearing upon the Transferred Employee's request, and shall be subject to review under ORS 34.010 to 34.100.

10.9 Employee Rights. Nothing contained herein, either expressed or implied, shall confer upon any Transferred Employee or any other employee or legal representatives thereof any contractual rights to continued employment.

10.10 PERS. Parties acknowledge that the PFP is not a PERS eligible employer and the Transferred Employees last date of creditable PERS service will be August 31, 2012. As of September 1, 2012, the Transferred Employees will be covered by the retirement and benefit plans, if any, offered by PFP under the same terms and conditions as available to all other similarly situated PFP employees and in compliance with ORS 236.605 *et seq.* County shall be solely responsible for and shall pay or receive credit for any unfunded PERS liability or surplus related to the Transferred Employees.

10.11 Compliance with Laws. To the extent, any of the above provisions are contrary to or in conflict with the provisions of ORS 236.605 *et seq.*, that is not the intended consequence of this Agreement; ORS 236.605 *et seq.* shall control and take precedence. The parties further agree, that if any portion of this Agreement is contrary to or in conflict with the provisions of ORS 236.605 *et seq.*, that the offending provision may be stricken or reformed (Blue Lined) to comply with the requirements of ORS 236.605 *et seq.*

11. ACTIONS TO BE TAKEN AFTER THE CLOSING DATE

11.1 Further Assurances. Following the Closing Date, both parties agree to execute, acknowledge and deliver all such further documents, leases, assignments, and conveyances, and use their best efforts to obtain all necessary authorizations, approvals, consents and other necessary documents as may be reasonably required for the completion of the transfer contemplated herein.

11.2 Mutual Cooperation with Respect to Taxes. County and PFP will provide each other with any such information or assistance as may be reasonably requested in connection with the preparation of any tax return, tax form, any audit or other examination by any taxing authority.

11.3 Mutual Cooperation with Respect to Audits. County and PFP will provide each other with any such information or assistance as may be reasonably requested In connection with the preparation, or response to, any audit, survey or site visit by any appropriate state or federal agency or contractor.

11.4 Cooperation in Litigation. In the event that, after the Closing Date, County or PFP shall require the participation of officers and employees employed by each other to aid in the defense or prosecution of litigation or claims, and so long as there exists no conflict of interest between the parties, both County and PFP shall use their best efforts to make such officers and employees available to participate in such defense or prosecution.

12. TERMINATION

12.1 Termination Events. This Agreement may be terminated by written notice delivered on or prior to the Closing Date as follows:

A. By either County or PFP, if a material default or breach is made by the other party with respect to the timely performance of any of its covenants and agreements contained herein, or with respect to due compliance with any of its representations and warranties contained herein, and such default shall have not been cured on or before ten (10) days written notice;

B. By PFP, if any or all of the conditions set forth in Section 7 above has not been or is incapable of being satisfied on or before August 31, 2012, the performance of which has not been waived by PFP;

C. By County, if any or all of the conditions set forth in Section 8 above has not been satisfied or is incapable of being satisfied on or before August 31, 2012, the performance of which has not been waived by County;

D. By mutual consent of County and PFP;

E. By either County or PFP, if the Closing shall not have occurred, through no fault of either party, on or before August 31, 2012, or such later date as may be agreed upon by the parties.

Each party's right of termination is in addition to any other rights it may have under law, including those rights pursuant to Section 13.2.

13. GENERAL PROVISIONS

13.1 Continuation of Services. Both parties shall use their best efforts to conduct all acts pursuant to this Agreement with a minimum of disruption in services and operations of the Animal Shelter.

13.2 Further Assurances. The parties agree to prepare, execute and deliver all documents, writings and records and to take all steps and actions as may be necessary to

effectuate the transfer of the operation of the Animal Shelter from County to PFP and to fulfill the terms and conditions of this Agreement.

13.3 Passage of Title and Risk of Loss. Legal title, equitable title and risk of loss with respect to the property and rights to be transferred under this Agreement shall not pass to PFP until such property or right is transferred at Closing or at such later date as may be agreed upon in writing.

13.4 Payroll Taxes. County shall pay all payroll taxes for employees to be transferred for payroll through August 31, 2012 and PFP shall pay all payroll taxes for all Transferred Employees on and after the Closing Date.

13.4 Waiver. No waiver of any provision of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision of this Agreement.

13.5 Severability. If any term or provision of this Agreement is declared by a court of competent Jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

13.6 Notices. All notices or other communications required under this Agreement shall be in writing and shall be given by personal delivery or by certified mail, return receipt requested, to the address set forth below or to such other person at such other place as may be furnished in writing. Any notice so addressed and mailed shall be deemed to be given three (3) days after mailing. Any notice by personal delivery shall be deemed to be given when actually delivered.

To PFP:
Pennies For Pooches Curry County Animal
Shelter
PO Box 1883
Gold Beach, OR 97444

To County:
Curry County Legal Counsel
94235 Moore Street, Suite 123
Gold Beach, OR 97444

13.7 Expenses. Each party shall be responsible for and pay its own expenses and fees of its counsel, accountant, and other experts.

13.8 Force Majeure. Neither County nor PFP shall be held responsible for delay or default caused by fires, riot, civil disobedience, acts of God, or war where such cause was beyond the control of either party. Both parties shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

13.9 Governing Law. The validity, performance and enforcement of this Agreement shall be governed by the laws of the State of Oregon.

13.10 Compliance with Law. The parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to this Agreement, including but not limited to all applicable provisions of ORS 236.605 *et seq*, regarding transfer of public employees.

13.11 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the any successors and permitted assigns of the parties hereto.

13.12 No Third Party Beneficiary. County and PFP are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

13.13 Entire Agreement. This Agreement, the attached Schedules and the Services Agreement constitute the entire Agreement between the parties with respect to the transfer of the assets and employees of the County's Animal Shelter operations to PFP. This Agreement shall supersede all previous negotiations, commitments and writings with respect to the transfer. There are no other understandings, agreements, or representations, written or oral, regarding this Agreement.

13.17 Non-Appropriation. County is a governmental entity, and the validity of this Agreement is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this Agreement, then this Agreement shall automatically expire without penalty to County thirty (30) days after written notice to PFP of the unavailability and non-appropriation of public funds. County shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

13.18 Dispute Resolution. With respect to any dispute between the parties regarding and/or arising out of this Agreement, the parties will attempt in good faith first to discuss the dispute and use their best efforts to reach agreement on the matters in dispute.

[SIGNATURE PAGE FOLLOWS]

County:

BOARD OF CURRY COUNTY COMMISSIONERS


David G. Itzen, Chair

DATE: 8/22/12


Bill Waddle, Vice Chair

DATE: 8/22/12


George Rhodes, Commissioner


DATE: 8-22-12


Sheriff John Bishop

8/22/12
DATE

PFP:

Pennies For Pooches Curry County Animal Shelter

 DATE 8/22/12

By: Eric Bryant

Its: Authorized Member of its
Board of Directors.

Approved as to Form:


M. Gerard Herbage

Curry County Legal Counsel

Schedule 10 Transferred Employees

Catherine Powers

Sheryl Johnson

BEFORE THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Order)
Pursuant to ORS 271.310(1))
Authorizing the Transfer of)
Real Property Located at 29921)
Airport Way, Gold Beach, OR.)
To Pennies for Pooches Curry)
County Animal Shelter Non-Profit)

ORDER NO. 20174

WHEREAS, Curry County currently owns the property (hereinafter referred to as the "subject property") located at 29921 Airport Way, Gold Beach, Oregon, and which is legally described by Exhibit "A" that is attached hereto and incorporated by reference; and

WHEREAS, currently Curry County is currently leasing the subject property to Pennies for Pooches Curry County Animal Shelter Non-Profit (hereinafter referred to as "Curry County Animal Shelter") for a \$1 for a two-year term with the express condition that the subject property be used as an animal shelter in accordance with the requirements under ORS 609.090; and

WHEREAS, Curry County Animal Shelter performs certain operations of the animal shelter at the subject property in accordance with an Animal Shelter Service Agreement filed with the Clerk as CJ:2012-383 and an Animal Shelter Transfer Agreement filed with the Clerk as CJ 2012-384; and

WHEREAS, Curry County Animal Shelter plans to significantly improve the facilities by adding a cat wing; and

WHEREAS, Curry County Animal Shelter appeared before the Board of Curry County Commissioners on a number of occasions in recent months and has asked the Board to consider conveying the subject property to it for a nominal amount of money; and

WHEREAS, at its March 18, 2015, regular Board meeting, the Board of Curry County Commissioners indicated an interest in conveying the subject property to Curry County Animal Shelter for a nominal amount of money, and directed County Counsel to devote time on this proposal; and

WHEREAS, the subject property was not acquired by the County as a result of a tax foreclosure; and

WHEREAS, pursuant to ORS 275.030(2) "A county may sell and convey real estate owned by the county in a manner provided in ORS Chapter 271 if the real estate was not acquired by foreclosure for nonpayment of real property taxes and the county governing body deems it not in the best interest of the county to sell and convey in the manner provided under ORS 275.120, 275.140 to 275.160 and 275.180 to 275.260"; and

WHEREAS, the Board deemed it in the best interest of the county to proceed with a possible conveyance of the subject property to Curry County Animal Shelter under the provisions found in ORS Chapter 271; and

WHEREAS, ORS 271.310(1) provides that with exceptions that do not apply here, "whenever any political subdivision possesses or controls real property not needed for public use, or whenever the public interest may be furthered, a political subdivision may sell, exchange, convey or lease for any period not exceeding 99 years all or any part of the political subdivision's interest in the property to a governmental body or private individual or corporation"; and

WHEREAS, although not specifically required under the law, the Board published notice of a hearing to be held on May 6, 2015, on the proposal to convey the subject property to Curry County Animal Shelter for a nominal amount of money which was set at \$1.00;

WHEREAS, the hearing was held as scheduled, and a number of people testified in favor of the proposed transfer, and no one spoke in opposition; and

WHEREAS, on May 6, 2015, following public testimony, the record was closed, and the Board of Curry County Commissioners directed County Counsel to prepare the necessary paperwork to transfer the subject property to Curry County Animal Shelter; and

WHEREAS, the Board has found that the transfer of the subject property will further the public interest, and that the subject property will not be needed for County public use upon transfer, all in accordance with ORS 271.310(1);

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDERS that Curry County is authorized to convey to Curry County Animal Shelter for \$1.00 the subject property located at 29921 Airport Way, Gold Beach, Oregon, and which is further described in the attached

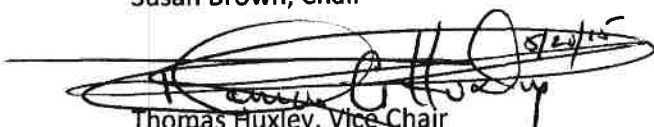
Exhibit "A". The deed conveying the subject property shall have a reversionary clause and a copy of the deed to be executed is attached hereto and incorporated by reference.

DATED this 20th day of May, 2015.

BOARD OF CURRY COUNTY COMMISSIONERS

Abstained

Susan Brown, Chair


Thomas Huxley, Vice Chair


David Brock Smith, Commissioner

Approved as to Form:


M. Gerard Herbage
Curry County Legal Counsel

Terms of the Order accepted by:


Authorized Representative
Curry County Animal Shelter

EXHIBIT "A"

36 15 36 A C 200		3-1		OFFICIAL RECORD OF DESCRIPTIONS OF REAL PROPERTY	
TWP. RGE.	SEC. 1/2 1/4	PARCEL NUMBER	TYPE REAL PROP	CODE AREA	Curry COUNTY ASSESSOR'S OFFICE
MAP NUMBER		AX LOT NUMBER		36 15 36 per 201	
FORMERLY PART OF					
Insert each new course to this point: EXEMPT				Date of entry on this call	Deed Record
T36S 15W WY Sec 36 Baap N734.27' S W 571.27' fr SE cor Gov Lot 2; th S62°2'E 91' to TPOB; th S62°2'E 41.4'; th S1°8'14"E 60.03'; th S85°14'5"W 107.39'; th N4°50'49"W 82.5'; th N85°23'17"E 76.48' to TPOB.				lease 6-12-96	BR37-532 0.20
JV091-7967+7968 map change 10 25 1996					

CLERKS RECORDING INFORMATION

TRANSACTION: **BARGAIN & SALE DEED SUBJECT TO 20 YEAR REVERTER CLAUSE**

GRANTOR: Curry County, a Political Subdivision of the State of Oregon
94235 Moore Street, Suite 122
Gold Beach, OR 97444

GRANTEE: Pennies for Pooches Curry County Animal Shelter Non-Profit
P.O. Box 1883
Gold Beach, OR 97444

CONSIDERATION: The true and actual consideration paid for this transfer, stated in terms of
dollars, is \$1.00.

TAX STATEMENTS:

Until a change is requested, all tax statements
Shall be sent to the following address:

Grantee: Pennies for Pooches Curry County Animal Shelter Non-Profit
P.O. Box 1883
Gold Beach, OR 97444

AFTER RECORDING, RETURN INSTRUMENT TO:

Pennies for Pooches Curry County Animal Shelter Non-Profit
P.O. Box 1883
Gold Beach, OR 97444

BARGAIN & SALE DEED

Curry County, a Political Subdivision of the State of Oregon, hereinafter called Grantor, for the consideration herein stated, does hereby grant, bargain, sell and convey unto Pennies for Pooches Curry County Animal Shelter Non-Profit, an Oregon nonprofit corporation, hereinafter called Grantee, all of that certain real property situated in Curry County, State of Oregon, and described in Exhibit "A" that is attached hereto and incorporated by reference.

SUBJECT TO:

1. All encumbrances of record.
2. The property described herein shall be subject to a possibility of reverter such that if the property, within the next twenty years from the date of recording of this deed is no longer used as an animal shelter, the interest of grantee shall automatically terminate, and fee simple title shall revert to the Grantor. At such time, Grantor may enter and terminate this estate and the property shall revert back to Grantor.

The true and actual consideration in dollars for this conveyance is \$1.00. However, the actual consideration includes Grantees' promise to use the deeded property for animal shelter purposes.

Grantor makes no warranties or representations of any kind (including but not limited to warranties or representations of the status of the title or of the condition of the real property). Grantee takes the real property and title **AS IS** and **WITH ALL FAULTS AND DEFECTS**.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this 20 day of May, 2015.

Curry County Board of Commissioners

By: Abstained
Susan Brown, Chair

By: [Signature] 5/20/15
Thomas Huxley, Vice Chair
By: [Signature]
David Brock Smith, Commissioner

STATE OF OREGON)
) ss.
County of Curry)

This instrument was acknowledged before me on May 20, 2015 by Susan
Restained Brown, Thomas Huxley, and David Brock Smith, Curry County Board of Commissioners



Brenda L Starbird
Notary Public For Oregon
My Commissioner Expires: 11-11-2017

EXHIBIT "A"

36	15	36	A	C	200		3-1	OFFICIAL RECORD OF DESCRIPTIONS OF REAL PROPERTY			
TWP.	RGE.	SEC.	1/4	1/16	PARCEL	TYPE	SPEC.	CODE	Curry COUNTY ASSESSOR'S OFFICE		
MAP NUMBER					NUMBER	REAL PROP.	Int. In	AREA			
TAX LOT NUMBER								NUMBER	FORMERLY PART OF 36 15 36 por 201		
Indent each new course to this point: EXEMPT								DESCRIPTION AND RECORD OF CHANGE	Date of entry on this card	Deed Record	Acres Remaining
T36S 15W WM Sec 36 Baap N734.27' & W 571.27' fr SE cor Gov Lot 2; th S62°2'E 91' to TPOB; th S62°2'E 41.4'; th S1°8'14"E 60.03'; th S85°14'5"W 107.39'; th N4°50'49"W 82.5'; th N85°23'17"E 76.48' to TPOB.								lease	6-12-96	BR57-532	0.20
JV091-7967 + 7968 map change AUG 25 1996											