Accessibility and Accommodation Requests
For questions about accessibility or accommodations for persons with disabilities, or to request a translator, interpreter, or other communication aids, please contact Melissa Bisset at 503-856-3412 or bissetm@keizeror.gov. The City of Keizer is committed to providing equal access to all public meetings and information per the requirements of the ADA and Oregon Revised Statutes (ORS). The Keizer Civic Center is wheelchair accessible.

To provide oral comments via electronic means, please contact the City Recorder's Office no later than 2:00 p.m. on the day of the meeting. Most regular City Council meetings are streamed live through www.KeizerTV.com and cable-cast on Comcast Channel 23 within the Keizer City limits.

AGENDA

KEIZER CITY COUNCIL
REGULAR SESSION

Monday, August 18, 2025
6:00 PM
Robert L. Simon Council Chambers
930 Chemawa Road NE
Keizer, Oregon

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **SPECIAL ORDERS OF BUSINESS**

5. **COMMITTEE REPORTS**

   a. **Designation of League of Oregon Cities (LOC) Voting Delegate**

6. **PUBLIC COMMENTS**

   This time is provided for citizens to address the Council on any matters other than those on the agenda scheduled for public hearing.

7. **CONSENT CALENDAR**

   a. **2024-25 Surplus Property Report**

   b. **RESOLUTION - Authorizing City Manager to Sign Amendment Number 02 to Agreement with State of Oregon for Verda Lane: Dearborn Avenue to Ascot Lane Project**

   c. **Approval of August 4, 2025 Regular Session Minutes**

8. **PUBLIC HEARINGS**

9. **ADMINISTRATIVE ACTION**

   a. **RESOLUTION - Authorizing City Manager to Terminate 457(b) Plans With Nationwide and CoreBridge**

   b. **RESOLUTION - Authorizing City Manager to Enter Into Agreement for Electronic**

Records Management Services With Secretary of State
RESOLUTION - Authorizing the City Manager to Enter Into Subscription Services Contract with Chaves Consulting, Inc. (Master Software Agreement - Electronic Records)

c. **Legislative Position on Cherriots Payroll Tax**

d. **Participation in the County Street Vendor Ordinance Discussion**

10. OTHER BUSINESS

This time is provided to allow the Mayor, City Council members, or staff an opportunity to bring new or old matters before the Council that are not on tonight's agenda.

11. STAFF UPDATES

12. COUNCIL MEMBER REPORTS

13. AGENDA INPUT

Tuesday, September 2, 2025 - 6:00 p.m.
City Council Regular Session

Monday, September 8, 2025 - 6:00 p.m.
Joint Work Session with the Parks & Recreation Advisory Board - Parks Tour

Monday, September 15, 2025 - 6:00 p.m.
City Council Regular Session

Monday, September 22, 2025 - 6:00 p.m.
City Council Work Session - Urban Growth Boundary

14. ADJOURNMENT

City of Keizer Mission Statement
Keep City Government Costs And Services To A Minimum By Providing City Services To The Community In A Coordinated, Efficient, And Least Cost Fashion

"Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury."

City Council Meeting Date: August 18, 2025

To: Mayor Clark and City Council Members

Thru: Adam J. Brown, City Manager

From: Tim Wood, Assistant City Manager

Subject: 2024-25 Surplus Property Report

Proposed Motion

No action is required, this report is for information purposes only.

I. Summary

City Ordinance 2008-579 provides that staff shall provide a Surplus Property Report to the City Council no later than August 31st each year for the previous fiscal year. Such report shall indicate the surplus items sold or otherwise disposed of, the method of sale and the revenue from sales.

II. Background

A. The last surplus property report was presented at the August 19, 2024 City Council meeting.

III. Current Situation

A. The list of items disposed of during Fiscal year 2024-25 is:

Description	Method of Sale/Disposal	Revenue from Sale
Bicycles	Sold	$ 800.00
Postage Machine	Recycled	-
Cricut Mini Electronic Die Cutting Machine	Recycled	-
Diesel Backup Generator	Interagency Agreement	-
2003 Ford F-550	Trade-In	5,000.00
Scrap Metal	Sold	2,998.98
		$ 8,798.98

IV. Analysis

A. **Strategic Impact** - Not Applicable

B. **Financial** - Proceeds from the sale of surplus property totaled $8,798.98 during Fiscal Year 2024-25.

C. **Timing** - The surplus property report must be provided to City Council no later than August 31st.

D. **Policy/Legal** - City Ordiance 2008-579 provides that staff shall provide a surplus property report to the City Council.

V. Alternatives

A. No action is required.

VI. Recommendation

No action is recommended.

Attachments

None

"Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury."

City Council Meeting Date: August 18, 2025

To: Mayor Clark and City Council Members

Thru: Adam J. Brown, City Manager

From: Bill Lawyer, Public Works Director

Subject: Verda Lane: Dearborn Avenue to Ascot Lane Project

Proposed Motion

I move that the City Council adopt Resolution R2025-___ Authorizing the City Manager to Sign Amendment Number 02 to the Agreement with the State of Oregon for Verda Lane: Dearborn Avenue to Ascot Lane Project.

I. Summary

The existing Intergovernmental Agreement (IGA) with ODOT for the Verda Lane Improvement project needs to be amended to capture the updated cost of the project.

II. Background

A. The City applied for and received Federal grant funding to design and construct improvements to Verda Lane NE from Dearborn to Ascot Way.

B. The project must be managed and delivered by either ODOT or a Certified Local Agency. Keizer is not nor will be a Certified Local Agency. Therefore, the project must be managed and delivered by ODOT.

C. The estimated construction cost has increased from the original amount.

D. Additional funding for the project has been received through the Salem Keizer Transportation Study (SKATS) and the city Street Fund budget.

III. Current Situation

A. The project is nearing the bidding phase with construction expected to start in spring 2026.

B. Prior to bidding the project, the current IGA needs to be amended due to the increased construction estimate and funding identified for the project.

IV. **Analysis**

A. **Strategic Impact** - N/A

B. **Financial** - The total project cost is now estimated at $9,455,704.74 with $7,095,128.36 provided with Federal funds. The remaining $2,3650,576.38 has and will be provided by the City through the Street Fund budget.

C. **Timing** - Approval of this amendment will allow the project to proceed to the bidding phase as planned.

D. **Policy/Legal** - The existing IGA needs to be amended to capture the current total project costs.

V. **Alternatives**

A. Adopt the attached Resolution.

VI. **Recommendation**

Staff recommends that Council adopt the attached Resolution.

Attachments

1. MCA034438_102-001
2. MCA034063_103-001
3. RES_CC_Authorizing City Manager to Sign Amendment No. 2 to Verda Lane IGA_8 18 2025
4. MCA034063_103-002.amend02_Keizer_VerdaLn.Dearborn-Ascot

“Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury.”

A092-020122

INTERGOVERNMENTAL AGREEMENT
FOR RIGHT OF WAY SERVICES

Verda Lane: Dearborn Avenue to Salem Parkway (Keizer)

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT"; and CITY OF KEIZER, 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, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies 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. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. Money so deposited shall be disbursed for the purpose for which it was deposited.

3. Alder Drive, Claxter Road, and Verda Lane from Dearborn Avenue to, but not including, the Salem Parkway are a part of the city street system under the jurisdiction and control of Agency.

4. State is responsible for delivering the Verda Lane: Dearborn Avenue to Salem Parkway (Keizer) project ("Project") under ODOT Delivered Federal Project on Behalf of City of Keizer Agreement Number 34063 executed on June 15, 2020, and Amendment No. 1 executed on April 19, 2023 ("Project Agreement") attached hereto as Exhibit C and by this reference made a part hereof.

5. This Agreement covers a subset of the work set forth in the Project Agreement; therefore, the Project Agreement describes the general scope and funding for the right of way activities carried out under this Agreement. This Agreement further defines the roles and responsibilities of the Parties regarding real property to be used as part of the right of way for the Project, and further refines the details of the scope and funding for these right of way activities.

6. As of the Effective Date of this Agreement, there are no local public agencies ("LPAs") certified to independently administer federal-aid projects for right of way services. State is ultimately responsible for the certification and oversight of all right of way activities under this Agreement.

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, to accomplish the objectives in the Project Agreement, State agrees to perform the right of way Services shown in Exhibit A - Special Provisions ("Services"), attached hereto and by this reference made a part hereof.

2. The Parties agree to comply with the terms of this Agreement and the applicable terms of the Project Agreement in performing the Services. In the event of a direct conflict, the terms of the Project Agreement will control over any conflicting provision in this Agreement.

3. Exhibits Attached and Incorporated.

   a. This Agreement includes the following exhibits, each of which is attached and incorporated into this Agreement by reference as though fully set forth herein:
      - Exhibit A – Special Provisions
      - Exhibit B – Resolution Exercising The Power of Eminent Domain
      - Exhibit C - Project Agreement

4. This Agreement becomes effective on the date all required signatures are obtained ("Effective Date"). Services shall begin on or after the Effective Date and shall be completed no later than December 31, 2028, on which date this Agreement automatically expires unless extended by a fully executed amendment.

5. Both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and implemented through Title 49, Part 24, ORS Chapter 35 and the ODOT Right of Way Manual, located at https://www.oregon.gov/ODOT/ROW/Documents/ROW-Manual.pdf and incorporated herein by this reference. Each Party will require its contractors and subcontractors, if any, to comply with this provision.

6. The funding and payment for the Services are set forth in the Project Agreement. This Agreement commits no additional funding for the Services.

   a. Under no condition shall Agency's obligations under this Agreement exceed $1,698,000.00, including all expenses, unless agreed upon by both Parties in writing in a fully executed amendment to this Agreement. This maximum is the amount programmed in the STIP for the right of way phase of the Project. Expenditures must be charged according to the appropriate Project phase as identified in Exhibit A.

      i. Agency agrees to reimburse State for all expenses, including salaries and other personnel expenses (OPE) of State employees performing Services, direct costs, costs of rental equipment used, travel expenses, and per-diem expenditures. Travel expenses shall be reimbursed in accordance with the current Oregon Department of Administrative Services rates as contained in the Oregon Accounting Manual (OAM), which can be found at:

         https://www.oregon.gov/das/Financial/Acctng/Documents/40.10.00.pdf.

STATE OBLIGATIONS

1. State shall perform the Services assigned to State in Exhibit A.

2. State's right of way contact person for this Agreement is Regina Thompson, Sr. Right of Way Agent, 455 Airport Road SE, Building B, Salem, Oregon 97301; phone: (503) 986-2609; email: Regina.Thompson@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact changes during the term of this Agreement.

AGENCY OBLIGATIONS

1. Agency shall perform the Services assigned to Agency in Exhibit A. All Services provided by Agency shall comply with ODOT's Right of Way Manual in effect at the time the Services are performed.

2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of current budget. Agency is willing and able to finance its share of all costs and expenses incurred under this Agreement up to the maximum amount set forth in Terms of Agreement Paragraph 6.

3. If Agency intends to use Agency staff, staff of another local public agency, consultants (except for consultants on State's Qualified Appraiser List), or contractors to perform Services under this Agreement, Agency must receive prior written approval from State's Region Right of Way Office.

4. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Oregon Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 ("Claims"), to the extent such Claims are caused, or alleged to be caused, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise solely from the negligent or willful acts or omissions of State, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.

5. Any such indemnification shall also provide that neither the Agency's contractor or subcontractor nor any attorney engaged by Agency's contractor or subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or

that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.

6. Agency shall perform all Services under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the Services under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.

7. When Agency is performing Services under this Agreement, Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction.

8. Agency certifies and represents that all individuals signing this Agreement have 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.

9. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

10. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Services under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

11. Agency shall upon State's request provide copies of any required documentation related to the Services as described in Exhibit A.

12. Agency's right of way contact person for this Agreement is Bill Lawyer, Department Director, Public Works Department, City of Keizer, P.O. Box 21000, Keizer, Oregon 97303; phone: (503) 390-3700; email: LawyerB@keizer.org, 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.

GENERAL PROVISIONS:

1. Termination.

   a. This Agreement may be terminated by mutual written consent of both Parties.

   b. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing, and delivered by certified mail or in person, under any of the following conditions:

      i. If either Party fails to provide Services called for by this Agreement within the time specified herein or any extension thereof.

      ii. If either Party fails to perform any of the other provisions of this Agreement or so fails to pursue the Services as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.

   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 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.

      ii. If Agency fails to provide payment of its share of the cost of the Project.

      iii. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Services under this Agreement is prohibited or State is prohibited from paying for such Services 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.

2. All employers that employ subject workers who perform Services under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than $500,000 must be included. Both Parties shall ensure that each of its subcontractors complies with these requirements.

3. 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.

4. 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.

5. 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.

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

7. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of

Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

8. 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 will 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.

9. The Parties 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.

10. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

11. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

12. Survival. All rights and obligations of the Parties under this Agreement will cease upon termination or expiration of this Agreement, other than the rights and obligations of the parties that by their nature or express terms survive termination or expiration 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

No. 34438

CITY OF KEIZER, by and through its designated officials

By ______________________

Date 6-26-23

By ______________________

Date 6/26/23

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

By ______________________
Agency's Counsel

Date 6-26-2023

Agency Contact:
Bill Lawyer, Department Director
Public Works Department
City of Keizer
P.O. Box 21000
Keizer, Oregon 97303
(503) 390.3700
LawyerB@keizer.org

State Contact:
Regina Thompson, Sr. Right of Way Agent
ODOT Region 2
455 Airport Road SE, Building B
Salem, Oregon 97301
(503) 986-2609
Regina.Thompson@odot.oregon.gov

STATE OF OREGON, by and through its Department of Transportation

By McGregor LYNDE (Jul 13, 2023 13:21 PDT)
Delivery & Operations Division Administrator

Date 07/13/2023

APPROVAL RECOMMENDED

By Georgine GLEASON (Jul 12, 2023 10:07 PDT)
State Right of Way Manager

Date 07/12/2023

By Sonny P.A. Chickering
Sonny P.A. Chickering (Jul 11, 2023 11:45 PDT)
Region 2 Manager

Date 07/11/2023

By David THIESSEN
David THIESSEN (Jul 11, 2023 11:30 PDT)
Region 2 Right of Way Manager

Date 07/11/2023

APPROVED AS TO LEGAL SUFFICIENCY

By N/A
Assistant Attorney General

Date______________________

Exhibit A
SPECIAL PROVISIONS
Right of Way Services

A. Preliminary Phase: State or Agency shall perform the Services outlined in this Section A during the preliminary right of way phase of the Project as identified below. When Services listed under this Section A are performed by Agency, Agency shall charge the Services as preliminary engineering expenditures.

1. State shall prepare preliminary cost estimates.

2. State shall make preliminary contacts with property owners.

3. State shall gather and prepare data for environmental documents.

4. State shall develop access and approach road list.

5. State shall help prepare field location and project data as defined in the Project Agreement.

6. Title. State shall provide preliminary title reports, if State determines they are needed, before negotiations for acquisition commence.

7. Legal Descriptions:

   a. State shall prepare sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.

   b. State shall prepare construction plans and cross-section information for the Project.

   c. State shall write legal descriptions and prepare right of way maps. If the Agency acquires any right of way on a State highway, the property descriptions and right of way maps shall be based upon centerline stationing and shall be prepared in accordance with the current ODOT Right of Way Engineering Manual, located at https://www.oregon.gov/ODOT/ETA/Documents_Geometronics/ROW-Eng-Manual.pdf and incorporated herein by reference. The preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by the State.

   d. State shall specify the degree of title to be acquired (e.g., fee, easement), which must be determined in accordance with the current ODOT Right of Way Manual.

8. Hazmat:

   a. State shall conduct a Level 1 Initial Site Assessment, according to State Guidance, within Project limits to detect presence of hazardous materials on any property purchase, excavation or disturbance of structures, as early in the Project design as possible, but at a minimum prior to property acquisition or approved design.

b. State shall conduct a Level 2 Preliminary Site Investigation, according to ODOT's Hazmat Program Procedures Guidebook and other applicable requirements of the Oregon Department of Environmental Quality, of sufficient scope to confirm the presence of contamination, determine impacts to properties and develop special provisions and cost estimates, if the Level 1 Initial Site Assessment indicates the potential presence of contamination that could impact the properties. If contamination is found, State will promptly disclose the severity and extent of contamination to Agency and present a recommendation for remediation to Agency as set forth in ODOT's Right of Way Manual Section 6.330 paragraph 2.

c. State shall attempt to have the property owner undertake any necessary remediation at the property owner's expense. Other options are set forth in ODOT's Right of Way Manual section 6.330 paragraph 2.b. If State undertakes any remediation on the site, Agency will be solely responsible for any liability that may arise from such remediation.

B. Right of Way Phase: State or Agency shall perform the Services outlined in this Section B during the acquisition right of way phase of the Project as identified below. When Services listed under this Section B are performed by Agency, Agency shall charge the Services as right of way expenditures.

1. Right of Way Acquisition:

a. Right of Way Acquisition is the process of obtaining property necessary for the Project, from negotiation to possession of the property, using various sub-processes including, but not limited to, appraisal, negotiation, condemnation, relocation, title closing, and project related property management related to the potential exercise of eminent domain. The basic requirements for carrying out right of way acquisition for the Project are set forth in this Section B.

b. When performing the right of way acquisition Services, State shall provide Agency with a monthly status report of the Services.

c. Title to properties acquired shall be in the name of State of Oregon, by and through its Department of Transportation.

d. The Agency delegates, and the State accepts, the Agency's authority pursuant to all relevant common law, statutes, ordinances, and other authorities, to acquire and condemn property on Agency's behalf for the Project, where such acquisition or condemnation is made necessary by the Project.

e. The Agency shall adopt a resolution of intention and determination of necessity in accordance with ORS 35.235 and ORS 35.610, authorizing acquisition and condemnation ("Resolution"). Agency's Resolution shall be substantially in the form of Exhibit B, attached hereto and by this reference made a part hereof. If the Agency would like the Oregon Department of Justice (DOJ) to provide legal or litigation Services related to the condemnation work identified in this Agreement on Agency's behalf, DOJ must provide approval prior to performance of the Right of Way Services under this Agreement. To secure DOJ assistance, ODOT's Region Right of Way Manager must submit a written request to DOJ's Chief Trial Counsel, the Agency must expressly and officially request and authorize DOJ representation for the condemnation on the Project, and the signature of DOJ's Chief Trial Counsel must be obtained on this Agreement.

2. Real Property and Title Insurance:

   a. State shall determine sufficiency of title (taking subject to). If the Agency acquires any right of way on a State highway, sufficiency of title (taking subject to) shall be determined in accordance with the current ODOT Right of Way Manual, and after obtaining State's concurrence. Agency shall clear any encumbrances necessary to conform to these requirements, obtain Title Insurance policies as required and provide the State copies of any title policies for the properties acquired.

   b. Agency shall accept conveyed property "as-is" and in accordance with ORS 93.808. State is not required to provide any additional Services to Agency, including but not limited to payment, documentation, platting, surveying, or remediation, beyond those specifically set forth in this Agreement.

3. Appraisal:

   a. State shall conduct the valuation process of properties to be acquired. If hazardous materials are located on the property, State shall use section 6.330, paragraph 2 in ODOT's Right of Way Manual.

   b. State shall perform the appraisal reviews to set just compensation.

   c. State shall recommend just compensation, based upon a review of the valuation by qualified personnel.

4. Negotiations:

   a. State shall tender all monetary offers to landowners in writing at the compensation level shown in the appraisal review. State shall have sole authority to negotiate and make all settlement offers. When settlements for property acquisitions are made for more or less than the approved just compensation amount, a justification is required. Said statement will include the consideration of any property trades, construction obligations and zoning or permit concessions. If State performs this function, it will provide the Agency with all pertinent letters, negotiation records and obligations incurred during the acquisition process.

   b. State and Agency shall determine a date for certification of right of way and agree to cosign the State's Right of Way Certification form. State and Agency agree possession of all right of way is complete prior to advertising for any construction contract, unless otherwise agreed to by Agency and State.

c. State agrees to file all Recommendations for Condemnation (Form 734-3311 and accompanying documents) with ODOT right of way headquarters, at least seventeen (17) weeks prior to the right of way certification date if negotiations have not been successful on those properties.

5. Relocation:

a. State shall perform any relocation assistance, make replacement housing computations, and do all things as required by applicable state and federal law necessary to relocate any persons displaced by the Project.

b. State shall determine all relocation benefits each property owner is eligible for and shall make all relocation and moving payments.

c. State shall facilitate the relocation appeal process.

C. Closing Phase

1. State shall close all transactions. This includes drawing of deeds, releases and satisfactions necessary to clear title, obtaining signatures on release documents, and making all payments.

2. Upon acceptance by State the conveyance documents shall be recorded.

D. Property Management

1. State shall take possession of all the acquired properties. There shall be no encroachments of buildings or other private improvements allowed upon the State highway right of way.

2. State shall dispose of all improvements and excess land consistent with applicable state, federal, and local laws and policies.

3. State shall conduct asbestos, lead paint and other hazardous materials surveys for all structures that will be demolished, renovated or otherwise disturbed. Asbestos surveys must be conducted by an AHERA (asbestos hazard emergency response act) certified inspector.

E. Condemnation

1. State may offer mediation if the State and property owners have reached an impasse.

2. State shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.

3. State shall perform all legal and litigation Services related to the condemnation process, including all settlement offers. Prior approval of this Agreement by DOJ and passage of an Agency Resolution are required as provided in Section B.1.e above.

4. When State performs legal or litigation Services related to the condemnation process, Agency acknowledges, agrees and undertakes to assure that no member of Agency's board or council, nor Agency's mayor, when such member or mayor is a practicing attorney, nor Agency's attorney(s), nor any member of the law firm of Agency's attorney(s), board or council member(s), or mayor, nor any other employee or representative of Agency licensed to practice law, will represent any party, except Agency, against the State of Oregon, its employees or contractors, in any matter arising from or related to the Project or the Services.

F. Transfer of Right of Way to State

When right of way is being acquired in Agency's name, Agency agrees to transfer and State agrees to accept all right of way acquired on the State highway. Agency shall identify the existence of any hazardous materials on or in the property prior to the transfer. The specific method of conveyance will be determined by the Agency and the State at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. Agency agrees to provide the State all information and file documentation the State deems necessary to integrate the right of way into the State's highway system. At a minimum, this includes: copies of all recorded conveyance documents used to vest title in the name of the Agency during the right of way acquisition process, and the Agency's Final Report or Summary Report for each acquisition file that reflects the terms of the acquisition and all agreements with the property owner(s).

G. Transfer of Right of Way to Agency

When right of way is being acquired in State's name, State agrees to transfer and Agency agrees to accept, at no additional cost to the State, all right of way acquired on the Agency's facility, subject to concurrence from the Oregon Transportation Commission and FHWA at the time of the transfer. State shall identify the existence of any hazardous materials on or in the property prior to the transfer. The specific method of conveyance will be determined by the State and the Agency at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. If requested, State agrees to provide Agency information and file documentation associated with the transfer.

EXHIBIT B
SAMPLE RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN
Right of Way Services

This Exhibit is an example only and the completed resolution will be a separate document from the ROWSA. (Instructions - please delete before completing form.) *The LPA should block and copy to incorporate this language into their own standard resolution form* ***OR*** *fill in an "attested to" line or signature line at the bottom and use this form.*

WHEREAS (insert title of agency) may exercise the power of eminent domain pursuant to (Agency's charter) (statutes conferring authority) and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by the (Insert title of agency)'s governing body to accomplish public purposes for which (insert title of agency) has responsibility;

WHEREAS (insert title of agency) has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public;

WHEREAS the project or projects known as (insert Project name) have been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in "Exhibit A" attached to this Resolution and, by this reference incorporated herein; now, therefore,

BE IT HEREBY RESOLVED by (Agency's Council, Commission, or Board)

1. The foregoing statements of authority and need are, in fact, the case. The project or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;

2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A to this Resolution. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law;

3. ([Insert title of Agency]'s staff and [attorney/counsel] --OR-- (The Oregon Department of Transportation and the Attorney General) are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any

court to decide matters determined above or determinable by the (Agency's Council, Commission, or Board).

4. (Insert title of agency) expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

DATED this _____ day of _________________, 20__

[insert signature blocks here]

Attachments: Exhibit A to Exhibit B to Agency Resolution Exercising the Power of Eminent Domain – Property Description

Exhibit A to Exhibit B - Agency Resolution Exercising the Power of Eminent Domain – Property Description

Continued from previous page. This Exhibit is an example only and the completed resolution will be a separate document from the ROWSA. Delete all highlighted instructions.

[insert property description]

ODOT Delivered Federal Project
On Behalf of City of Keizer
Verda Lane: Dearborn Avenue to Salem Parkway (Keizer)
Key Number: 20741

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 the CITY OF KEIZER, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually as "Party" or 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. Verda Lane from Dearborn Avenue to, but not including, the Salem Parkway is a part of the city street 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 Transportation Alternatives Program - Urban and may include a combination of federal, state and local 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 Verda Lane: Dearborn Avenue to Salem Parkway (Keizer) project on behalf of Agency, hereinafter referred to as "Project." Project includes the preliminary engineering design of a future construction project to complete bicycle facilities and sidewalks along Verda Lane between Dearborn Avenue and Salem Parkway. 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. The Parties anticipate the right of way and construction phases of the Project will be added at a later date. Upon full funding and the addition of these phases to the Project in the Statewide Transportation Improvement Program (STIP), this Agreement will be amended to include right of way and construction phase work, and add their respective costs. If the Parties do not amend this Agreement to add right of way and construction phase work, the right of way, construction and maintenance provisions in this Agreement will not apply.

3. 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.

4. The total Preliminary Engineering phase of Project cost is estimated at $501,600.00, which is subject to change. Federal funds for this Project shall be limited to $450,085.68. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal funds, and the 10.27 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 cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds.

5. Federal funds under this Agreement are provided under Title 23, United States Code.

6. ODOT does not consider Agency to be a subrecipient or vendor 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.

7. With the exception of Americans with Disabilities Act of 1990 (ADA) 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 at ten (10) percent (%) over engineer's estimate without prior approval of Agency.

8. State will submit the requests for federal funding to 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.

9. Agency guarantees the availability of Agency funding in an amount required to fully

fund Agency's share of the Project.

10. 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.

11. This Agreement may be terminated by mutual written consent of both Parties.

12. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:

    a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.

    b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.

    c. If Agency fails to provide payment of its share of the cost of the Project.

    d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

    e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.

13. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

14. Information required by 2 Code of Federal Regulation (CFR) 200.331(a)(1) shall be contained in the USDOT FHWA Federal Aid Project Agreement for this Project, a copy of which shall be provided by ODOT to Agency with the Notice to Proceed.

15. **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.

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

v. Applicable permitting and regulatory actions are consistent with ADA requirements.

c. Maintenance obligations in this section shall survive termination of this Agreement.

16. 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.

17. Agency grants State the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.

18. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The Parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.

19. 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; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

20. 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.

21. 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.

22. 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.

23. 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.

24. State's Contract Administrator for this Agreement is Kumar Rethnasamy, Transportation Project Leader, ODOT, 455 Airport Road SE, Building B, Salem, OR 97301, (503) 986-2692, Kumar.Rethnasamy@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

25. Agency's Contract Administrator for this Agreement is Bill Lawyer, Department Director, City of Keizer Public Works, P.O. Box 21000, Keizer, OR 97307, (503) 390-3700, LawyerB@keizer.org, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

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

This Project is in the 2018-2021 Statewide Transportation Improvement Program (STIP), (Key Number 20741) that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently by amendment to the STIP).

SIGNATURE PAGE TO FOLLOW

CITY OF KEIZER, by and through its elected officials

By ____________________
City Manager

Date 6-2-20

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

By ____________________
Agency Legal Counsel

Date 6-2-20

Agency Contact:
Bill Lawyer, Department Director
Public Works Department
City of Keizer
P.O. Box 21000
Keizer, OR 97307
(503) 390-3700
LawyerB@keizer.org

State Contact:
Kumar Rethnasamy
Transportation Project Leader
ODOT
455 Airport Road SE, Building B
Salem, Oregon 97301
(503) 986-2692
Kumar.Rethnasamy@odot.state.or.us

STATE OF OREGON, by and through its Department of Transportation

By M Megan Lynde
Highway Division Administrator

Date 6/15/2020

APPROVAL RECOMMENDED

By Sonny P.A. Chickering Digitally signed by Sonny P.A. Chickering Date: 2020.06.11 09:25:05 -07'00'
Region 2 Manager

Date ____________________

By Michael Kimlinger Jun 9 2020 8:06 AM
State Traffic Roadway Engineer

Date ____________________

By ____________________
Region 2 Project Delivery Manager

Date 6-8-2020

By John Huestis (via email)
Region 2, Area 3 Manager

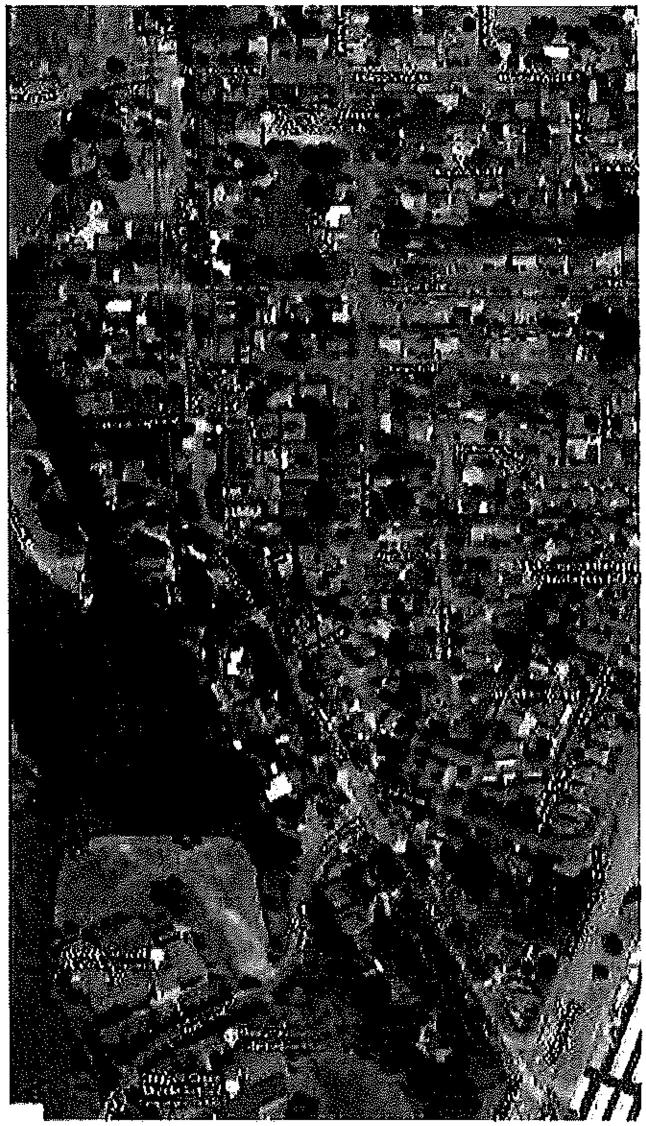
Date June 5, 2020

APPROVED AS TO LEGAL SUFFICIENCY

By Janet C. Borth (via email)
Assistant Attorney General

Date May 15, 2020

EXHIBIT A – Project Location Map



ATTACHMENT NO. 1 to AGREEMENT NO. 34063
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. Agency will lead public outreach at its own expense during the Project with support from ODOT technical staff if requested.

3. State and Agency agree that the useful life of this Project is defined as twenty (20) years.

4. 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 200.330.

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 49 CFR 29.510 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 A to 49 CFR part 29.

Misc. Contracts and Agreements
No. 34063

A136-G0092410

AMENDMENT NUMBER 01
ODOT Delivered Federal Project
On Behalf of City of Keizer
Verda Lane: Dearborn Avenue to Salem Parkway (Keizer)
Key Number: 20741

This is Amendment No. 01 to the Agreement between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and CITY OF KEIZER, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually as "Party" or collectively as "Parties," entered into on June 15, 2020.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to increase funding, add phases, and update language.

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

2. <u>Amendment to Agreement.</u> Additions are <u>underlined</u>. Deletions are *italicized* and ~~struck-through~~.

   a. **EXHIBIT A shall be deleted in its entirety and replaced with the attached REVISED EXHIBIT A. All references to "Exhibit A" shall hereinafter be referred to as "Revised Exhibit A."**

   b. **RECITALS, Paragraph 2, Page 1, is revised as follows:**

      2. <u>Alder Drive, Claxter Road, and</u> Verda Lane from Dearborn Avenue to, but not including, the Salem Parkway <u>are</u>~~*is*~~ a part of the city street system under the jurisdiction and control of Agency.

   c. **RECITALS, Paragraph 4, Page 1, is revised as follows:**

      4. The Project was selected as part of the Transportation Alternatives Program - Urban <u>and the Congestion Management Air Quality (CMAQ) Program</u> and may include a combination of federal, state, and local funds. "Project" is defined under Terms of Agreement, paragraph 1 of this Agreement.

   d. **TERMS OF AGREEMENT, Paragraphs 1 - 2, Page 2, are revised as follows:**

      1. Under such authority, Agency and State agree to State delivering the Verda Lane: Dearborn Avenue to Salem Parkway (Keizer) project on behalf of Agency, hereinafter referred to as "Project." ~~*Project includes the preliminary engineering design of a future construction project to complete*~~<u>The Project includes design and construction of</u> bicycle lanes and sidewalks along Verda Lane between Dearborn Avenue and Salem Parkway, and a safety enhancement to <u>realign Claxter Road to Alder Drive at the intersection of Verda</u>

Key No. 20741

Lane and Alder Drive. The location of the Project is approximately as shown on the maps attached hereto, marked "Revised Exhibit A," and by this reference made a part hereof.

2. The Parties agree that the right of way and construction phases of the Project are funded in the State Transportation Improvement Program (STIP), and herein incorporated into this Agreement. ~~*The Parties anticipate the right-of-way and construction phases of the Project will be added at a later date. Upon full funding and the addition of these phases to the Project in the Statewide Transportation Improvement Program (STIP), this Agreement will be amended to include right-of-way and construction phase work, and add their respective costs. If the Parties do not amend this Agreement to add right-of-way and construction phase work, the right of way, construction and maintenance provisions in this Agreement will not apply.*~~

e. **TERMS OF AGREEMENT, Paragraph 4, Page 2, is revised as follows:**

4. The total ~~*Preliminary Engineering phase of*~~ Project cost is estimated at $4,074,800.00~~*$501,600.00*~~, which is subject to change. Federal funds for this Project shall be limited to $3,440,359.44~~*$450,085.68*~~. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal funds, and the 10.27 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 cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds.

f. **TERMS OF AGREEMENT, Paragraph 6, Page 2, is revised as follows:**

6. ODOT does not consider Agency to be a subrecipient or contractor*vendor* 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.

g. **TERMS OF AGREEMENT, Paragraph 14, Page 3, is revised as follows:**

14. 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. ~~*Information required by 2 Code of Federal Regulation (CFR) 200.331(a)(1) shall be contained in the USDOT FHWA Federal Aid*~~

~~Project-Agreement-for-this-Project, a-copy-of-which-shall-be-provided-by-ODOT to-Agency-with-the-Notice-to-Proceed.~~

h. **TERMS OF AGREEMENT, Paragraph 19, Page 5, is revised as follows:**

19. 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~~; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement~~.

i. **INSERT NEW TERMS OF AGREEMENT, Paragraph 26, to read as follows:**

26. 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.

j. **INSERT NEW TERMS OF AGREEMENT, Paragraph 27, to read as follows:**

27. 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 8 (Funding), 13 (Termination), 15.b (ADA maintenance), 14, 18-20, 23 (Integration, Merger,; Waiver), 26-27; and Attachment 2, paragraphs 1 (Project Administration), 7, 9, 11, 13 (Finance), and 37-41 (Maintenance and Contribution).

4. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

5. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

City of Keizer/ODOT
Agreement No. 34063 Amendment No. 1

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

This Project is in the 2021-2024~~-2018-2021~~ Statewide Transportation Improvement Program (STIP) (Key No. 20741) that was adopted by the Oregon Transportation Commission on July 15, 2020~~*July 20, 2017*~~(or subsequently by amendment to the STIP).

CITY OF KEIZER, by and through its elected officials

By ______________________
City Manager

Date 4/4/2023

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

By ______________________
Agency Legal Counsel

Date 4-4-2023

Agency Contact:
Bill Lawyer, Department Director
Public Works Department
City of Keizer
P.O. Box 21000
Keizer, OR 97307
(503) 390-3700
LawyerB@keizer.org

State Contact:
Kumar Rethnasamy
Transportation Project Leader
ODOT
455 Airport Road SE, Building B
Salem, Oregon 97301
(503) 986-2692
Kumar.Rethnasamy@odot.oregon.gov

STATE OF OREGON, by and through its Department of Transportation

By McGregor LYNDE (Apr 19, 2023 11:57 PDT)
Delivery and Operations Division Administrator

Date 04/19/2023

APPROVAL RECOMMENDED

By Not Applicable
Certification Program Manager

Date ______________________

By Heidi SHOBLOM (Apr 10, 2023 08:56 PDT)
State Traffic Roadway Engineer

Date 04/10/2023

By Sonny P.A. Chickering (Apr 7, 2023 16:59 PDT)
Region 2 Manager

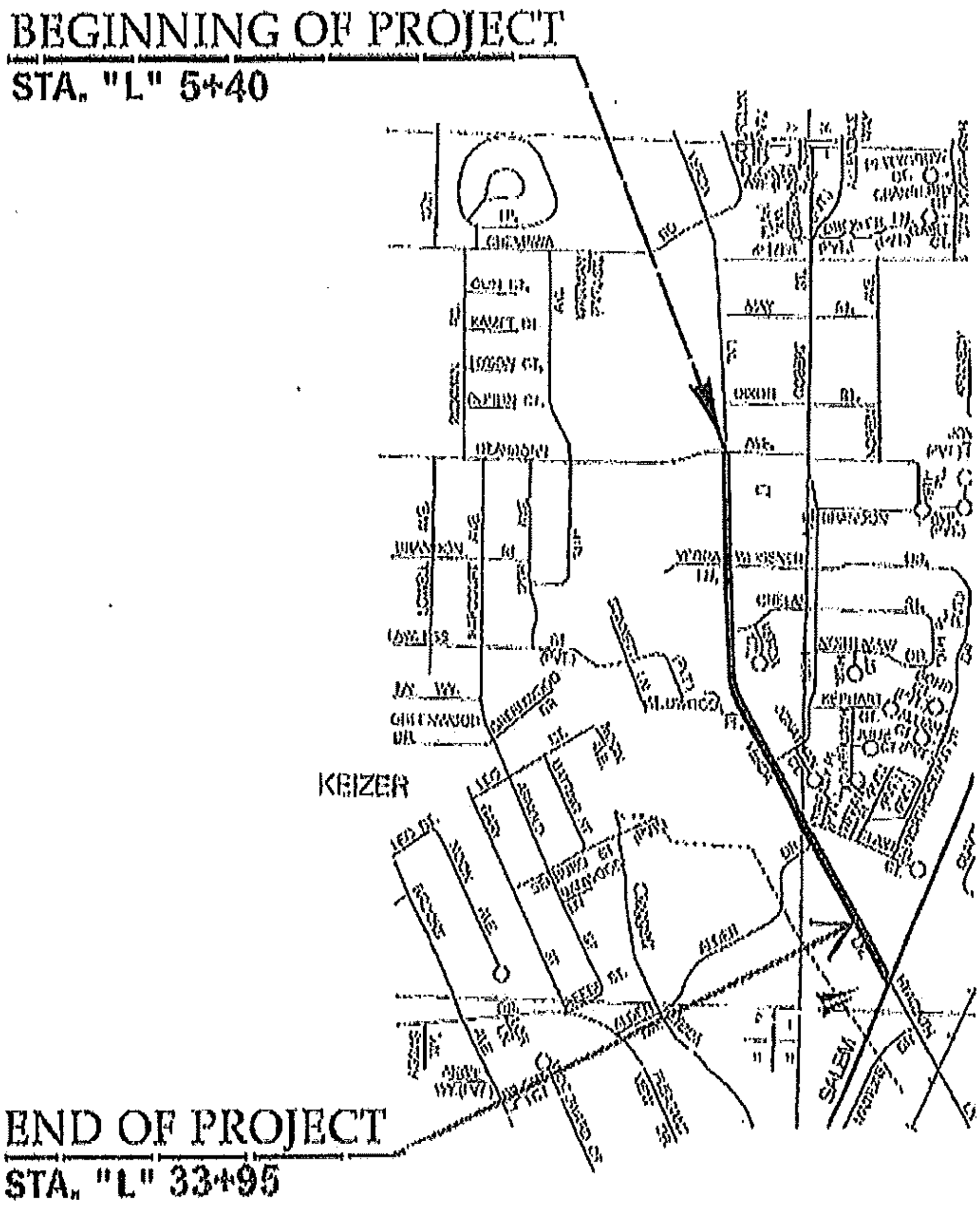
Date 04/07/2023

APPROVED AS TO LEGAL SUFFICIENCY

By Janet Borth (via email)
Assistant Attorney General

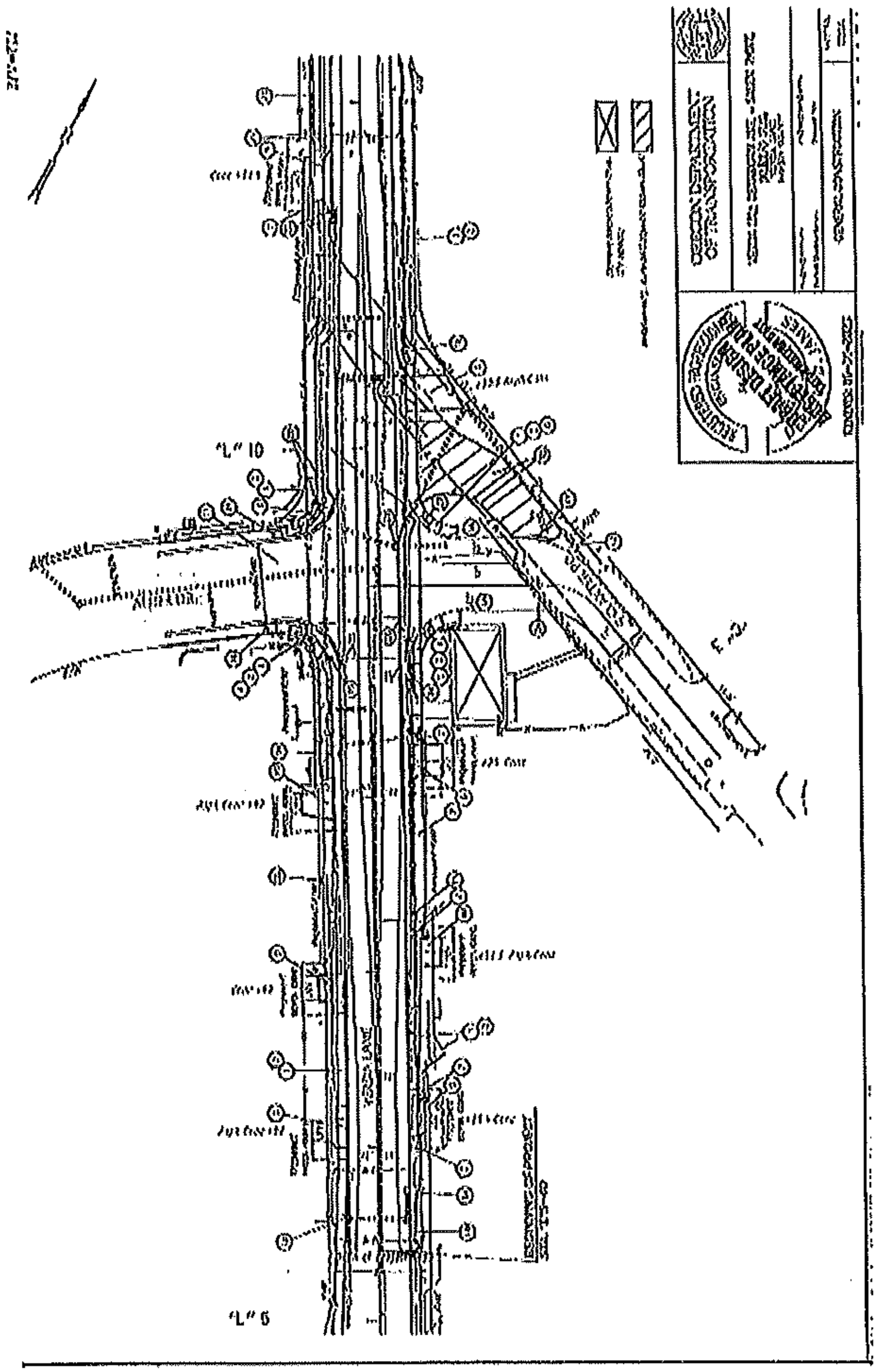
Date 3/13/2023 (email retained in record)

<u>REVISED</u> EXHIBIT A – Project Location Map



Continued next page

<u>REVISED</u> EXHIBIT A – Project Location Map (continued)



Misc. Contracts and Agreements
No. 34063

A136-G0092418

AMENDMENT NUMBER 01
ODOT Delivered Federal Project
On Behalf of City of Keizer
Verda Lane: Dearborn Avenue to Salem Parkway (Keizer)
Key Number: 20741

This is Amendment No. 01 to the Agreement between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and CITY OF KEIZER, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually as "Party" or collectively as "Parties," entered into on June 15, 2020.

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~~*Project Agreement for this Project, a copy of which shall be provided by ODOT to Agency with the Notice to Proceed.*~~

h. TERMS OF AGREEMENT, Paragraph 19, Page 5, is revised as follows:

19. 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~~*; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement*~~.

i. INSERT NEW TERMS OF AGREEMENT, Paragraph 26, to read as follows:

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j. INSERT NEW TERMS OF AGREEMENT, Paragraph 27, to read as follows:

27. 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 8 (Funding), 13 (Termination), 15.b (ADA maintenance), 14, 18-20, 23 (Integration, Merger,; Waiver), 26-27; and Attachment 2, paragraphs 1 (Project Administration), 7, 9, 11, 13 (Finance), and 37-41 (Maintenance and Contribution).

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5. **Original Agreement**. Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

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

This Project is in the 2021-2024 ~~2018-2021~~ Statewide Transportation Improvement Program (STIP) (Key No. 20741) that was adopted by the Oregon Transportation Commission on July 15, 2020~~July 20, 2017~~(or subsequently by amendment to the STIP).

CITY OF KEIZER, by and through its elected officials

By ______________
City Manager

Date 4/4/2023

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

By ______________
Agency Legal Counsel

Date 4-4-2023

Agency Contact:
Bill Lawyer, Department Director
Public Works Department
City of Keizer
P.O. Box 21000
Keizer, OR 97307
(503) 390-3700
LawyerB@keizer.org

State Contact:
Kumar Rethnasamy
Transportation Project Leader
ODOT
455 Airport Road SE, Building B
Salem, Oregon 97301
(503) 986-2692
Kumar.Rethnasamy@odot.oregon.gov

STATE OF OREGON, by and through its Department of Transportation

By McGregor LYNDE (Apr 19, 2023 11:57 PDT)
Delivery and Operations Division Administrator

Date 04/19/2023

APPROVAL RECOMMENDED

By Not Applicable
Certification Program Manager

Date ______________

By Heidi SHOBLOM (Apr 10, 2023 08:56 PDT)
State Traffic Roadway Engineer

Date 04/10/2023

By Sonny P.A. Chickering (Apr 7, 2023 16:59 PDT)
Region 2 Manager

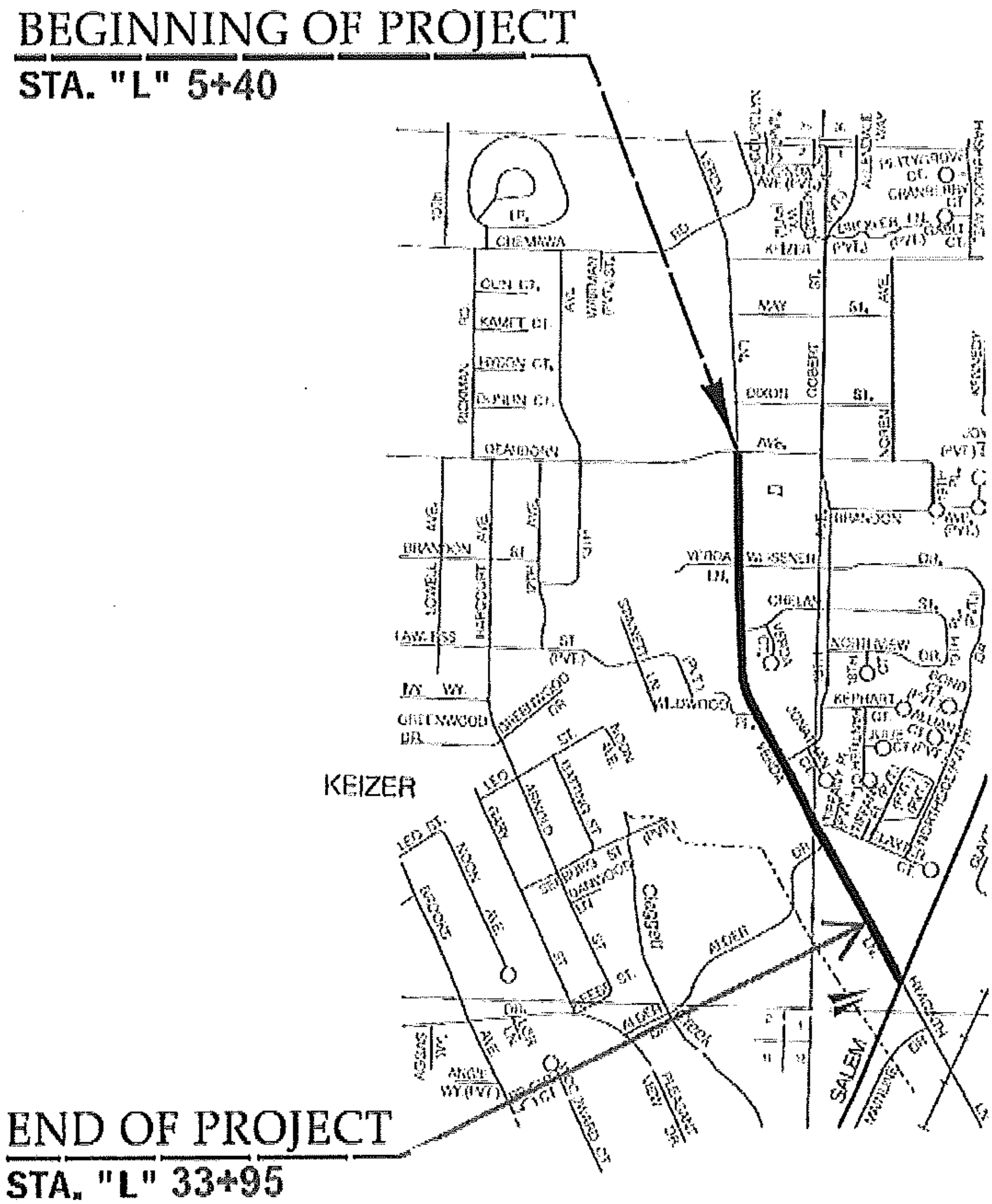
Date 04/07/2023

APPROVED AS TO LEGAL SUFFICIENCY

By Janet Borth (via email)
Assistant Attorney General

Date 3/13/2023 (email retained in record)

<u>REVISED</u> EXHIBIT A – Project Location Map



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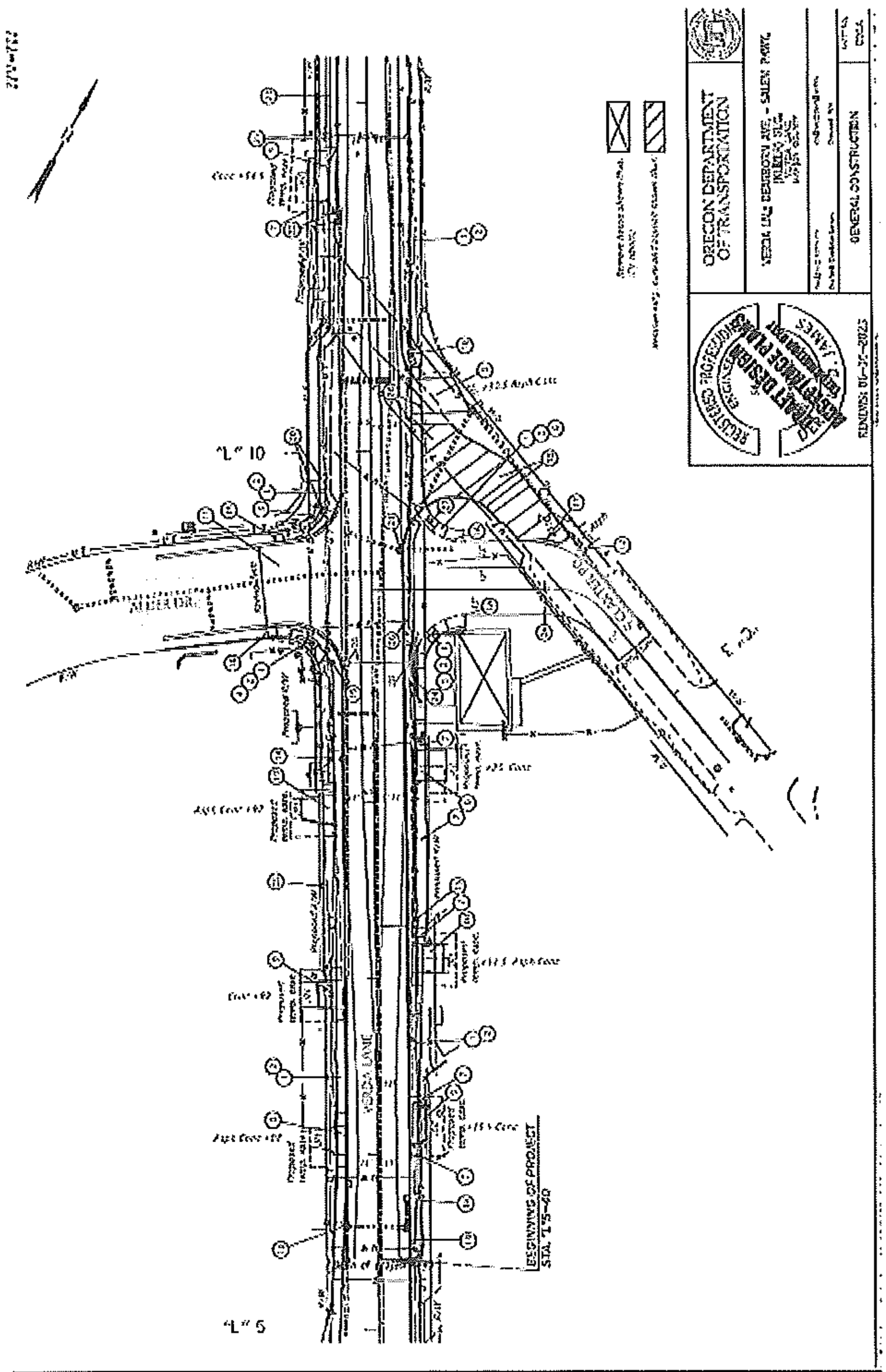
REVISED EXHIBIT A – Project Location Map (continued)



CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2025-_____

AUTHORIZING CITY MANAGER TO SIGN AMENDMENT NUMBER 02 TO AGREEMENT WITH STATE OF OREGON FOR VERDA LANE: DEARBORN AVENUE TO ASCOT LANE PROJECT

WHEREAS, the City of Keizer entered into the Agreement for the Verda Lane: Dearborn Avenue to Salem Parkway engineering project in June 2020;

WHEREAS, the City of Keizer entered into Amendment Number 01 to the Agreement to allow the design and construction of the project in 2023;

WHEREAS, the State of Oregon, acting by and through its Department of Transportation is requesting that the City enter into Amendment Number 02 to the Agreement to allow for funds for the construction phase, to update the project name, to update the map exhibit, and to update the attachment to reflect revised law and policy;

WHEREAS, the State of Oregon, acting by and through its Department of Transportation and the City are authorized to enter into agreements under Oregon Revised Statutes Chapter 190;

WHEREAS, the State and the City wish to enter into the attached Amendment Number 02;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is authorized to sign the attached Amendment Number 02 to the Agreement for the Verda Lane: Dearborn Avenue to Ascot Lane project.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED that the City Manager is directed and authorized to take all action necessary and appropriate in connection with such Agreement.

BE IT FURTHER RESOLVED that the matching funds shall be paid out of the Street Fund.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this __________ day of _________________, 2025.

SIGNED this __________ day of _________________, 2025.

____
Mayor

____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

Misc. Contracts and Agreements
No. 34063

A136-G0092418

AMENDMENT NUMBER 2
ODOT Delivered Federal Project
On Behalf of City of Keizer
Verda Lane: Dearborn Avenue to Ascot Lane (Keizer)
Key Number: 20741

This is Amendment No. 02 to the Agreement between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as “State” or “ODOT,” and CITY OF KEIZER, acting by and through its elected officials, hereinafter referred to as “Agency,” both herein referred to individually as “Party” or collectively as “Parties,” entered into on June 15, 2020, and as amended by Amendment No. 1 entered into April 19, 2023.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to add funds for the construction phase, update Project name to include Ascot Lane, update map exhibit, and update attachment to reflect revised law and policy.

The Project name in the original Agreement, “Verda Lane: Dearborn Avenue to Salem Parkway (Keizer),” has changed to “Verda Lane: Dearborn Avenue to Ascot Lane (Keizer)” as reflected in the title of this document.

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

2. **Amendment to Agreement.** Additions are underlined. Deletions are *italicized* and ~~struck through~~.

   a. **REVISED EXHIBIT A shall be deleted in its entirety and replaced with the attached REVISED EXHIBIT A-1. All references to “Revised Exhibit A” shall be referred to as “Revised Exhibit A-1.”**

   b. **ATTACHMENT No. 1 shall be deleted in its entirety and replaced with the attached REVISED ATTACMENT No. 1. All references to “ATTACHMENT No. 1” shall be referred to as “REVISED ATTACHMENT No. 1.”**

   c. **RECITALS, Paragraph 2, Page 1, is revised as follows:**

      2. The Alder Drive, Claxter Road, *~~and~~* Verda Lane, *~~from~~* Dearborn Avenue *~~to~~*, *~~but not including, the Salem Parkway~~* and Ascot Lane are a part of the city street system under the jurisdiction and control of Agency.

   d. **TERMS OF AGREEMENT, Paragraph 1, Page 2, is revised as follows:**

      1. Under such authority, Agency and State agree to State delivering the Verda Lane: Dearborn Avenue to Ascot Lane *~~Salem Parkway~~* (Keizer) project on behalf of Agency, hereinafter referred to as “Project.” The Project includes design and construction of bicycle lanes and sidewalks and intersection

realignment to increase safety and promote alternative methods of transportation. ~~*along Verda Lane between Dearborn Avenue and Salem Parkway, and a safety enhancement to realign Claxter Road to Alder Drive at the intersection of Verda Land and Alder Drive.*~~ The location of the Project is approximately as shown on the map~~s~~ attached hereto, marked "Revised Exhibit A-1," and by this reference made a part hereof.

e. **TERMS OF AGREEMENT, Paragraph 4, Page 2, is revised as follows:**

4. The total Project cost is estimated at $9,455,704.74~~*$4,074,800.00*~~, which is subject to change. Federal funds for this Project shall be limited to $7,095,128.36~~*$3,440,359.44*~~. Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal funds, and the 10.27 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 cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds.

f. **TERMS OF AGREEMENT, Paragraph 6, Page 2, is revised as follows:**

6. ODOT does not consider Agency to be a subrecipient or contractor under this Agreement for purposes of federal funds. The Assistance Listing (AL)~~*Catalog of Federal Domestic Assistance (CFDA)*~~ number for this Project is 20.205, title Highway Planning and Construction. Agency is not eligible to be reimbursed for work performed under this Agreement.

3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

5. **Electronic Signatures.** The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

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

This Project is in the 2024-2027~~*2021-2024*~~ Statewide Transportation Improvement Program (STIP), (Key No. 20741) that was adopted by the Oregon Transportation Commission on July 13, 2023~~*July 15, 2020*~~ (or subsequently by amendment to the STIP)**.**

SIGNATURE PAGE TO FOLLOW

CITY OF KEIZER, by and through its elected officials

By ____________________________
City Manager

Date __________________________

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

By ____________________________
Agency Legal Counsel

Date __________________________

Agency Contact:
Bill Lawyer, Department Director
Public Works Department
City of Keizer
P.O. Box 21000
Keizer, OR 97307
(503) 390-3700
LawyerB@keizer.org

State Contact:
Kumar Rethnasamy, Project Manager
ODOT Region 2
455 Airport Road SE, Building B
Salem, Oregon 97301
(503) 986-2692
Kumar.Rethnasamy@odot.oregon.gov

STATE OF OREGON, by and through its Department of Transportation

By ____________________________
Region 2 Manager

Date __________________________

APPROVAL RECOMMENDED

By ____________________________
Region 2 Project Delivery Manager

Date __________________________

By ____________________________
Region 2 Area 3 Manager

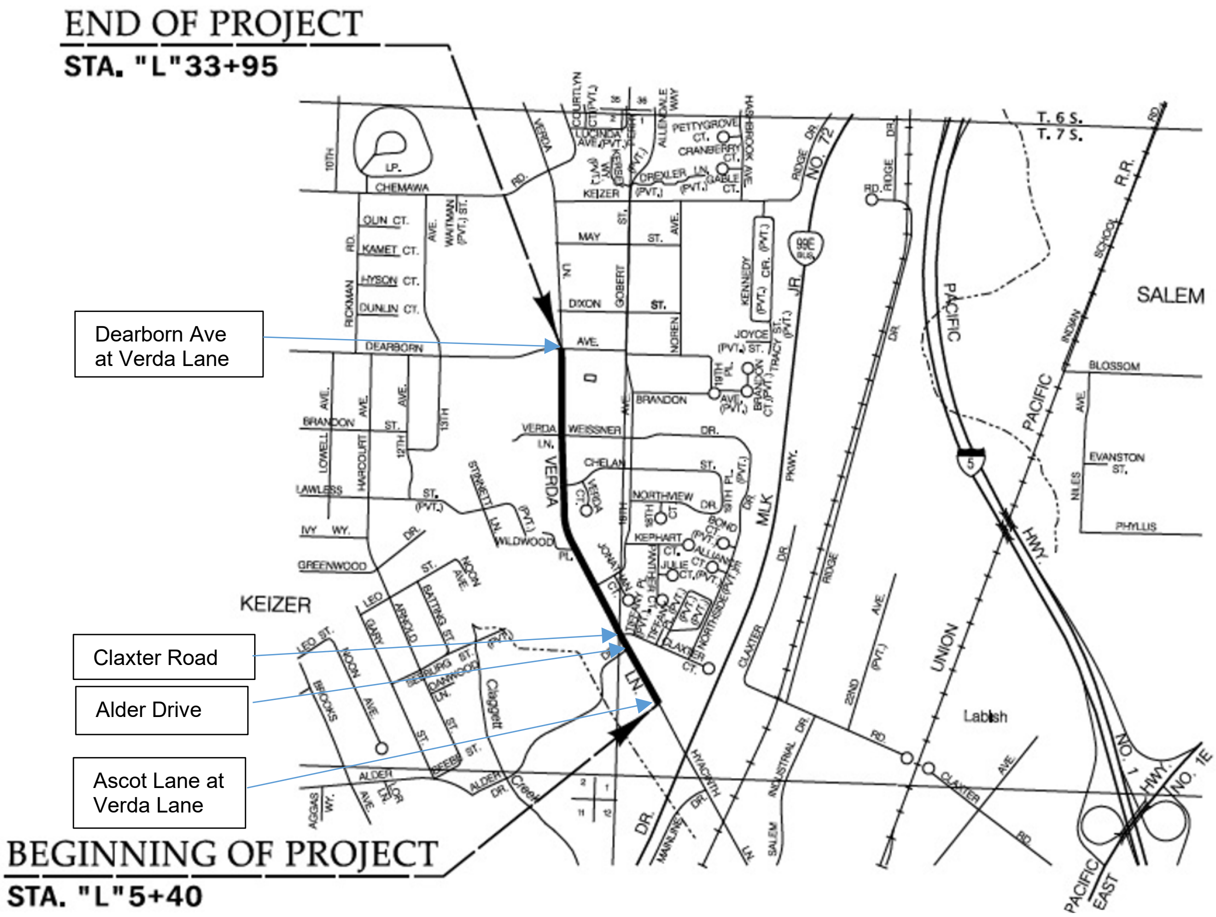
Date __________________________

APPROVED AS TO LEGAL SUFFICIENCY

By ____________________________
Assistant Attorney General

Date __________________________

REVISED EXHIBIT A-1 – Project Location Map



REVISED ATTACHMENT NO. 1 to AGREEMENT NO. 34063
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, State or 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. Agency will lead public outreach at its own expense during the Project with support from ODOT technical staff if requested.

3. State and Agency agree that the useful life of this Project is defined as twenty (20) years.

4. 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.

5. State will purchase right of way in State's name. Upon completion of the Project, State and Agency agree that any right of way purchased outside of State jurisdiction will be transferred to Agency. Agency agrees to take title to the property and shall maintain the property pursuant to this Agreement. Agency shall use the property for public road purposes. If the property is no longer used for public road purposes, it shall revert to State.

6. To reflect the changes made to 23 U.S.C. 102 by the Infrastructure Investment and Jobs Act of 2021 (Public Law 117-58), Paragraph 11.b. of Attachment No. 2 Federal Standard Provisions is deleted in its entirety

MINUTES
KEIZER CITY COUNCIL
Monday, August 4, 2025
Robert L. Simon Council Chambers
930 Chemawa Road NE
Keizer, Oregon

CALL TO ORDER

Council President Starr called the meeting to order at 6:01 p.m.

ROLL CALL

Roll call was taken as follows:

Present:
Cathy Clark, Mayor - virtually
Shaney Starr, Council President
Soraida Cross, Council Vice President
Kyle Juran, Councilor
Daniel Kohler, Councilor
Marlene Parsons, Councilor
Lore Christopher, Councilor - virtually (arrived in person at 6:50 p.m.)

Staff:
Adam Brown, City Manager
Tim Wood, Assistant City Manager
Shane Witham, Planning Director
Joseph Lindsay, City Attorney
Bill Lawyer, Public Works Director
Andrew Copeland, Police Chief
Melissa Bisset, City Recorder

Absent:
Garrett Klever, Human Resources Director
Youth Councilor - Vacant Position

FLAG SALUTE

Mayor Clark led the pledge of allegiance.

SPECIAL ORDERS OF BUSINESS

There were no special orders of business.

COMMITTEE REPORTS

Matt Myers, member of the Traffic Safety, Bikeways, and Pedestrian Committee, shared about the recent meeting.

Rhonda Rich, and Carolyn Hollman, West Keizer Neighborhood Association (WKNA), provided the Council with their Newsletter and reviewed the contents of the newsletter, which included updates for WKNA. Councilor Christopher commented on the excellent job on their newsletter.

Becka Bonner, member of the Keizer Public Arts Commission, shared about the recent meeting and noted that they would now be meeting monthly.

PUBLIC COMMENTS

There were no written comments.

Shannon Moore, Keizer, President of Keizer Little League, felt that issuing an Request for Proposal could be more harmful than helpful. She shared about a recent meeting that included what was working well and what needed improvement. She shared that there were unmet contractual obligations, such as field maintenance, timely communication with the public, clearer guidance on fee structures and volunteer work. She felt that making changes to the current contract would be better.

Matt Myers, Keizer, asked about the purchase of the truck. He said the budget was for an F150 and the Resolution was for an F550. Mr. Lawyer explained that the intent was to replace a 2004 F550. It had gone through the budget process and the budgeted amount was correct and was in the Water Fund.

CONSENT CALENDAR

a. Event Center Use Fee Waiver - Marion County Re-entry Initiative Breakfast

b. <u>RESOLUTION</u> - Authorizing the City Manager to Purchase 2025 Ford F550 Truck for Public Works Department and Authorizing Disposition of Surplus Property

c. Approval of July 14, 2025 Work Session Minutes

d. Approval of July 21, 2025 Regular Session Minutes

<u>Councilor Kohler moved that the Keizer City Council approve the Consent Calendar. Council Vice President Cross seconded. Motion passed unanimously as follows:</u>
AYES: Clark, Starr, Cross, Kohler, Juran, Christopher, and Parsons (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

PUBLIC HEARINGS

a. Text Amendment Case 2025-06: Amending Keizer Code Appendix A, Section 2.110 - Commercial Mixed Use (related to auto-oriented uses) - Re-Opening Public Hearing

Council President Starr explained that the City Council conducted a previous legislative land-use hearing on June 16 to consider amending the Keizer Code to allow certain auto-oriented uses in Keizer Station Area B as a conditional use. At the July 7th City Council meeting, the Council directed staff at the end of further discussion to set over the matter to August 4th to reopen the hearing to be able to supplement the record with additional information for the Council to consider.

Under the Keizer City Council Rules of Procedure Section 10.4 A (6): “Prior to adoption of an ordinance relating to a legislative land use matter, and upon a majority vote of the Council, a hearing may be reopened to receive additional testimony, evidence or argument. The same notice requirements shall be met for the reopened hearing as were required for the original hearing."

Councilor Kohler moved to reopen the public hearing. Council Vice President Cross seconded. Motion passed unanimously as follows:
AYES: Clark, Starr, Cross, Kohler, Juran, and Parsons (6)
NAYS: None (0)
ABSTENTIONS: Christopher (1)
ABSENT: None (0)

Council President Starr reopened the Public Hearing.

Before proceeding with any further testimony on this matter, there was additional information and evidence presented at the July 7 general city council meeting that would become a part of the record. And any additional written comments received since the initial meeting on June 16th will likewise be considered as part of the record. Also, there had been some additional information that was presented to at least three councilors at a July 9th neighborhood association meeting in the living room of City Hall. That meeting was audio-recorded and had about 37 people in attendance (including City staff). That recording would become part of this record as well as a distillation of the citizen comments made at the meeting that were put into the packet.

Council President Starr asked if any Councilor wished to abstain from the hearing.

Council President Starr explained that the public hearing process.

Planning Director Shane Witham summarized the staff report.

Council President Starr asked if there was anyone who wished to speak on the matter.

There was no public testimony.

With no further testimony, Council President Starr closed the Public Hearing.

b. RESOLUTION - Exemption of Informal Solicitation Requirements Relating to the Purchase of Degas Separator for the Meadows Pump Station from Mazzei Injector Company LLC

Council President Starr opened the Public Hearing.

Public Works Director Bill Lawyer summarized the staff report.

It was noted that it was a budgeted item.

Council President Starr asked if there was anyone that wished to speak on the matter. There was no one who wished to testify.

With no further testimony, Mayor Clark closed the Public Hearing.

Councilor Kohler moved to adopt Resolution R2025- Exemption of Informal Solicitation

Requirements Relating to the Purchase of Degas Separator for the Meadows Pump Station from Mazzei Injector Company LLC. Council Vice President Cross seconded. Motion passed unanimously as follows:
AYES: Clark, Cross, Kohler, Starr, Juran, Christopher, and Parsons (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

c. **RESOLUTION - Authorization for a Supplemental Budget - Administrative Services Fund - Prophecy Gov Software**

Council President Starr opened the Public Hearing.

Assistant City Manager Tim Wood summarized the staff report.

With no further testimony, Council President Starr closed the Public Hearing.

There was a question about why the funds would be taken from the City Attorney's budget. Mr. Wood explained that there were funds available in the City Attorney's budget in outside legal fees as they were not foreseeable at this time.

There were questions about whether there were plans in place to access the cost savings from using the software.

Mr. Brown felt that it would save hundreds of hours in staff time and that he thought the software had analytics for usage. All of the City staff would have access, and it would be a one-year trial.

Councilor Kohler moved to adopt Resolution R2025- Authorization for Supplemental Budget - Administrative Services Fund - Prophecy Gov Software. Council Vice President Cross seconded. Motion passed unanimously as follows:
AYES: Clark, Cross, Kohler, Starr, Juran, Christopher, and Parsons (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

ADMINISTRATIVE ACTION

a. **ORDINANCE - Relating to Auto-Oriented Uses in Keizer Station Area B; Amending Keizer Code Appendix A, Section 2.1104.04 and Section 2.110.05**

Councilor Kohler moved to adopt an Ordinance No. 2025- Relating to Auto-Oriented Uses in Keizer Station Area B; Amending Keizer Code Appendix A, Section 2.110.04 and Section 2.110.05. Council Vice President Cross seconded. Motion passed unanimously as follows upon first reading:
AYES: Clark, Cross, Kohler, Starr, Juran, Christopher, and Parsons (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

Mayor Clark thanked everyone who had engaged in the conversation. She shared that over the years, the Council has considered how the various areas could be used from industrial to retail. She thought one of the successes was the transfer station, which wasn't an original plan for that area. The Council has adapted to the markets and needs.

Mayor Clark wanted to acknowledge that there had been a lot of work around the Keizer Revitalization Plan and the River-Cherry Overlay District. She stated that they wanted a strong, locally-based economy. She believed that the change for the eastern portion makes sense. She stated that the western portion was a transition from business to residential. She supported the Ordinance.

b. Salem Keizer Welcome Sign Design Recommendation

City Manager Adam Brown summarized the staff report.

Councilor Christopher thought that the Keizer Public Art Commission did a great job, and it was a perfect companion to the Salem sign.

<u>Councilor Kohler moved to approve the recommendation of the Keizer Public Art Commission for the Salem Keizer Welcome sign on River Road. Council Vice President Cross seconded. Motion passed unanimously as follows:</u>
AYES: Clark, Cross, Kohler, Starr, Juran, Christopher, and Parsons (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

c. Discussion regarding Scope of Services for Request for Proposals for Keizer Little League Park

City Manager Adam Brown summarized the staff report.

Mayor Clark asked about the list of the Scope of Work and if it should be taken back into the conversation between McNary Youth Baseball, Keizer Little League and staff.

There was a question about the negatives of doing the Request for Proposals (RFP). Mr. Brown shared that they would still go over the items that Ms. Moore brought up and the issues. Mr. Brown did not see a downside.

Ms. Moore, with Will Johnson, President, McNary Youth Baseball present, asked if the City issued an RFP and if the City would have to go with anyone in particular. Ms. Moore asked if there would be damage to the relationship with the existing manager. City Attorney Lindsay explained that if the City did not like the proposals, that they did not have to select a new contractor.

Mayor Clark shared that one of the cons was the recent conversation around the management of the artificial turf fields was that there was a great deal of work done by staff and by applicants to prepare for proposals. Mayor Clark felt that she would be hesitant to put everyone through the process.

Councilor Christopher shared that she agrees with moving forward with an RFP to obtain additional information and learn who would be interested in managing the Little League Park.

Councilor Cross stated that she felt there were great partners that could help out to reduce staff time. She suggested having someone from the Parks Recreation and Advisory Board and a City Councilor included in the RFP process.

Councilor Juran asked about what the likelihood of modifying the current contract. Mr. Brown explained that they would be enforcing the contract language as it was written. He felt there would be a willingness from Love of the Game to make things right.

Mayor Clark asked about item #6, in particular; the section about Regular Youth League was limited to Keizer-based leagues with the majority of players being Keizer residents. Mr. Brown clarified that it is Monday through Friday and the current users are McNary Youth Baseball and Keizer Little League.

Mayor Clark asked about field fees and if fee waivers or free play would be included in the proposals. Mr. Brown shared that there was room for the proposers to include that and the Council ultimately sets the fees.

Mayor Clark asked about item #17, and if it should be limited to food handling or if something more was needed. Mr. Brown stated that the City would expect them to be compliant with County Health Laws.

Mayor Clark requested to add the expectation that the Parks Recreation and Advisory Board would be consulted in an advisory role when looking at the Capital Improvement Plan (CIP). Councilor Cross asked that a couple of members of the Parks Recreation and Advisory Board and a Councilor be involved in the process.

Mr. Brown stated that during the budget process this year, not going through the Parks Recreation and Advisory Committee was a miss. He shared that the Parks Plan would go through the Parks Recreation and Advisory Board.

Councilor Cross suggested working with Billy Powers from the City of Salem and for his review, as he had been doing tournaments for many years.

Councilor Kohler stated that the purpose was to make sure that Keizer kids had a place to play that was affordable.

<u>Councilor Kohler moved that Council allow staff to move forward with a solicitation for proposals for managing the Keizer Little League Complex with the comments from Council incorporated into the scope of work. Council Vice President Cross seconded.</u>

<u>Council Vice President Cross made a friendly amendment of adding Councilor Parsons to the RFP process.</u>

There was discussion about the RFP, Scope of Services, and the five-year strategic plan.

There was clarification about the Scope of Services, and the RFP document.

Mayor Clark stated that the development of the CIP would be done with the Parks Recreation and Advisory Board. She suggested to alter number 29 to say that they would be working with the user group, staff, and the Parks Recreation and Advisory Board in an advisory capacity. Mr. Brown commented that he would add the Council Liaison and the Parks Recreation and Advisory Board to number 29.

Council Vice President Cross withdrew her friendly amendment.

Motion passed unanimously as follows:
AYES: Clark, Cross, Kohler, Starr, Juran, Christopher, and Parsons (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

d. Discussion regarding the request from Traffic Safety, Bikeways, and Pedestrian Committee for possible name change

Public Works Director Bill Lawyer summarized the staff report.

Mr. Myers clarified that the Traffic Safety, Bikeways and Pedestrian Committee was requesting permission to look at options for names to bring back to the City Council.

There were questions about whether there were mandates related to the Traffic, Safety, Bikeways, and Pedestrian Committee and about broadcasting. It was noted that staff had not seen a mandate anywhere related to the name of the committee.

Mayor Clark provided a history of when the two committees were merged. Council expressed support for the Committee to look at a name change to bring to Council.

Councilor Kohler moved the City Council to provide direction to the Committee and staff. Council Vice President Cross seconded. Motion passed unanimously as follows:
AYES: Clark, Cross, Kohler, Starr, Juran, Christopher, and Parsons (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

OTHER BUSINESS

Mayor Clark asked about registering her vote for the RFP issue. It was noted that Council President Starr had assumed and announced that Mayor Clark's vote was affirmative.

There was no additional business.

STAFF UPDATES

City Manager Brown looked forward to National Night Out.

Assistant City Manager Wood reported that the work for the electric charging station had begun.

Chief Andrew Copeland shared about National Night Out. Over the weekend, they had done a back-to-school shopping event and served kids at Fred Meyer. Three positions had recently been offered, and there were several candidates in the background process. He noted that recruitment was improving.

City Attorney Joseph Lindsay asked if Mayor Clark wished to delegate her signing authority for the ordinances and resolutions to Council President Starr as she was out of town. Mayor Clark explained that she would return in the morning and could sign them at that time.

COUNCIL MEMBER REPORTS

Councilor Christopher commented on the great toys at the Big Toy.

Councilor Kohler thanked the Councilors for their work at the Community Dinner. He encouraged the community to attend.

Councilor Parsons commented on the grant from Home Depot for the Gold Star Memorial. Councilor Parsons thanked Public Works staff member Sam Tablanza for his help at the Big Toy Paint project.

Mayor Clark shared about National Night Out and expressed appreciation for Council President Starr serving as the Presiding Officer and to Planning Director Shane Witham for his work on the Scenario Plan. Mayor Clark shared about the Neighborhood Family Council Fun Friday was last week had a huge turnout thanks to the Police Chief, Fire District, and many community partners. She shared upcoming events and meetings.

AGENDA INPUT

Monday, August 11, 2025
City Council Work Session - **CANCELED**

Monday, August 18, 2025 - 6:00 p.m.
City Council Regular Session

Tuesday, September 2, 2025 - 6:00 p.m.
City Council Regular Session

Monday, September 8, 2025 - 6:00 p.m.
Joint Work Session with the Parks & Recreation Advisory Board - Parks Tour

ADJOURNMENT

Council President Starr announced that the City Council would be meeting in Executive Session pursuant to ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. The Council would not be taking any action after the executive session.

Council President Starr adjourned the meeting at 7:45 p.m.

MAYOR: APPROVED:

Cathy Clark

Dawn Wilson, Deputy City Recorder

Minutes approved: ________________________

“Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury.”

City Council Meeting Date: August 18, 2025

To: Mayor Clark and City Council Members

Thru: Adam J. Brown, City Manager

From: Garrett Klever, Human Resources Director

Subject: Termination of Plans with Nationwide and CoreBridge

Proposed Motion

I move the City Council adopt Resolution R2025-_____ Authorizing the City Manager to Terminate 457(b) Plans with Nationwide and CoreBridge.

I. Summary

Over time, participation in 2 of the City's 457(b) plans have declined significantly. Terminating these plans will result in additional savings for employees and retirees.

II. Background

A. The City of Keizer has three, deferred compensation 457(b) plans through MissionSquare, CoreBridge, and Nationwide.

B. R84-053 established the City's first deferred compensation plan through ICMA Retirement (now MissionSquare).

C. R98-1050 Established a second 457(b) deferred compensation plan for the City through the U.S. Conference of Mayors as administered by Nationwide.

D. R2006-1691 established a third deferred compensation plan with VALIC (now under CoreBridge).

III. Current Situation

A. Over time, participation rates in the Nationwide and CoreBridge plans have declined significantly.

B. Over 95% of employee and retiree assets are with MissionSquare.

C. 2 retirees use Nationwide. 7 retirees/former employees and 1 current employee use CoreBridge.

D. In part due to a lack of consolidation, plan administration fees have remained relatively high for City employees and retirees.

E. MissionSquare, in discussion with Keizer HR, has agreed to reduce plan administration fees by 54.5% to 0.25%.

F. If plans can be consolidated with MissionSquare as the City's sole plan, MissionSquare can reduce plan administration fees by a total of 73%, to 0.15%.The City would have a 457(b) with a more competitive cost structure.

G. MissionSquare would work with employees and retirees to roll funds over from the terminated plans, and cover costs associated with transfers.

IV. Analysis

A. **Strategic Impact** - No strategic plan impact.

B. **Financial** - There are incidental administrative expenses collecting deferrals and administering multiple plans, but otherwise there is no financial impact to the City. Plan administration fees and fund investment fees are paid by employees and retirees themselves by assessments against the individual's balance. Reductions in plan administration fees have the potential to save City of Keizer employees, former employees, and retirees an estimated $100,000 each year.

C. **Timing** - There is no immediate need; however, plans have 90-120 day timelines to implement termination. That would begin after passing of the resolution. HR has discussed this proposal with potentially affected employees. All employees, former employees, and retirees have been notified of the potential change.

D. **Policy/Legal** - The City Council established two deferred compensation plans for the City through R98-1050 & R2006-1691. Council must authorize the City Manager to terminate these plans.

V. Alternatives

A. Adopt the attached Resolution authorizing the City Manager to terminate the City's Nationwide and CoreBridge 457(b) Plans.

B. Do nothing. Current users of MissionSquare's plan would still see some reduction in fees.

VI. Recommendation

Staff recommends City Council adopt Resolution R-2025____ Authorizing the City Manager to Terminate 457(b) Plans with Nationwide and CoreBridge.

Attachments

1. RES_CC_Authorizing City Manager to Terminate Plans with Nationwide and CoreBridge_8 18 2025

"Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury."

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2025-_____

AUTHORIZING CITY MANAGER TO TERMINATE 457(B) PLANS WITH NATIONWIDE AND COREBRIDGE

WHEREAS, the City Council authorized the City Manager to establish a second deferred compensation plan to be made available to all eligible city employees by Resolution R98-1050 on July 6, 1998;

WHEREAS, the City Council authorized the City Manager to establish a third deferred compensation plan to be available to all eligible city employees by Resolution R2006-1691 on May 15, 2006;

WHEREAS, participation in the Nationwide (2nd plan) and CoreBridge (3rd plan) plans has declined significantly and terminating the plans will result in additional savings for employees and retirees;

WHEREAS, the City Council has considered the matter and determined it is in the best interests of the city and its current and past employees to terminate the deferred compensation plans with Nationwide and CoreBridge;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager or authorized representative is authorized to work with the employees and retirees currently in the Nationwide and CoreBridge accounts to roll funds over from the terminated plans.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the City Manager is authorized to terminate the Nationwide and CoreBridge deferred compensation plans.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this __________ day of _________________, 2025.

SIGNED this __________ day of _________________, 2025.

____
Mayor

____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

City Council Meeting Date: August 18, 2025

To: Mayor Clark and City Council Members

Thru: Adam J. Brown, City Manager

From: Melissa Bisset, City Recorder

Subject: IGA with State for Electronic Records Management Consulting Services and Subscription Services with Chaves Consulting

---

Proposed Motion

I move the City Council adopt Resolution R2025-___ Authorizing the City Manager to Enter Into Agreement for Electronic Records Management Services with Oregon Secretary of State.
AND
I move the City Council adopt Resolution R2025-___ Authorizing the City Manager to Enter Into Subscription Services Contract with Chaves Consulting, Inc. (Master Software Agreement - Electronic Records).

I. Summary

To improve compliance with Oregon public records laws and enhance access, security, and management of City records, the City Recorder’s Office would like to transition to a new Electronic Records Management System (ERMS). This move supports a key goal of the City Recorder as outlined in the 2025–2026 Adopted Budget.

As part of the transition, the City would need to partner with the Oregon Secretary of State Archives Division through an Intergovernmental Agreement (IGA) and with the Oregon Records Management Solution (ORMS) Provider under the statewide price agreement.

II. Background

A. The City is required to maintain records in compliance with Oregon law.

III. Current Situation

A. The City Recorder's Office wishes to transition to a new vendor which will ultimately provide more staff and public access to more City records. This will also allow for enhanced security of City records as well as increased capabilities related to record retention and disposition.

IV. Analysis

A. **Strategic Impact** - The City Recorder’s Office is committed to preserving the City’s history, maintaining official records, and ensuring transparent access to public information. A key goal of the City Recorder's Department outlined in the 2025–2026 Adopted Budget is the transition to a new Records Management System. With a new partnership between the City, the Secretary of State Archives Division, and ORMS, this important initiative will move forward.

B. **Financial** - The Secretary of State will not charge the City of Keizer for the Consulting Services described in the Intergovernmental Agreement (IGA). Pending approval of the IGA, the City will enter into a contract with ORMS under the statewide price agreement. Once both the IGA and ORMS agreements are in place, the City will receive consulting services from the Oregon Secretary of State to enhance our records management practices and ensure compliance with Oregon’s recordkeeping requirements.

   The Oregon Records Management Solution (ORMS) is based on the “Software as a Service” model. The cost is $388.70 per month. This amount was included in the approved Fiscal Year 25-26 City Budget.

C. **Timing** - The City Recorder's Office will be able to begin implementation of the new Electronic Records Management Solution once the IGA and Subscription Services Contract are signed.

D. **Policy/Legal** - The City is required to maintain records in compliance with Oregon law. The new Electronic Records Management Solution (ERMS) will support this by ensuring consistent, compliant electronic records management and improving the management, access, and retention of electronic records.

   Under ORS 192.015 and 192.105, the Secretary of State, through the State Archivist, oversees public records administration and has authorized a statewide ERMS program. This includes consulting and implementation services provided through the Oregon Records Management Solution (ORMS) Provider.

V. Alternatives

A. Adopt the Resolutions.

B. Not adopt the Resolutions and the City would not be able to move forward with implementation of the new Electronic Records Management Solution.

VI. Recommendation

Staff recommends the City Council adopt the attached Resolutions.

Attachments

1. ORMS Overview
2. RES_CC_Authorizing City Manager to Enter Agreement with State for Electronic

Records Management_8 18 2025
3. IGA - SOS ORMS
4. RES_CC_Authorizing City Manager to Enter Agreement with Chaves for Electronic Records Management_8 18 2025
5. EXHIBIT D Subscription Services Revised 8-18-25

“Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury.”

Oregon Records Management Solution

Public / Private Partnership:
Oregon Secretary of State, Archives Division
Chaves Consulting, Inc. / Arikkan, Inc.
records.management@sos.oregon.gov

The Problem

- Too much stuff to manage manually
- Too many silos
- Inefficient work processes
- Security difficult to enforce
- Retention rules ignored
- Massive legal liability

The Solution

- Centralize control of information
- Eliminate unnecessary duplication
- Streamline work processes
- Simplify routine tasks
- Automate security & retention
- Lessen load on employees

Oregon Records Management Solution

One Team. One Purpose.

OREGON STATE ARCHIVES

- Records & Information Management
- Customized retention & security
- Software configuration / set-up
- Training resources

CHAVES CONSULTING, INC.

- Business & Customer Support
- Single point of contact before, during and after implementation
- 360 degree Support Desk
- Project Management

ARIKKAN

- Technical Support
- Technical implementation
- Network engineering
- Ongoing application maintenance

ORMS Project Manager: Dylan Chaves

Contact at: 800-435-4633 or dylan@chavesconsulting.com

Benefits of Oregon's Partnership with CCI/Arikkan

"Solution as a Service" (SaaS) Model

Value to Agencies

- Eliminates up-front expenses for hardware, software, maintenance, technical and end user support
- Low per user per month fee includes comprehensive subscription services
- State Contract: No RFPs required

Tested & Proven Implementations

- Over 90 implementations: state and local government, special districts, K-12
- Lessons learned: What worked? What didn't? Factors for Success?

360 Degree Support

- ORMS Support Desk available by phone or email
- Provides user and technical support
- Coordinates all support resources forever

Customized Implementation Strategy

We (Archives, Chaves, Arikkan):

Work with you to design your customized step-by-step approach to fulfill your **business needs** and **priorities**

Our implementation goals:

To implement using the **most supportive** and **least disruptive** process possible

Our Implementation Team's intention:

To make improvements in how your work is accomplished, not to add an additional burden

CONTENT MANAGER HIGHLIGHTS

ORGANIZE:

- **Archives works with you to:**
  - Create folder structures with attached security, retention, disposition rules

FIND/SEARCH:

- **Flexible, robust search filters:**
  - Find information how you want to
- **Save and share searches**

SHARE:

- **Collaboration and Version Control:**
  - Edit and finalize documents in the system with full accountability

CONTENT MANAGER HIGHLIGHTS

SECURITY

- **Compliance with OAR 166**
- **Customized security settings per agency needs**
  - Assign access and permissions through security groups
- **Audit trails recorded automatically:**
  - Accountability through permanent record of actions

RETENTION AND DISPOSITION

- **Ensure compliance with Oregon law**
  - Schedules built in by Archives team
  - Legal holds applied in system

ORMS Solution Includes

- Content Manager software licenses and upgrades
- Detailed implementation planning
- Customized agency implementation
  - IT configuration
  - Custom file structure and software build
  - Training resources are provided to all full users
- Access to ORMS 360° Support Desk
- Storage infrastructure, maintenance, upgrades and support at Synergy Data Center
- Batch migration and import of old records & metadata

Optional "Non-Subscription Services"

Available upon request:

- **Scanning services**
  - Image quality control
  - Metadata input

- **Custom built workflows in Content Manager**
  - Requires business process configuration and testing prior to designing the flow with the tool
  - Requires Workflow software design expertise

- **Direct software integrations or anything requiring custom programming work**

ORMS Pricing Structure

- Base: $388.70/month includes:
  - 10 licensed users
  - 100 GB data storage
  - 10 GB data transfer per month

- Additional users:
  - $38.87 per **full license** user per month
    - Includes 10 GB storage / 1 GB transfer/month
  - $19.43 per **inquiry only** user per month
    - Search and view access only, no storage included

ORMS Pricing Structure

- Additional Storage/Transfer:
  - $7.35 per 10GB/month
  - $1.26 per 1GB transfer per month
- 300 or more users: discount on pricing
  - $25.26 per user
- CJIS compliant implementations also available for additional $250/month (up to 25 users)

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2025-_____

AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENT FOR ELECTRONIC RECORDS MANAGEMENT SERVICES WITH OREGON SECRETARY OF STATE

WHEREAS, the City of Keizer and the State of Oregon by and through its Office of the Secretary of State wish to enter into that certain Agreement for electronic records management services;

WHEREAS, the City Council of the City of Keizer has considered this matter and wishes to move forward with such agreement;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is authorized to enter into the Agreement for Electronic Records Management Services attached hereto and by this reference incorporated herein on behalf of the City.

BE IT FURTHER RESOLVED that the City Manager is authorized to take the necessary steps to implement the service described in such Agreement.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-390-3700

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately on the date of its passage.

PASSED this __________ day of _________________, 2025.

SIGNED this __________ day of _________________, 2025.

____
Mayor

____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-390-3700

AGREEMENT # AR-0332-25
For
Electronic Records Management Consulting Services between
Oregon Secretary of State and City of Keizer

This Agreement for Electronic Records Management Consulting Services (the "Agreement") is made and entered into between the State of Oregon, acting by and through its Office of the Secretary of State ("SoS") and City of Keizer ("Agency").

RECITALS

1. Under ORS 192.015, the Oregon Legislature designated SoS as the public records administrator of the State of Oregon, with the responsibility "...to obtain and maintain uniformity in the application, operation and interpretation of the public records laws." Further, "[t]he State Archivist may grant to public officials of the state or any political subdivision specific or continuing authorization for the retention or disposition of public records that are in their custody." (ORS 192.105(1).)

2. In order to effectively carry out the above-stated duties and assist state agencies and local governments in the shared responsibility of public records retention and disposal, SoS has determined that the effective management of public records must address information that is primarily contained in or derived from electronic formats. To support the parties' activities under ORS 192.001 to 192.105 with regard to records in electronic formats, the State Archivist is conducting an Electronic Records Management System ("ERMS") services program. The Consulting Services offered under this Agreement are part of that program.

3. The State Archivist has developed services for managing electronic records (including e-mail) that include a uniform, non-technical records classification specification (file structure and records classification). SoS has established a statewide price agreement with a third-party service provider for ongoing ERMS services, including provision of a central repository to house electronic records that allows for the consistent and proper management, access and final disposition, of electronic records. These additional services are available to state agencies and local governments through a separate contract between each participating entity and that third party service provider, the Oregon Records Management Solution (ORMS) Provider.

4. For those agencies and local government bodies that implement ORMS under the statewide price agreement, it is the goal of the State Archivist, through this Agreement, to provide archival consulting and implementation services to participating state agencies and local government entities that incorporate improved and consistent record management practices and comply with the Secretary of State's public records administration requirements.

5. Agency has entered into a contract with the ORMS Provider under the statewide price agreement in accordance with the cooperative purchasing provisions of Oregon law, and wishes to receive the Consulting Services offered under this Agreement, to support its record management practices and meeting its recordkeeping obligations under Oregon law.

AGREEMENT

SECTION 1. TERM

1.1 This Agreement is effective on the date it has been fully executed by each party and approved as required by applicable law. This Agreement terminates when terminated by either party in accordance with Section 7.

SECTION 2. AUTHORITY; SERVICES; OBLIGATIONS.

2.1 Authority
This agreement is subject to Chapter 190 of the Oregon Revised Statutes. This Agreement does not constitute an authorization by a public body under ORS 190.010 for a party to perform one or more inherent governmental responsibilities for the other.

2.2 SoS Services

2.2.1 SoS will make consulting services ("Consulting Services") available to Agency as set forth in this Agreement, including its Appendix A. Consulting Services are subject to Agency's timely response to SoS requests for critical information necessary to resolve issues.

2.2.2 As used in this Agreement "ORMS Services" means the Oregon Records Management Solution that incorporates content manager software and is accessible to Agency under a contract between Agency and the third-party provider ("ORMS Provider") under the statewide price agreement held by SoS.

2.2.3 SoS will work with the individuals identified in Section 9 to provide the Consulting Services.

2.2.4 SoS will make the following services available to Agency, including as described in Appendix A:

2.2.4.1 Record Classification and Retention Consulting;

2.2.4.2 File Structure Consulting;

2.2.4.3 Preparation for use of the ORMS; and

2.2.4.4 Training for Agency personnel related to records management.

2.2.5 In providing Consulting Services, SoS will:

2.2.5.1 Provide staff trained to deliver the Consulting Services;

2.2.5.2 Use reasonable efforts to maintain agreed upon levels of service quality, responsiveness, and dependability; and

2.2.5.3 Make revisions to the SoS internal incident-resolution escalation process to the extent SoS determines such revisions are necessary.

2.3.1 Agency Obligations. Agency shall:

2.3.1.1 Enter into and maintain a contract with the ORMS Provider under the statewide price agreement in accordance with laws and rules applicable to its contracting processes.

2.3.1.2 Incorporate, with SoS assistance, the record structure work provided by SoS that is required for use of the ORMS.

2.3.1.3 Identify an Authorized Representative in Section 9 and notify SoS immediately of any change in authority.

2.3.1.4 Designate an Agency employee to participate as necessary as a representative on a change advisory board made up of SoS personnel and representatives from the participating city, county and state entities. The change advisory board is responsible for reviewing requested enhancements to ORMS and making recommendations for implementation of such enhancements to the ORMS Provider.

2.3.1.5 Respond in a timely manner to SoS requests for critical information necessary to resolve issues with the ORMS.

2.4 Nothing in this Agreement may be construed to require SoS to perform any record management activities that Agency is required to perform pursuant to state or federal law.

SECTION 3. TREATMENT OF DATA

3.1 Each party is responsible for its compliance with applicable state laws governing the use and disclosure of public records, such as responding to any public records request it receives.

SECTION 4. PAYMENT

4.1 SoS will not charge Agency for the Consulting Services described in this Agreement. To that end, SOS's performance of its duties under this Agreement is conditioned upon it receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow it, in the exercise of its reasonable administrative discretion, to deliver any specific quantity or type of Consulting Services.

4.3 4.2 If Agency requires a background check be completed on SOS staff prior to receipt of Consulting Services, such as Criminal Justice Information Services (CJIS) or Law Enforcement Data System (LEDS), etc., Agency is responsible for all associated fees.

4.4 Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of a party.

SECTION 5. REPRESENTATIONS AND WARRANTIES

5.1 Agency represents and warrants to SoS that:

5.1.1 Agency is duly organized and validly existing under the laws of the State of Oregon. Agency has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

5.1.2 The making and performance by Agency of this Agreement: (a) have been duly authorized by all necessary action of Agency; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Agency's charter or other organizational document; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Agency is a party or by which Agency or any of its properties may be bound or affected.

5.1.3 No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Agency of this Agreement.

5.2 SoS represents and warrants to Agency that:

5.2.1 SoS is an agency of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. SoS has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

5.2.2 The making and performance by SoS of this Agreement: (1) has been duly authorized by all necessary action of the State; (2) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of any other organizational document and (3) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which SoS is a party or by which SoS or any of its properties may be bound or affected.

5.2.3 No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by SoS of this Agreement.

5.3 SOS MAKES NO REPRESENTATIONS OR WARRANTIES TO AGENCY AS TO THE SYSTEM PROVIDED BY THE ORMS PROVIDER.

SECTION 6. DEFAULT

6.1 A party will be in default under this Agreement if:

6.1.2 It fails to perform, observe or discharge any of its covenants, agreements or obligations set forth in this Agreement; or

6.1.3 Any representation, warranty or statement made in this Agreement by the party is untrue in any material respect when made and is made in bad faith.

SECTION 7. TERMINATION; REMEDIES.

7.1 Agency may terminate this Agreement:

7.1.1 Immediately upon written notice to SoS, or at such later date as Agency may establish in such notice, if Agency fails to receive funding, appropriations, limitations or such other expenditure authority at levels sufficient to enable it to meet its obligations under this Agreement. In the event Agency reasonably believes it must terminate this Agreement pursuant to this section, Agency shall provide notice to SoS as soon as possible of its intent to terminate this Agreement. When possible, Agency shall provide such notice to SoS 6 months prior to the effective date of the termination.

7.2 Immediately upon written notice to SoS if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that Agency's performance of its obligations under this Agreement is prohibited.

7.3 Immediately upon written notice to Agency if its contract with the ORMS Provider under the statewide master agreement is terminated, including by expiration.

7.4 Upon breach of this Agreement by SoS and failure by SoS to cure the breach within 30 calendar days after written notice from Agency specifying the breach; or

7.2 If Agency chooses to terminate, then:

7.2.1 SoS will have no obligation after this Agreement's termination to develop or maintain Agency's interface to the system employed under ORMS that allows Agency to use another application to manage records within Agency's own systems, however, SoS shall reasonably cooperate with and assist Agency in developing such interfaces.

7.2.2 SoS shall allow Agency to export records, and for a period not to exceed 90 Calendar Days following termination, shall reasonably cooperate and assist Agency in completing such export; however SoS has no obligation to provide Agency with any data that resides in the system employed under ORMS in any particular format.

7.2.3 Agency shall continue to maintain records in accordance with Oregon record retention laws.

7.3 SoS may terminate this Agreement:

7.3.1 Immediately upon written notice to Agency, or at such later date as SoS may establish in such notice, if SoS fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to continue to provide the Consulting Services.

7.3.2 Immediately upon written notice to Agency, if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that SoS's performance of Consulting Services under this Agreement is prohibited.

7.3.3 Upon breach of this Agreement by Agency and failure by Agency to cure the breach within 30 calendar days after written notice from SoS specifying the breach.

7.3.4 Immediately on written notice if its contract with the ORMS Provider or the statewide master agreement is terminated, including by expiration

7.4 This Agreement may be terminated upon written agreement of the parties.

7.5 Either party may terminate this Agreement, for any or no reason, upon at least six month's advance written notice to the other party.

7.6 Remedies. Termination of this Agreement will not affect any other remedies and rights which a party may have under this Agreement, or in law or in equity.

SECTION 8. OWNERSHIP OF WORK PRODUCT

8.1 Nothing in this Agreement modifies or is intended to modify either party's contract(s) with the ORMS Provider.

8.2 "Work Product" means everything that is made, conceived, discovered, or reduced to practice by a party pursuant to or in connection with this Agreement, generated by a human, non-human, or some combination thereof. Work Product includes every invention, modification, discovery, design, development, customization, configuration, improvement, software program, application program interface, work of authorship, documentation, formula, macro, script, datum, technique, methodology, process, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection).

8.3 Each party retains ownership of its Intellectual Property that it provides to the other pursuant to this Agreement, including in derivative works of and compilations.

8.4 All Work Product created solely by SoS pursuant to or in connection with this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, is the exclusive property of SoS.

8.5 All Work Product created solely by Agency pursuant to or in connection with this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, is the exclusive property of Agency.

8.6 All Work Product created jointly by Agency and SoS pursuant to or in connection with this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, is the joint property of SoS and Agency,

8.7 Work Product created solely by SoS pursuant to this Agreement, is "work made for hire" of which SoS is the author within the meaning of the United States Copyright Act. SoS irrevocably retains any and all of its rights, title, and interest in all original Work Product created by SoS, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Agency hereby assigns and forever waives any and all rights relating to Work Product created solely by SoS pursuant to this Agreement, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

SECTION 9. NOTICES; AUTHORIZED REPRESENTATIVES.

9.1 Notices must be in writing and delivered by personal delivery, email or sent by registered or certified mail, postage prepaid, by internationally recognized air courier or electronic means which provides for confirmation and acknowledgment of receipt. Notices sent to a party under this Agreement must be sent to its Authorized Representative, with a copy to purchasing.sos@sos.oregon.gov.

9.2 "Authorized Representative" means (i) with respect to Agency, a person authorized to act on behalf of Agency, and is designated in this Section 9 and (ii) with respect to SoS, the Director of the Archives Division of the Office of the Oregon Secretary of State or the person that the Director of the Archives Division designates and is identified in this Section 9. Each party may change its address for receiving notice or its Authorized Representative at any time upon notice given in accordance with this section. Notices will be deemed given upon delivery or, in the case of facsimile or electronic transmission, when acknowledgment and confirmation of receipt is received electronically, provided that a printed copy of such acknowledgment and confirmation is forwarded on the date received, by another means provided for in this section.

Notices for Agency	Notices for SoS
Authorized Representative Melissa Bisset, City Recorder, MMC City of Keizer 930 Chemawa Rd NE Keizer, OR 97303 Phone: (503) 856-3412 Email: bissetm@keizeror.gov Contact Information: Same as Authorized Representative	Authorized Representative Stephanie Clark, State Archivist Oregon Secretary of State 255 Capital Street NE Ste 126 Salem, OR 97301 Phone: (503) 378-8161 Email: stephanie.clark@sos.oregon.gov Contact Information: Matthew Brown, ORMS Program Administrator Oregon Secretary of State 255 Capital Street NE Ste 126 Salem, OR 97301 Phone: (971) 900-9954 Email: matthew.g.brown@sos.oregon.gov Procurement Contact Information: Purchasing.sos@sos.oregon.gov

SECTION 10. FORCE MAJEURE.

10.1 NEITHER PARTY WILL BE LIABLE FOR A DELAY OR FAILURE TO PERFORM DUE TO ANY CAUSE BEYOND ITS REASONABLE CONTROL, WHETHER OR NOT FORESEEABLE, INCLUDING, BUT NOT LIMITED TO, A LABOR DISPUTE, STRIKE, LOCK-OUT, CIVIL COMMOTION OR LIKE OPERATION, INVASION, REBELLION, HOSTILITIES, MILITARY OR USURPED POWER, SABOTAGE, GOVERNMENTAL REGULATIONS OR CONTROLS, INABILITY TO OBTAIN LABOR, SERVICES OR MATERIALS, OR THROUGH ACT OF GOD, PROVIDED SUCH CAUSE IS NOT DUE TO THE WILLFUL ACT OR NEGLECT OF THE PARTY CLAIMING FORCE MAJEURE.

SECTION 11. INDEPENDENT STATUS.

11.1 Agency has no right to, and shall not, control the manner or determine the method of providing the Consulting Services. Neither SoS nor SoS's staff are employees or agents of Agency, nor are Agency or Agency's staff employees or agents of SoS for any purpose whatsoever. Neither party nor its staff have, under any circumstances, any authority to act for or to bind the other, or to sign the name of the other, or to otherwise represent that it is in any way responsible for the other party's acts or omissions.

SECTION 12. INTENDED BENEFICIARIES.

12.1 SoS and Agency are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 13. SURVIVAL.

13.1 All rights and obligations of the parties cease upon termination or expiration of this Agreement, except for the rights and obligations which by their nature do not expire, including the following sections: Section 4 (Fees); Section 5 (Representations and Warranties); Section 8 (Work Product); Section 9.4 (Survival); Section 9.6 (Records); and Section 9.7 (Entire Agreement; Amendments).

SECTION 14. Compliance with Law.

14.1 Each part is responsible for its compliance with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement.

SECTION 15. COSTS.

15.1 Each party will bear its own costs related to the acquisition of all equipment, software, data lines or connections necessary for the Consulting Services and the ORMS Provider contract, unless otherwise agreed to in writing between the parties. This Section 15, in addition to the limited warranties above, is a fundamental element of the basis of the agreement between the parties. Such limitations are factored into SoS's provision of the Consulting Services.

SECTION 16. RECORDS.

16.1 Each party shall maintain records relating to this Agreement in accordance with generally accepted accounting principles to clearly document its performance. Additionally, each party shall maintain any other records pertinent to this Agreement in such a manner as to clearly document the party's performance of its duties under this Agreement. Each party, and the federal government and their duly authorized representatives, have the right to access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of the other that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Agency and SoS shall each retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following any final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

SECTION 17. AGREEMENT DOCUMENTS.

17.1 This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits and attachments, and Appendix A, Consulting Services Descriptions. No term stated on any schedule, exhibit, attachment, or other document incorporated into the Agreement will take precedence over a conflicting term in the Agreement unless the term references the conflicting term in the Agreement and clearly recites the parties' intent that it take precedence. No term of the statewide price agreement or any contract between a party and the ORMS Provider may modify or amend any provision of this Agreement.

SECTION 18. ENTIRE AGREEMENT; AMENDMENTS.

18.1 This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No amendment, waiver, consent, modification or change of terms of this Agreement binds either party unless in writing and signed by both parties. Such amendment, waiver, consent, modification or change, if made, is effective only in the specific instance and for the specific purpose given.

SECTION 19. DISPUTE RESOLUTION; INDEMNIFICATION; CONTRIBUTION.

19.1 **Informal.** The parties will attempt to resolve any dispute between them through informal discussions.

19.2 **Interagency Agreement.** If Agency is an executive department agency of the State of Oregon, as defined in ORS 174.112, SOS and Agency are each insured with respect to tort liability by the State of Oregon Insurance Fund, a statutory system of self-insurance established by ORS Chapter 278, and subject to the Oregon Tort Claims Act (ORS 30.260 to 30.300). Each party accepts such coverage as adequate insurance of the other party with respect to personal injury and property damage.

19.2.1 Any tort liability claim, suit, or loss resulting from or arising under this Agreement will be allocated, as between the parties, in accordance with law by the Oregon Department of Administrative Services for purposes of the parties' respective loss experience and subsequent allocation of self-insurance assessments under ORS 278.435. Each party shall notify DAS Risk Management and the other party in the event it receives notice of knowledge of any claim arising out of this Agreement.

19.2.2 The parties are each responsible exclusively with respect to their own employees, for providing for employment-related benefits and deductions that are required by law, including but not limited to federal and state income tax deductions, workers' compensation coverage, and PERS contributions.

19.3 **Contribution- Intergovernmental Agreement.** If Agency is an Oregon unit of local government (i.e. city, county, or local service district) as defined in ORS 174.116(1), or Oregon Health and Science University (created as a public corporation under ORS 353.020):

19.3.1 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 (a "Third Party Claim") against a party (the "Notified Party") with respect to which the other party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. 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 the Other Party of the notice and copies required in this section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Agreement with respect to the Third Party Claim.

19.3.2 With respect to a Third Party Claim for which SoS is jointly liable with Agency (or would be if joined in the Third Party Claim), SoS 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 SoS and Agency in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of SoS and Agency will 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. SoS's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State of Oregon had sole liability in the proceeding.

19.3.3 With respect to a Third Party Claim for which Agency is jointly liable with SoS (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 SoS in such proportion as is appropriate to reflect the relative fault of Agency and SoS in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency and SoS will 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 if it had sole liability in the proceeding.

SECTION 20. GOVERNING LAW; VENUE; CONSENT TO JURISDICTION.

20.1 This Agreement is governed by and must be construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between State (or any agency or department of the State of Oregon) and Agency that arises from or relates to this Agreement must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, that if a Claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. In no event may this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. AGENCY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURT(S).

SECTION 21. COUNTERPARTS; ELECTRONIC SIGNATURES.

21.1 This Agreement may be executed in several counterparts, all of which when taken together constitute one agreement between the parties, notwithstanding that the parties are not signatories to the same counterpart. Each copy of this Agreement so executed constitutes an original. Signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and any amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing party and are intended to be and can be relied upon by the parties. SoS reserves the right at any time to require the submission of the hard copy originals of any documents.

Signatures. The parties have duly executed this Agreement as of the last day, month and year noted below.

THE STATE OF OREGON, acting through its OFFICE OF THE SECRETARY OF STATE

Authorized Signature: ____

Division Director or designee Date

Authorized Signature: ____

Business Services Director Date

Reviewed by: ____

Contract Administrator Date

THE STATE OF OREGON, acting through its City of Keizer

Authorized Signature: ____

Date

Title: ________________________

Appendix A
Consulting Services Descriptions

SoS will provide consulting services during State of Oregon business hours in accordance with this Agreement and an agreed-upon schedule. Agency remains responsible for fulfilling its obligations under its contract with the ORMS Provider.

1. Record Classification: SoS will provide feedback and advice to Agency on its classification of all appropriate records as determined jointly by SoS and Agency.

2. Retention Services: SoS will identify and/or recommend applicable record retention schedules. Following Agency agreement, SoS will provide guidance on applying Agency's Records Retention Schedule to electronic records in ORMS.

3. File Structure: SoS will work with Agency to develop and implement a file structure that best fits the needs of Agency and the use of the ORMS. SoS will provide input on file structures to support Agency's implementation of file structures that allow Agency to effectively implement ORMS.

4. ORMS Preparation: SoS will review and provide feedback to Agency on Agency's records and structures, to support Agency's ability to effectively begin using ORMS.

5. Training Services: SoS will collaborate with the ORMS Provider to provide training to support Agency's successful migration to the ORMS.

6. Final Acceptance: SoS will support Agency's articulation of success criteria for final user acceptance of Agency's ORMS services under Agency's contract with the ORMS Provider.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2025-_____

AUTHORIZING THE CITY MANAGER TO ENTER INTO SUBSCRIPTION SERVICES CONTRACT WITH CHAVES CONSULTING, INC. (MASTER SOFTWARE AGREEMENT – ELECTRONIC RECORDS)

WHEREAS, it is necessary for the City to participate in an electronic records management system;

WHEREAS, it has been determined procurement through the Oregon Cooperative Procurement Program (ORCPP) is in the best interests of the City by eliminating the expense of the bidding, evaluation, and negotiating process;

WHEREAS, Chaves Consulting, Inc. is one of the participating programs available through the State of Oregon;

WHEREAS, the City Council has considered this matter and wishes to move forward with such agreement;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is authorized to enter into the Subscription Services Contract with Chaves Consulting, Inc. attached hereto and by this reference incorporated herein.

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon the date of its passage.

PASSED this __________ day of _________________, 2025.

SIGNED this __________ day of _________________, 2025.

____
Mayor

____
City Recorder

Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

ATTACHMENT 2
EXHIBIT D REVISED
SUBSCRIPTION SERVICES CONTRACT

This Subscription Services Contract Number ORMS – ______ ("Contract") is effective the date this Contract has been fully executed by each party and approved as required by applicable law ("Contract Effective Date") between Chaves Consulting, Inc. ("Contractor") and City of Keizer ("Authorized Purchaser").

THIS CONTRACT IS ENTERED INTO PURSUANT TO MASTER SOFTWARE AS A SERVICE AGREEMENT #0486 (the "MSA") AND IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH THEREIN. THE TERMS AND CONDITIONS OF THE MSA ARE INCORPORATED HEREIN BY REFERENCE AND APPLY TO THIS CONTRACT AND TAKE PRECEDENCE OVER ALL OTHER CONFLICTING TERMS AND CONDITIONS, EXPRESS OR IMPLIED.

Authorized Purchaser Contact information:

Authorized Purchaser: City of Keizer
Contact Name: Melissa Bisset, City Recorder
Address: 930 Chemawa Rd NE
Phone: Keizer, OR 97303
Email Address: bissetm@keizeror.gov

Invoices shall be sent to:

Contact Name: Melissa Bisset, City Recorder, City of Keizer
Address: PO Box 21000, Keizer, OR 97307
Phone: 503-856-3412
Email Address: bissetm@keizeror.gov

1. Subscription Services

The Contractor will provide to the Authorized Purchaser all required services listed in Exhibit B which includes: access to and use of the ORMS Software, data hosting and storage, and helpdesk support services. The State Archives Division will provide the training for using ORMS. The Contractor may provide training to other ORMS Software integrations.

Inquiry-Only Users Services are defined in Exhibit B to the MSA; Inquiry-Only Services do not include the full range of Subscription Services listed above.

Services shall be deemed to commence on the date that: (1) the Authorized Purchaser has access either to the ORMS Software production or quality assurance (QA) environment, to data hosting, storage and helpdesk support; and (2) the Authorized Purchaser's initial Users have been provided Phase 1 initial implementation training as specified in the ORMS Training Plan.

2. Roles of the Authorized Purchaser and the State Archives Division

The Authorized Purchaser agrees to enter this fully executed Contract in the State of Oregon's eProcurement system, OregonBuys, under agreement number 0486.

The State Archives Division will work with Authorized Purchaser in order to set milestones such as the number of initial Users, projected total end users upon full Authorized Purchaser implementation, and due date for full implementation.

In the event that the Authorized Purchaser is not able to meet a specific milestone date, the Authorized Purchaser shall notify both the State Archives Division and Contractor.

The notification must be given in writing before the proposed milestone date stating the reason the date cannot be met and the Authorized Purchaser will not be subject to any penalty charges.

3. Subscription Fee and Payment Schedule

Authorized Purchaser agrees to a minimum of ___10___ Users per month. Authorized Purchaser agrees to payment option #_1_ as defined in Exhibit B of the MSA.

The initial invoice shall be issued on the 1st day of the month immediately following the Acceptance of Initial Deliverables described in Section 5 of this Contract.

Invoices shall be issued on the 1st day of the month of the current calendar month in which the Subscription Services will be provided. All undisputed, timely and valid invoices are due in full 15 days after receipt by Authorized Purchaser.

Default by Non-Payment: Authorized Purchaser shall not delay payment of monthly User fees based on a dispute or claim relating to Non-Subscription Services.

If Authorized Purchaser fails to pay Contractor any amount pursuant to the terms of the Contract and fails to cure such failure within 45 business days after delivery of Contractor's notice or such longer period as Contractor may specify in such notice, Authorized Purchaser shall be in default under Exhibit A, Section 10.2 of the MSA.

Rates reflected in Exhibit B, Section I. Pricing are effective July 1, 2025, and will increase 1.5% each year thereafter.

4. Additional Users

During the term of this Contract, Authorized Purchaser may add additional Users at any time. The monthly installment fee for payment option #1 will be set according to the table in Exhibit B, Section I for each additional User commencing on the day the additional Users are specified by Authorized Purchaser. Additional Users under payment option #2 shall be invoiced according to the rate in Exhibit B, Section I, Payment option #2. Additional Inquiry-Only Users under payment option #3 shall be invoiced according to the rate in Exhibit B, Section I, Payment option #3. Additional Users and additional Inquiry-Only Users may be requested from an Authorized Purchaser, via email, to the ORMS helpdesk.

5. Authorized Purchaser Acceptance

Contractor shall commence the Services and provide Deliverables as set forth in the Contract. Within ten (10) business days after the commencement of Services, Contractor shall provide Authorized Purchaser with an Acceptance of Initial Deliverables Question and Answer Form that is reasonably constructed to test the ability of the Subscription Services and associated ORMS Software applications, as implemented by Contractor, to produce the results and other Deliverables specified in this Contract. The Authorized Purchaser shall complete and return this form to Contractor within ten (10) business days as initial acceptance of Deliverables to date; a non-response shall be deemed as an acceptance of initial Deliverables.

Authorized Purchaser may accept the proposed acceptance test as recommended or modify it as Authorized Purchaser deems reasonable. Contractor shall provide Authorized Purchaser with access to the Subscription Services on or before the commencement date described in Section 1 of this Contract and the implementation schedule agreed to by Authorized Purchaser, the State Archives Division and Contractor. On the transition date, Contractor shall assume responsibility for providing ongoing Subscription Services.

Upon the conclusion of any consecutive forty-five (45) day period of production processing from the transition date as specified in Section 10 of this Contract, when all Service Levels have been met successfully, the Subscription Services shall be deemed accepted in full. Authorized Purchaser will acknowledge completion of this milestone by written notification to Contractor. Nothing contained in this Section 5 or any other provision of this Contract shall be deemed to prevent Authorized Purchaser from using any portion of the Subscription Services in a live environment for productive processing, and any such use shall not alter, amend or modify any of Contractor's obligations pursuant to the Contract.

6. Period of Performance

The period of performance of this Contract shall commence on the Contract Effective Date and shall continue for a period of 12 months plus the interim period between the effective date and the date of acceptance (the "Initial Period"). Thereafter, unless Authorized Purchaser notifies Contractor in writing, this Contract shall automatically be renewed annually for additional 12-month periods (each a "Renewal Period").

7. Consulting, Implementation, Training and/or Support Services

Contractor shall provide the consulting, implementation, training and/or support services related to the Subscription Services as set forth in Section 5 of the MSA.

Inquiry-Only User Services include application configuration and administrative set up by Contractor and SoS.

8. Security Procedures

Contractor shall define certain policies and procedures that it shall have in place in order to provide the level of security associated with the Subscription Services and with the Service Levels set forth in Section 12. These policies and procedures shall be updated by Contractor from time to time to reflect updated Department of Administrative Services Security Standards, emerging technologies, business practices and Internet-related issues. Contractor shall provide written notice to Authorized Purchaser of any changes made to its security policies and procedures within ten (10) days of such changes, and updated policies and procedures shall be distributed through ORMS Support (Helpdesk).

9. Specifications and Minimum Technical Requirements

Contractor warrants that the minimum technical requirements for access to and operation of the ORMS Software are updated and available upon Authorized Purchaser request.

If future releases of the ORMS Software require use of newer versions of any client application or change in any client application configuration, Contractor shall provide 15 - 45 days (depending on the kind of change and its impact) written notice to Authorized Purchaser prior to the general release of that ORMS Software Version.

10. Transition

Contractor and the State Archives Division shall assist in developing a transition plan that is approved by Authorized Purchaser. Subscription Services shall be transitioned and in production, as accepted by Authorized Purchaser, within thirty (30) calendar days from the Schedule Effective Date.

11. Transition Remedy

In the event that Contractor fails to meet the date for the completion of the transition into production of the Subscription Services, Contractor shall credit Authorized Purchaser one percent (1%) of the monthly Service fees for every business day the transition is late. If Contractor misses the target date by more than thirty (30) days, Contractor shall be deemed to be in material breach of the Agreement.

If Authorized Purchaser does not meet its obligations as identified in the transition plan provided by Contractor and Authorized Purchaser is the sole cause of a delay in the project, the transition milestone target dates shall be extended for the same amount of time as the delay. Contractor shall promptly notify the Authorized Purchaser Program Manager, in writing, of any delay in the project schedule as a result of Authorized Purchaser's failure to meet any of its obligations identified above. If Contractor fails to notify Authorized Purchaser of any such Authorized Purchaser failure to meet its obligations, Authorized Purchaser shall be conclusively presumed under the Contract to have met its obligations, and consequently, Contractor shall not be entitled to rely on such delay to excuse it from meeting the milestone target dates.

12. Service Levels and Remedies

12.1 Security Service Level.

Contractor represents and warrants that Contractor shall provide Record Security as specified in Exhibit B, Section F. of the MSA.

The required security processes may include, but are not limited to, the following:

(i) Contractor shall have staff on duty and at its site 24x7 and capable of identifying, categorizing, and responding to a security incident.

(ii) Contractor shall notify Authorized Purchaser of any new potential security vulnerability within four (4) hours of discovery. This notification shall include the probable risks associated with the vulnerability.

(iii) Contractor shall implement a security fix across the application within four (4) hours of approval from Authorized Purchaser.

(iv) Contractor shall notify the Authorized Purchaser Program Manager within fifteen (15) minutes if Contractor believes that an attack is in process.

(v) Contractor shall shut down ALL access to the ORMS Software or any component of it associated with the Subscription Services within fifteen (15) minutes upon request of the Authorized Purchaser Program Manager or officer of Authorized Purchaser.

(vi) Contractor shall assist Authorized Purchaser in preparing written responses to audit requirements or findings without charge.

(vii) After both the conclusion of the pilot period and the total number of active users remains at a minimum of 2,000 or more users per Section 8a of the MSA, Contractor must conduct and pass a SAS 70 Type II Audit every twelve (12) months during the term of this Contract. The first audit shall be performed by an independent CPA firm within twelve (12) months of the state meeting its commitment to the 2,000-user minimum; subsequent annual audit reviews shall be performed by the Contractor according to the auditor's recommended process and results shall be provide to the State and, upon request, to Authorized Purchasers. Failure by Contractor to pass the audit or to provide the audit results to Authorized Purchaser within fifteen (15) days after receiving the results from the auditor shall constitute a material breach of the MSA.

12.2 Record Retrieval Time Service Level.

Contractor represents and warrants that Contractor shall provide Record Retrieval Delivery Time Levels in the ORMS Software server environment as set forth in Exhibit B, Section G. of the MSA, as amended. Record retrieval delivery time shall be measured at the server end between the ORMS workgroup server and database at Synergy Data Center.

Contractor represents and warrants that the above performance Service Levels shall be valid with up to 20,000 Users using the application at any given time.

If the Record Retrieval Delivery Time Level of 3 minutes or less falls below 95% in any month, Authorized Purchaser shall be entitled to a credit on that month's bill for Subscription Services according to the table in Exhibit B, Section G. of the MSA, as amended.

12.3 Subscription Services Availability Service Level.

Contractor represents and warrants that the Subscription Services shall be available as specified in Exhibit B, Section B. of the MSA, as amended.

Service Availability shall be measured on a 7 x 24 basis (7 days a week, 24 hours per day).

If the Subscription Services availability percentage falls below 99.7% in any month, Authorized Purchaser shall be entitled to a credit on that month's bill for Subscription Services according to the table below that represents the then-current cumulative number of all Authorized Purchaser Users.

A. Scale based on 20,000 users or more.

Availability Percentage	Percentage of Credit
99.60% to 99.69%	10%
99.50% to 99.59%	20%
99.0% to 99.49%	30%
97.0% to 98.99%	50%
Below 97.00%	75%

B. Scale based on 19,999 users or less.

Availability Percentage	Percentage of Credit
99.00% to 99.69%	10%
98.50% to 98.99%	20%
98.00% to 98.49%	30%
97.00% to 97.99%	50%
Below 97.0%	75%

12.4 Performance and Availability Scalability.

Contractor represents and warrants that the performance and availability Service Levels in Sections 12.2 and 12.3 above shall be valid and applicable with a concurrent User increase of up to 20,000 Users.

12.5 Notifications to Authorized Purchaser.

Contractor shall provide proactive notifications to Authorized Purchaser regarding scheduled system-maintenance downtime and system upgrades and enhancements. Contractor shall provide Authorized Purchaser with at least seven (7) calendar days' prior written notice of any scheduled outages; such notices shall include the date of the outage and the start and stop times of the outage.

Scheduled upgrades and enhancements shall be provided between the hours of 8:00 p.m. and 6:00 a.m. Monday through Friday, or during weekends and/or Federal holidays, with the exception of emergency security patches.

12.6 Additional Environment.

Contractor will provide an additional environment at no additional charge for Authorized Purchaser's testing and/or training purposes, without limitation. Authorized Purchaser agrees not to use the additional environment for production purposes.

12.7 Support and Error Resolution.

Contractor shall establish and maintain the organization and processes necessary to provide support and error-resolution services to Authorized Purchaser. Contractor shall provide support and error-resolution services on a twenty-four (24) hours a day, seven (7) days a week basis. Authorized Purchaser's ORMS Users shall contact the ORMS Support Desk, which shall be staffed by on-site, on-duty Support staff during regular business hours from 7:00 a.m. to 5:00 p.m. Monday through Friday, excluding weekends and Federal holidays. Outside of regular business hours, Users may call the ORMS Support Desk and leave a message for on-call staff, who shall respond according to the priority levels specified in this Section.

Upon receipt of telephone or written notice from the Authorized Purchaser specifying a problem, and upon receipt of such additional information as Contractor may request, Contractor shall respond as described below to resolve reported and reproducible errors in the Subscription Services or SaaS ORMS Software, so that the application operates as specified in this Contract. Contractor shall determine the priority level in accordance with the following protocols:

(i) SEVERITY 1 – CRITICAL BUSINESS IMPACT. The production use of the Subscription Services is stopped or so severely impacted that the Authorized Purchaser cannot reasonably continue work; requires round-the-clock attention until the problem is resolved (a "Severity 1 Error").

a. Contractor shall begin work on the error within fifteen (15) minutes of notification;
b. Contractor shall engage development staff until the problem is circumvented or corrected; and
c. Contractor shall provide Authorized Purchaser with ongoing communication on the status of the problem resolution.

(ii) SEVERITY 2 – SIGNIFICANT BUSINESS IMPACT. A high-impact problem is affecting Service Levels and/or materially impacting Authorized Purchaser's use of the Subscription Services. Problem resolution shall be initiated within sixty (60) minutes, and the resolution of these problems requires serious and sustained attention during normal business hours (8:00 am to 5:00 pm, Pacific time, Monday through Friday, exclusive of State holidays) until the problems are circumvented or corrected (a "Severity 2 Error").

a. Contractor shall begin work on the error within sixty (60) minutes of notification;
b. Contractor shall engage development staff until the problem is circumvented or corrected; and
c. Contractor shall provide Authorized Purchaser with ongoing communication on the status of the problem resolution.

(iii) SEVERITY 3 – SOME BUSINESS IMPACT. This includes problems of general work- queue type and that do not come within the definitions of Severity 1 Error or Severity 2 Error. These problems shall be addressed after Severity 1 Errors and Severity 2 Errors have been corrected and may be pursued during normal business hours on a resources-available basis (a

"Severity 3 Error").

a. Contractor shall begin work on the error within one (1) day of notification; and
b. Contractor shall engage development staff to provide a workaround and to resolve the problem as soon as possible after notification by Authorized Purchaser.

(iv) SEVERITY 4 – MINIMUM BUSINESS IMPACT. Authorized Purchaser requests information, an enhancement, or documentation clarification regarding the Subscription Services or SaaS ORMS Software but there is no impact on the operation of the Subscription Services or SaaS ORMS Software. The implementation or production use of the Subscription Services or SaaS ORMS Software is continuing and there is no work being impeded at the time (a "Severity 4 Error").

a. Contractor shall provide a response regarding the requested information or documentation clarification within two (2) days of notification by Authorized Purchaser; and
b. Contractor shall consider enhancements for inclusion in a subsequent update to the Subscription Services, SaaS ORMS Software or Documentation.

13. Termination and Transition Assistance

Authorized Purchaser may terminate this Contract as provided in Exhibit A, Section 12, of the MSA. Contractor may terminate this Contract as provided in Exhibit A, Section 12.3, of the MSA.

BY EXECUTING THIS CONTRACT, THE PARTIES AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

AUTHORIZED PURCHASER	**CONTRACTOR**
By:________________________	By:________________________
Name:______________________	Name: Richard T. Chaves
Title:_______________________	Title: President, Chaves Consulting
Date:_______________________	Date:_______________________

City Council Meeting Date: August 18, 2025

To: Mayor Clark and City Council Members

Thru: Adam J. Brown, City Manager

From: Adam Brown, City Manager

Subject: Cherriots Payroll Tax Position

Proposed Motion

I move that the Keizer City Council take a public position in opposition of the proposed Cherriots payroll tax.
or
I move that the Keizer City Council take a public position in support of the proposed Cherriots payroll tax.

I. Summary

Staff received a request from Councilor Cross, which was supported by Councilors Juran and Christopher to have the proposed Cherriots payroll tax on the agenda for the purposes of the Keizer City Council to express an opinion.

II. Background

A. As per the Council Rules and Procedures, any City Councilor may request an item be put on the agenda with the support of two other council members.

III. Current Situation

A. Councilor Cross submitted the request to have "a discussion regarding the possible Salem-Keizer Cherriots payroll tax and preparing a letter of opposition from the council." Councilors Kyle Juran and Lore Christopher supported the request.

B. A previous ballot initiative to implement a payroll tax of 0.21% failed in 2015 when the governing body of Cherriots was elected.

C. In 2018, through Senate Bill 1536, the state legislature gave Cherriots the authority to levy its own local, employer-paid payroll tax and the ability to implement it by a vote of the Board of Directors without a public referendum. At the same time, it made the Cherriots governing board appointees who were previously elected to positions. This taxation power expires on January 1, 2026. This created a window of time when Cherriots could impose a tax without having any recourse through the ballot.

D. Should the Keizer City Council wish to render a position on the issue, the staff will prepare a letter in accordance with that position and share it with the Cherriots governing body and local legislators.

IV. Analysis

A. **Strategic Impact** - No impact on short or long-term goals.

B. **Financial** -
This payroll tax would impact nearly every business working in the Salem-Keizer Urban Growth Boundary by imposing a 0.7% employer-paid tax. According to an article in the statesman journal on July 31,*e*xemptions from the tax would include federal credit unions, public school districts, non=profits and tax-exempt institutions except hospitals, insurance companies, domestic insurers and those who provide domestic service in private homes. The state of Oregon would pay a Payment in Lieu of Taxes (PILT) of $11 million.

C. **Timing** -
The Cherriots governing body has said that they expect to make a decision in the fall of 2025. There is pressure to make a decision before January 1, 2026, because the ability to tax residents without approval in an election takes effect on January 1, 2026.

D. **Policy/Legal** -
It is the City Council's prerogative to take public positions on public policy issues that impact its residents.

V. Alternatives

A. Approve the staff writing a letter on behalf of the Keizer City Council expressing opposition to the proposed payroll tax.

B. Approve the staff writing a letter on behalf of the Keizer City Council expressing support to the proposed payroll tax.

C. Take No Action - The Council will not exercise its political speech as a body.

VI. Recommendation

Staff take no position on matters of the Council's political speech. We stand ready to transmit any position made by the council to whatever audience the council directs us to message.

Attachments

None

“Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury.”

City Council Meeting Date: August 18, 2025

To: Mayor Clark and City Council Members

Thru: Adam J. Brown, City Manager

From: Adam Brown, City Manager

Subject: Street Vendor Ordinance

Proposed Motion

No proposed motion.

I. Summary

On August 6, 2025, the Marion County Board of Commissioners passed the attached street vendor ordinance. The County has invited each city to opt in to the County Ordinance.

II. Background

A. On July 28, 2025 we received an opportunity to comment on a proposed street vendor ordinance. Keizer staff did not have much comment on their ordinance because we do not allow street vendors in Keizer except during parades or by permit at Keizer Rapids Park.

III. Current Situation

A. The goal of this ordinance is to regulate street vendors within Marion County. It puts minimum standards on street vendors to be able to operate within 50 feet of the right of way. Because we do not allow it, adoption of these standards may find conditions in which street vendors are allowed under this ordinance.

IV. Analysis

A. **Strategic Impact** -
No strategic impact on short or long-term goals.

B. **Financial** -
The permit fee is $50.

C. **Timing** -
The City of Keizer could choose to opt in at any point.

D. **Policy/Legal** -
The City Council would have to opt in to the County ordinance to make it enforceable. The County Sheriff's Department could be used to enforce it within the City if it was adopted. The County has stated their willingness to assist with enforcement within the City if needed.

V. Alternatives

A. Take no Action: Our regulation of street vendors remains the same, which is to not allow them within the City rights-of-way.

B. Direct Staff to Prepare an Ordinance or Resolution to opt into the County Street Vendor Ordinance.

VI. Recommendation

Staff recommends that we take no action and allow the City's street vendor ordinance to remain unchanged.

Attachments

1. LEGAL_Public Hear_Street Vendor Ordinance
2. Street Vendor Application final

"Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury."

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

An ordinance amending and updating)
the Marion County Code Chapter 10.10)
relating to Street Vending)

ORDINANCE NO. 1481

THE MARION COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of this ordinance is to amend and update the provisions of the Marion County Code Chapter 10.10 relating to Street Vending.

SECTION 2. NEW MCC Chapter 10.10.210

The Marion County Code 10.10.210 (Purpose and Findings) is added to read as follows:

A. The purpose of this article is to provide a safer environment on and near roads within the county by accomplishing the following objectives:

1. Improve safety for street vendors.
2. Improve safety for all drivers, bicyclists, and pedestrians.
3. Enhance traffic flow on roads and sidewalks within Marion County.
4. Allow for better emergency vehicle access.
5. Protect property owners and businesses near roads.

6. Protect consumers from the health risks of food sold by street vendors who did not grow or package that food and are not licensed or inspected.

B. The Board of Commissioners finds that:

1. Street vendors, if not properly regulated, create safety hazards, including but not limited to: interfering with traffic flow, distracting drivers, obstructing vision clearances, obstructing sidewalk and Americans with Disabilities Act (ADA) access, and encouraging vehicles to act unsafely by pulling off roads with short notice or parking or idling within the right of way.
2. Many street vendors have historically operated on municipal property or private property without permission, violating property rights and creating liability risks for property owners.
3. There are significant health risks from food sold by street vendors who did not grow or package that food and are not licensed or inspected.
4. This article will help accomplish the goals in subsection A.

SECTION 2. NEW MCC Chapter 10.10.220

The Marion County Code 10.10.220 (Definitions) is added to read as follows:

A. "County property" means any property owned or leased by the county. The term "county property" includes any plaza owned or leased by the county in common with another owner or lessee. The term "county property" does not include any public road.

B. "Immediate family member" means the spouse, parent, stepparent, child, sibling, stepsibling, son-in-law, daughter-in-law, or grandchild of the property owner.

C. "Permitted Street Vendor" means a person who has applied for and been granted a permit for activities as a street vendor under this ordinance.

D. "Park" means to park, stand or stop as those three terms are defined within the Oregon Vehicle Code and set forth in the Oregon Revised Statutes.

E. "Person" means an individual, corporation, partnership, association or other entity.

F. "Public road" means any city or county road, including the entire width of the right-of-way, within Marion County. This includes:

   a. Any road that has been designated as a county road under the provisions of ORS 368.016;

   b. Any local access road that is subject to the county's jurisdiction under ORS 368.031; and

   c. For any city that opts into this ordinance, any city road under the jurisdiction of that city per ORS 373.320, ORS Chapter 373, or other authority.

G. "Street vendor" or "street vending":

   a. Means any person or entity offering street vendor products for sale at a non-permanent location within a public road or within 50 feet of the public road's right-of-way.

b. Does not include any person or entity on their own private property or any person on private property owned by an immediate family member.

c. Does not include a person or entity whose business is licensed or permitted by a government body to operate for a specific purpose, so long as operating for that specific purpose within the requirements of that license or permit, such as a retail firework sales permit, a temporary restaurant license, or a conditional use permit.

d. Does not include a person or entity offering street vendor products for sale within a public road while that public road is closed for a government-permitted temporary event like a parade or farmers market, so long as the person or entity is following applicable regulations for the temporary event.

e. Does not include a person or entity who is operating within a city under a city code provision allowing business within a public road next to their permitted business, so long as the person or entity is in full compliance with that city's requirements.

H. "Street vendor equipment" means any vehicle, equipment, or other materials used by a street vendor for staging, marketing, or selling street vendor products.

I. "Street vendor products" means anything marketed or sold by a street vendor, including perishable goods and non-perishable goods.

J. "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public roadway, including both motorized and nonmotorized.

SECTION 3. NEW MCC Chapter 10.10.230

The Marion County Code 10.10.230 (Prohibitions and Permit) is added to read as follows:

A. No person shall engage in street vending without a permit.

B. Permit restrictions:

   a. A permitted street vendor must have on their person and display upon request a copy of the permit and government-issued legal identification showing they are one of the listed individuals under the permit.

   b. A permitted street vendor shall only engage in street vending in a location where there is legal access from the public road and a location for safe and legal parking by customers.

   c. A permitted street vendor may not operate on private property without written permission of the property owner.

   d. A permitted street vendor may not operate on county property.

   e. A permitted street vendor may not park on or obstruct a public road while engaging in street vending.

   f. A permitted street vendor may not operate in a manner that obstructs a sidewalk, bike lane, or multiuse path along a public road.

g. A permitted street vendor shall be at least 100 feet away from any other permitted street vendor.

h. A permitted street vendor shall not leave any street vendor equipment or street vendor products unattended.

i. Notwithstanding any other requirement, a permitted street vendor may operate an ice cream truck that drives and parks temporarily on public roads so long as the following requirements are met:

   i. Any food sold is commercially sealed and prepackaged.

   ii. Driving must be within the speed limit and not more than 10 miles per hour below the speed limit.

   iii. Parking may not be in a location that obstructs traffic.

   iv. Parking may not be in a location that is likely to attract children to travel to the ice cream truck in an unsafe way or manner.

   v. Parking may not be in the same location longer than five minutes, except if operating in a city that allows for a longer period of time, then parking may not be in the same location longer than the time allowed by that city's code.

   vi. Noise ordinance requirements of the county or applicable city must be followed.

   vii. Operation may not occur between 10pm and 7am.

C. Permit applications:

   a. Application for a permit shall be submitted to the Marion County Health and Human Services Environmental Health Program along with an appropriate application fee. The amount of the application fee shall be determined by the Marion County Board of Commissioners by order.

b. Marion County Environmental Health Program shall designate an application form for use in applying for a permit under this section. The application form shall require all of the following:

    i. If the applicant is an entity, the full legal name, address, and contact information of a named individual responsible for ensuring compliance with permit requirements.

    ii. If the applicant is an individual, the individual's full legal name, address, and contract information.

    iii. The full legal name of all individuals covered under the street vendor permit.

    iv. Proof of insurance for the street vendor, including coverage for all individuals covered under the street vendor permit. Coverage must include at least $1,000,000 in commercial general liability coverage.

    v. The applicant must agree to indemnify the county for any activities by the applicant under the permit.

    vi. If the street vendor will be operating on private property, written proof of property owner consent is required, and the property owner's phone number must be included. Written proof could include a fully executed rental or lease agreement, although financial terms and other similar confidential terms may be redacted.

vii. Certification that a copy of the street vendor permit will be kept with all individuals or entities who will operate under the permit for marketing or selling street vendor products.

c. A permit is valid for one year.

SECTION 4. <u>NEW MCC Chapter 10.10.240</u>

The Marion County Code 10.10.240 (Enforcement responsibility and authority) is added to read as follows:

A. Enforcement by Marion County may be via a Marion County Enforcement Officer, by any designee of the Marion County Sheriff, or by any designee of the Marion County Health and Human Services Administrator.

B. Outside the city limits of any incorporated city, this article may be enforced by Marion County.

C. Within the city limits of any incorporated city, the governing body of a city may opt in to this ordinance. A city may choose to allow enforcement by Marion County and/or by that city's law enforcement officers or other city-determined enforcement officers. If a city does not specify who may enforce, then Marion County may enforce within that city's city limits.

SECTION 5. <u>NEW MCC Chapter 10.10.250</u>

The Marion County Code 10.10.250 (Penalties) is added to read as follows:

A. Operating as a street vendor without a permit in violation of Marion County Code 10.10.230(A) is subject to a daily fine of up to $1,000.

B. Operating as a permitted street vendor in violation of any of the requirements in Marion County Code 10.10.230(B) or (C) is subject to a daily fine of up to $500, except that violation of Marion County Code 10.10.230(B)(a) is subject to a daily fine of up to $1,000.

C. Street vendor equipment may be impounded, towed, and held until a fine is paid.

D. Non-perishable street vendor products may be impounded and held until a fine is paid.

E. If a fine is not paid within 30 days, the County may dispose of impounded street vendor equipment or non-perishable street vendor products:

   a. as unclaimed property;

   b. via auction with proceeds to first cover the fine, holding costs, and auction costs and any excess treated as unclaimed property;

   c. in the manner provided by MCC 10.20.040; or

   d. via any other method allowed by law.

SECTION 6. NEW MCC Chapter 10.10.260

The Marion County Code 10.10.260 (Hearings) is added to read as follows:

A. A person whose property is seized under this ordinance may request a hearing before the Marion County hearings officer to contest the validity of the impoundment. A request must be made within five calendar days of the impoundment. The request shall be made to a person designated by the impounding entity to receive such requests.

B. When a timely request for a hearing is made, a hearing shall be held before the Marion County hearings officer. The hearing shall be set for four calendar days after the request is received excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing. The hearings officer shall render a written determination. The hearings officer shall provide a copy of the written determination to the person requesting the hearing.

C. The impounding agency shall have the burden of proving by a preponderance of the evidence that there was probable cause to believe that, at or just prior to the time the enforcing entity stopped the person, the person committed an offense described in this ordinance.

D. An enforcing officer who ordered the vehicle impounded may submit an affidavit or official report to the hearings officer in lieu of making a personal appearance at the hearing.

E. If the hearings officer finds that the impoundment was proper, the hearings officer shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the property is liable for usual customary towing and storage costs. The hearings officer may also find the owner or person entitled to possession of the property liable for costs of the hearing. The decision of the hearings officer is a final decision.

F. If the hearings officer finds that impoundment of the property was improper, the hearings officer shall order the property released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession of the property is not liable for any towing or storage costs resulting from the impoundment. If there is a lien on the property for towing and storage charges, the hearings officer shall order it paid by the impounding agency. The decision of the hearings officer is a final decision.

G. If a person entitled to lawful possession of property impounded under this ordinance sufficiently establishes for the impounding agency that the property was being operated without the consent of the person entitled to lawful possession at the time that the property was impounded, the impounding agency shall waive the fee under this ordinance. For purposes of this section, proof that a person entitled to lawful possession of the property reported the property as stolen to a police agency prior to impoundment of the property shall be conclusive evidence that the property was being operated without the consent of the person.

SECTION 6. SEVERABILITY

Should any section or portion of this ordinance be held unlawful or unenforceable by any court of competent jurisdiction that decision shall apply only to the specific section, or portion thereof, directly specified in the decision. All other sections or portions of this ordinance shall remain in full force and effect.

SECTION 7. EFFECTIVE DATE

This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect on its passage.

No enforcement of this ordinance shall occur regarding activities occurring within two weeks of the effective date to allow for a period of public education and encouragement of voluntary compliance.

Adopted this 6th day of August, 2025.

MARION COUNTY BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

Recording Secretary

ORDINANCE NO. 1481
Page 12 of 12

MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: August 6, 2025

Department: Legal Counsel

Title: Street Vendor Ordinance

Management Update/Work Session Date: 7/22/2025

Audio/Visual aids ☐

Time Required: 15 min **Contact:** Steve Elzinga **Phone:** 503-588-5220

Requested Action:

Hold public hearing and consider adopting new Street Vendor Ordinance

Issue, Description & Background:

The Board directed county counsel to draft a potential street vendor ordinance. County counsel went through several drafts and sought feedback from the Marion County Farm Bureau, Sheriff's office, Health and Human Services Department, Board's office, and several city attorneys.

Street vendors, if not properly regulated, create health and safety hazards, such as: interfering with traffic flow, distracting drivers, obstructing vision clearances, obstructing sidewalk and Americans with Disabilities Act (ADA) access, and encouraging vehicles to act unsafely by pulling off roads with short notice or parking or idling within the right of way. Many street vendors have historically trespassed on municipal property or private property.

Financial Impacts:

Fiscal impact is undetermined and will depend on the number of applications received and extent of enforcement.

Impacts to Department & External Agencies:

Health and Human Services Department will process permit applications. Sheriff's Office will handle most enforcement. Legal Counsel will handle any hearings. City partners will need to decide whether to opt in for their cities.

List of attachments: Proposed Ordinance

Presenter: Steve Elzinga

Department Head Signature: Steve Elzinga

Digitally signed by Steve Elzinga
Date: 2025.07.23 15:32:21 -07'00'

Marion County OREGON Health & Human Services

Street Vendor Permit

3160 Center St Ne
Salem, OR 97301
Office: 503-588-5346
Fax: 503-566-2986

Marion County Code 10.10.230 No person shall engage in street vending without a permit.
Street vending means any person or entity offering street vendor products for sale at a non-permanent location within a public road or within 50 feet of the public road's right-of-way. Does not include persons or entities permitted by a government body such as a retail firework sales permit, temporary restaurant license or conditional use permit

Applicant Full Legal Name:	*Business Name, if applicable:*
Mailing Address:	*Operating Address:*
Phone Number:	*Email Address:*
List full legal name of all individuals covered under the street vendor permit:	

Please read the statements below and check the box to indicate you will comply with these requirements.

- ☐ Proof of insurance, including coverage for all individuals covered under the street vendor permit. Coverage must include at $1,000,000 in commercial general liability coverage. Attach certificate of insurance.
- ☐ Applicant agrees to indemnify the county for any activities by the applicant under the permit
- ☐ If operating on private property, written proof of property owner consent is required. Attach written proof (e.g. rental or lease agreement).
- ☐ I certify that a copy of the street vendor permit and government-issued legal identification will be kept with all individuals or entities who will operate under the permit for marketing or selling street vendor products.

What are you vending? ____
This permit only applies if you are selling exempt food (examples described below) or items excluded from additional licensing. If selling non-exempt food, you need a license from Marion County Environmental Health or Oregon Department of Agriculture.

☐ I am only selling (1) items that are not food or beverages and/or (2) non-potentially hazardous confections or commercially pre-packaged and prepared following products: ice cream or frozen desserts in individual packaging, pickled products, commercially processed jerky, nuts, nutmeats, popcorn, pre-packaged potato chips, pretzels, crackers, unopened commercially bottled and canned non-potentially hazardous beverages, coffee and tea with non potentially hazardous ingredients, non potentially hazardous hot or cold beverages from individually packaged powdered mixes and commercially bottled water, not to include fresh squeezed juice.

An administrative fee may be charged by the regulatory authority to review and approve this form

I agree to comply with the provisions of Marion County Code 10.10.210 to 10.10.260. Furthermore, I attest that the information provided on this form is accurate. A copy of this form must be kept with each vendor during all hours of operation.

Signature of Applicant:____ Date: _______________

FOR OFFICE USE ONLY

Fee received: ____ Date: ________________

☐Cash ☐Check# ________ ☐Money Order

Reviewed by: _________________________________ Permit # ______________ Date: ________________

☐ Approved ☐ Not Approved

Rev 7/25