



# Agenda Item

April 23, 2014

TO: City Council  
FROM: Kathy Figley, Mayor  
SUBJECT: **Committee Appointments**

The following appointment is made, subject to the approval of the Council. Please forward any adverse comments to me prior to the Council meeting on Monday, April 28, 2014. No reply is required if you approve of my decision.

✓ **Budget Committee**

Position II	Zandi Cox ( <i>new appointment</i> )
Position V	Sharon Schaub ( <i>new appointment</i> )

**COUNCIL MEETING MINUTES  
APRIL 14, 2014**

0:00 **DATE COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, APRIL 14, 2014**

**CONVENED** The meeting convened at 7:00 p.m. with Mayor Figley presiding.

**ROLL CALL**

Mayor Figley	Present
Councilor Cox	Present
Councilor Lonergan	Present
Councilor McCallum	Present
Councilor Morris	Present
Councilor Ellsworth	Present
Councilor Alonso Leon	Present

**Staff Present:** City Administrator Derickson, City Attorney Shields, Public Works Director Scott, Economic and Development Director Hendryx, Police Captain Alexander, Police Captain Garrett, Human Resources Director Hereford, Community Development Director Row, Urban Renewal Manager Stowers, Communications Coordinator Horton, City Recorder Pierson

**COMMUNITY/GOVERNMENT ORGANIZATIONS**

Woodburn School District- Chuck Ransom, Woodburn School District Superintendent, provided a presentation on the Woodburn Schools and the school district's bond proposal.

0:34 **PROCLAMATIONS**

A. El Día del Niño

0:35 **PRESENTATIONS**

Residential Parking: Code Enforcement Presentation- Police Chief Russell provided a presentation on efforts that will be made to help resolve parking issues. These efforts include removal of no parking signs downtown, spring cleanup campaign and possible ordinance revision. City Attorney Shields informed the City Council on the legal requirements of an ordinance. Councilor Lonergan stated that he supports researching the ordinance revisions. Councilor Ellsworth concurred. Councilor Cox stated that this is a good start and that education is an important part of it. He added that he feels that those who receive notice of a violation should not be given so much time to correct the problem before being cited and that violation issues should be handled quickly. Councilor McCallum concurred. Councilor Alonso Leon wanted to be sure that the educational materials are bilingual and Chief Russell answered that they would be. Councilor Morris stated that he doesn't think we should spend any more staff time working on this and we should work with the ordinance we have and we should focus on crime. Merri Berlin, 167 N. Settlemier, stated that the Historic Woodburn Neighborhoods Association wanted to thank Chief Russell and the City Council and let them know that they appreciate the work that has been done. City Administrator thanked the Historic Woodburn Neighborhoods Association for working with the City on this.

**COUNCIL MEETING MINUTES  
APRIL 14, 2014**

1:28 **CONSENT AGENDA**

- A. Woodburn City Council minutes of March 24, 2014
- B. Appointment as President of the Oregon Association Chiefs of Police (OACP)  
Mayor Figley congratulated Chief Russell on being appointed President of the Oregon Association Chiefs of Police. **McCallum/Ellsworth**... adopt the Consent Agenda with congratulations to Chief Russell. The motion passed unanimously.

1:29 **WOODBURN DOWNTOWN ASSOCIATION AGREEMENT**

Nikki DeBuse, Woodburn Downtown Association Secretary, provided a hand out that recapped the 2013 event season and an update on the Woodburn Downtown Association's 2014 events. Anthony Veliz, Woodburn Downtown Association President, shared the Woodburn Downtown Association's vision of building a world class downtown and asked the City to invest \$50,000 into the Woodburn Downtown Association. **Lonergan/McCallum**... authorize the City Administrator to enter into a management agreement with the Woodburn Downtown Association. The motion passed unanimously.

1:43 **CITY ADMINISTRATOR'S REPORT**

The City Administrator informed the City Council that he will be in training on Thursday and Friday. He reported that the second meeting in May falls on Memorial Day and that historically that meeting gets cancelled. He also informed the City Council that the City is purchasing a light meter to measure the brightness of signs. He added that staff will begin work on the changes to the nuisance ordinance and will be back with the proposed changes that the Council asked for. Councilor Morris stated that he did not want changes brought back.

1:45 **MAYOR AND COUNCIL REPORTS**

Councilor McCallum thanked those that purchased bark dust from the Woodburn Kiwanis. Councilor Ellsworth stated that she attended the 50<sup>th</sup> anniversary celebration of the Mustang at the Woodburn drag strip and sold raffle tickets for the Kiwanis Doernbecher's cancer program.

1:48 **ADJOURNMENT**

**Lonergan/Alonso Leon**... meeting be adjourned. The motion passed unanimously. The meeting adjourned at 8:48 p.m.

APPROVED \_\_\_\_\_  
KATHRYN FIGLEY, MAYOR

ATTEST \_\_\_\_\_  
Heather Pierson, City Recorder  
City of Woodburn, Oregon

**1. CALL TO ORDER**

The meeting was called to order at 6:30 p.m.

**2. ROLL CALL**

Position I	J.D. Mitchoff (12/17)	Present
Position II	Kristen Matthews (12/17)	Present
Position III	Nancy Kirksey, President (12/17)	Present
Position IV	Neal Hawes, Vice-President (12/15)	Present
Position V	Ian Niktab (12/17)	Present
Position VI	Phyllis McKean (12/16)	Present
Position VII	Mason Brown (7/17)	Present

**3. MINUTES – January 8, 2014**

**Neal Hawes/JD Mitchoff** – Motion to accept the minutes was offered and seconded. The motion passed unanimously.

**4. BUSINESS FROM THE PUBLIC**

None.

**5. BOARD REPORT**

None.

**6. OLD BUSINESS**

**Local Library Card/Passport Card Update** – John Hunter

Hunter provided statistics regarding the adoption of two types of cards that have been implemented in the last few years to expand access to library materials. The Passport Card, which was endorsed by the Board in 2013, allows patrons to use their CCRLS card to obtain free library service at other participating libraries. Similarly, patrons from other Passport libraries may use their card to obtain a free CCRLS card. In the first year, 13 Passport cards were issued to patrons from outside Woodburn and those patrons borrowed a total of 84 items. This is a relatively small number, and it isn't expected to grow substantially. The Local card, which was approved by the Board in 2010, has been much more popular. This card allows residents outside Woodburn to buy expanded access to materials at the Woodburn library only for a low annual cost. Presently, the library has 221 Local patrons who collectively have borrowed 11,512 items.

Additionally, these card holders contribute \$3,300 in revenue to the general fund annually. Hunter expects the number of Local patrons to remain stable, and he is gratified that the program has proven to be popular and perceived as a good value by rural patrons.

**Family Delinquent Account Policy – John Hunter**

Hunter provided an overview of the number of patrons who presently owe money to the library. In aggregate, the amount is substantial: 7,212 patrons owe a total of \$123,794 in fines. While most folks owe a very small amount, 228 patrons owe an amount over \$100. To guard against abuse of library accounts, the Board approved a Family Delinquent Account policy that allows the library manger to restrict use of library cards within a family where there is an obvious pattern of abuse. Recently CCRLS increased the amount of money required to suspend an account from \$5 to \$10, and the amount to send an account to collections from \$35 to \$50.

**Neal Hawes/Kristen Matthews** – Hunter requested a motion to re-endorse the policy and to amend it to incorporate the new CCRLS dollar amounts. The motion was offered and seconded. The motion was unanimously approved. Matthews asked if the library offers programs that allow folks to decrease their fines; Hunter indicated that the library hasn't thus far. One option is to offer a decrease in fines to folks who supply donations to the food bank in the form of high demand food items (i.e. "Food for Fines.")

**7. NEW BUSINESS**

None.

**8. MANAGER REPORTS**

**Library Statistics – October-December 2013 – John Hunter**

Quarterly statistics indicated a small decrease in the number of visitors to the library. Circulation was mixed, being lower in January and February but higher in March. Some attrition in circulation may owe to increased use of Library2Go e-books and downloadable audiobooks. Library2Go circulation is added at the end of the fiscal year only and is not counted in monthly totals. Librarians are offering more programs, and generally program attendance is higher. Some youth program attendance suffered from a decrease in visits to local preschools.

**Board Question and Answer**

- Matthews requested an update regarding the creation of a coffee concession at the library. Hunter responded that the option is no longer being considered. The last chance of an operation through the Oregon Commission for the Blind was deemed by them not to be financially viable.
- Mitchoff requested an update on the new Kindle Lending Program. Hunter responded that the program is building slowly, but that all the devices are circulating.

**9. FUTURE BOARD BUSINESS**

Next scheduled meeting is July 9, 2014

**10. ADJOURNMENT**

**J.D. Mitchoff / Neal Hawes** – Motion to adjourn meeting and seconded at 7:13 p.m.

**City of Woodburn  
Recreation and Park Board Minutes**

April 8, 2014 • 5:30 p.m.



1. **CALL TO ORDER**

The meeting was called to order at 5:30 p.m.

2. **ROLL CALL**

Position I	Ricardo Rodriguez, Member (12/14)	Present
Position II	Sofie Velasquez (12/14)	Absent
Position III	Joseph Nicoletti, Board Secretary (12/17)	Absent
Position IV	Rosetta Wangerin, Board Chair (12/17)	Present
Position V	Chris Lassen, Member (12/17)	Present
Position VI	Ardis Knauf (12/16)	Present
Position VII	Gevin Gregory (12/16)	Present

3. **APPROVAL OF MINUTES**

The minutes from the February 11, 2014 meeting were unanimously approved (Gregory/ Lassen)

4. **BUSINESS FROM THE AUDIENCE**

None

5. **NEW BUSINESS**

**Recreation Services Manager**

Jim announced to the Board that Stu Spence recently accepted the Parks & Recreation Director position with the City of LaGrande. His last day will be April 25, and his leaving will pose a significant loss for the City. Jim and others praised Stu for his contributions to the Woodburn community during the past six years. His position has already been posted and will also close on April 25.

6. **OLD BUSINESS**

**Legion Park Update**

Jim presented an updated Legion Park Master Plan, which included two additional bleachers, a second basketball court, and a shared parking lot located on the property between the park and the police facility. These additions were made to the plan as a result of the feedback we received as the plan was presented throughout the community.

## 7. DIVISION REPORTS FROM DEPARTMENT

### a. AQUATICS

#### Financial Update

- March revenue up 56% from last year (excellent!)
- YTD revenue is great
  - Revenue up nearly 11%
  - Expenses down 1%

#### Program Update

- Paint Job Photos
- Easter Egg Hunt April 19 at 12pm
- Adding locker rentals mid-month - \$1.00 per day
- New for Summer
  - Inner Tube Water Polo League
  - ISR Swim Lessons
- Grants Applied For
  - State Farm
  - Woodburn Together
- Spring Break Camps & Trainings
  - Make a Splash Day Camp – 9 students (excellent!)
  - Jr. Lifeguard Program – Cancelled due to no sign ups
  - Swim Instructor Training – 12 students (more than average)
  - Lifeguard Training – 12 students (more than average)
- Save the date: Easter Egg Hunt April 19 at 12pm

#### Marketing Update

- March Promotion was wildly successful
  - Class attendance increased 62% from February & up 17% from last March
  - 62% of class attendance from dry land classes (Zumba, Yoga, etc.)
  - Suit sales up 51% from February & down 2% from last March
- Summer Out & About due in hand mid-month

### b. RECREATION

#### Youth Sports

This spring we are trying a new youth flag football league and 61 kids signed up. Not bad for the first year. Games begin April 19<sup>th</sup>. T-Ball begins April 12<sup>th</sup> with 78 players.

#### Adult Sports

This summer we plan to offer a new adult kickball league. Playground games are making a comeback nationally so we're going to see if there is interest in Woodburn.

### **Community Ed Classes**

Hosted a successful container/patio gardening class with 6 participants last week. Also planning more kids cooking classes, preserving salsa class, and youth babysitting classes this summer.

### **Youth Advisory Board (YAB)**

YAB intends to lead games and activities for the Day of the Child event April 26<sup>th</sup>. This is a service project they do every year.

### **Out & About**

Final edits are being submitted and the Out & About Summer Activities guide will be published late April.

### **Oregon Arts Grant**

Unfortunately our funding request has been denied. This funding was for marketing Woodburn Summer Nights programs.

### **WSN**

Many sponsors are committed to the Woodburn Summer Nights program including: Woodburn Independent, Wave Broadband, La Pantera, Woodburn Area Association of Senior Programs, Cascade Park, Mega Foods, Coastal Farm and Ranch, Hubbard Chev, Fiesta Mexicana, Yes Graphics, Kiwanis, Long Bros, Purdy's Car Wash, Hallmark Properties, and Nelson Financial.

### **Upcoming Events**

Annual Easter Egg Hunt at Legion Park April 17<sup>th</sup> starting at 5:30pm. A special thank you to YAB for setting up and hosting the event.

Doggy Treat Hunt at the Centennial Park Dog Park April 18<sup>th</sup> starting at 5:30pm including the treat hunt and costume contest.

#### **c. PARKS & FACILITIES**

Jim informed the Board that the design work for the current Legion Park project is almost complete, the project should go out to bid at the first of May, with construction beginning in early August.

#### **8. FUTURE BOARD BUSINESS**

The Board decided to conduct the annual park tour at 5:30 PM on June 10.

#### **9. BOARD COMMENTS**

Many Board members thanked Stu for his years of service. Gevin announced that an ivy removal project will take place at Alvah Cowan Park on April 26. Rosetta discussed her interest in having a mural painted on the south side of the Aquatic Center.

#### **10. ADJOURNMENT**

The meeting was adjourned at 6:15 p.m.

# Woodburn Police Department

## MONTHLY CRIMINAL OFFENSES JANUARY THRU DECEMBER 2014

CHARGE DESCRIPTION	Jan	Feb	Mar	Total
AGGRAVATED ASSAULT	1	1	1	3
ANIMAL ORDINANCES	1	0	2	3
ARSON	0	1	0	1
ASSAULT SIMPLE	3	10	8	21
BURGLARY - BUSINESS	1	7	4	12
BURGLARY - OTHER STRUCTURE	8	8	4	20
BURGLARY - RESIDENCE	4	7	5	16
CHILD NEGLECT	0	1	0	1
CRIME DAMAGE-NO VANDALISM OR ARSON	19	23	13	55
CURFEW	1	1	0	2
CUSTODY - DETOX	1	0	1	2
CUSTODY - MENTAL	5	0	2	7
DISORDERLY CONDUCT	5	4	3	12
DRIVING UNDER INFLUENCE	7	3	11	21
DRUG LAW VIOLATIONS	19	8	9	36
DRUG PARAPHERNALIA	1	0	0	1
DWS/REVOKED - FELONY	1	0	0	1
DWS/REVOKED-MISDEMEANOR	3	1	2	6
ELUDE	4	0	0	4
EMBEZZLEMENT	0	1	0	1
FAIL TO DISPLAY OPERATORS LICENSE	0	0	2	2
FAILURE TO REGISTER AS SEX OFFENDER	0	1	0	1
FORCIBLE RAPE	2	3	0	5
FORGERY/COUNTERFEITING	2	5	4	11
FRAUD - BY DECEPTION/FALSE PRETENSES	2	0	1	3
FRAUD - CREDIT CARD/AUTOMATIC TELLER MACHINE	1	3	2	6
FRAUD - IMPERSONATION	1	0	0	1
FRAUD - OF SERVICES/FALSE PRETENSES	0	0	1	1
FRAUD-OTHER	0	1	0	1
FUGITIVE ARREST FOR ANOTHER AGENCY	22	24	31	77
GARBAGE LITTERING	1	0	0	1
HIT AND RUN FELONY	0	1	0	1
HIT AND RUN-MISDEMEANOR	12	5	10	27
IDENTITY THEFT	1	4	9	14
INTIMIDATION /OTHER CRIMINAL THREAT	5	1	1	7
MINOR IN POSSESSION	3	1	0	4
MISCELLANEOUS	10	6	4	20
MOTOR VEHICLE THEFT	8	12	4	24
OTHER	6	8	3	17
PROPERTY - FOUND LOST MISLAID	0	3	0	3
PROPERTY RECOVER FOR OTHER AGENCY	1	0	1	2
RECKLESS DRIVING	4	1	2	7
RESTRAINING ORDER VIOLATION	0	1	3	4
ROBBERY - BANK	0	0	2	2
ROBBERY - BUSINESS	2	1	1	4
ROBBERY - OTHER	1	0	0	1
RUNAWAY	7	4	4	15
SEX CRIME - EXPOSER	0	0	1	1
SEX CRIME - FORCIBLE SODOMY	1	0	0	1
SEX CRIME - INCEST	1	3	0	4
SEX CRIME - NON-FORCE RAPE	0	1	0	1
SEX CRIME - OBSCENE PHONE CALL	1	0	1	2
SEX CRIME - OTHER	0	1	0	1
STALKER	4	2	0	6
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	0	2	1	3
THEFT - BICYCLE	2	0	0	2
THEFT - BUILDING	6	13	2	21

# Woodburn Police Department

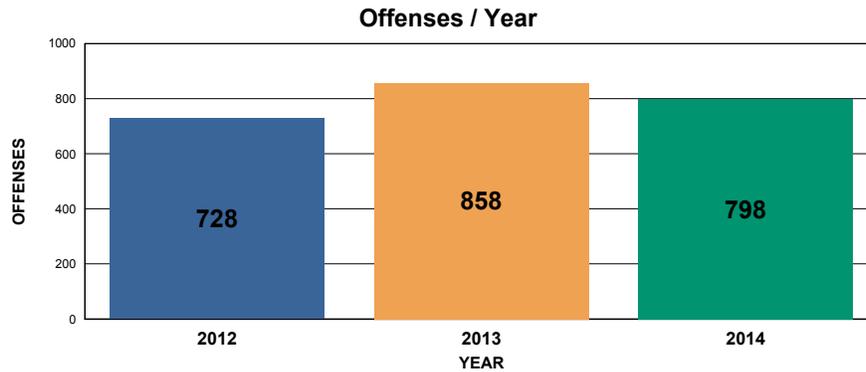
## MONTHLY CRIMINAL OFFENSES JANUARY THRU DECEMBER 2014

	Jan	Feb	Mar	Total
THEFT - COIN OP MACHINE	0	0	1	1
THEFT - FROM MOTOR VEHICLE	24	17	12	53
THEFT - MOTOR VEHICLE PARTS/ACCESSORIES	1	0	1	2
THEFT - OTHER	12	13	9	34
THEFT - SHOPLIFT	12	10	10	32
TRAFFIC VIOLATIONS	6	1	20	27
TRESPASS	2	3	3	8
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	13	12	5	30
VANDALISM	18	17	36	71
WEAPON - CARRY CONCEALED	0	3	1	4
WEAPON - EX FELON IN POSSESSION	2	1	0	3
WEAPON - POSSESS ILLEGAL	0	1	2	3
WEAPON - SHOOTING IN PROHIBITED AREA	0	1	0	1
WILLFUL MURDER	0	1	0	1

	Jan	Feb	Mar	Total
<b>2014 Total</b>	<b>280</b>	<b>263</b>	<b>255</b>	<b>798</b>

<b>2013 Total</b>	<b>327</b>	<b>266</b>	<b>265</b>	<b>858</b>
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<b>2012 Total</b>	<b>246</b>	<b>249</b>	<b>233</b>	<b>728</b>
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# Woodburn Police Department

## MONTHLY ARRESTS BY OFFENSES JANUARY THRU DECEMBER 2014

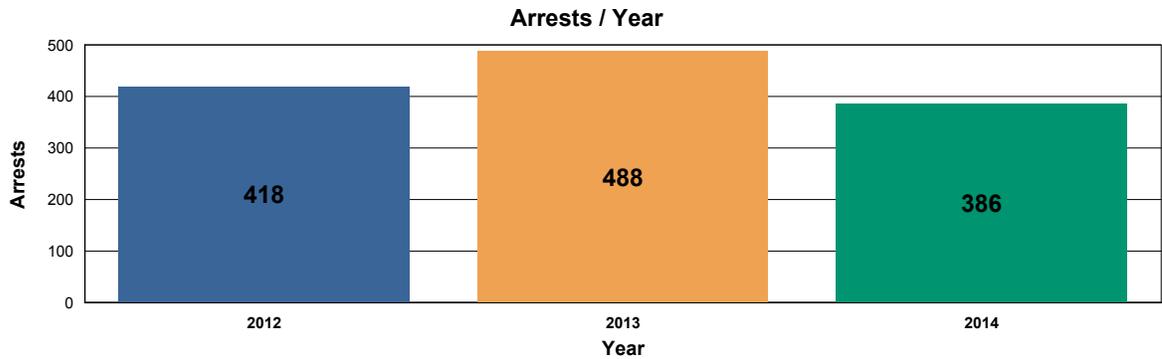
CHARGE DESCRIPTION	Jan	Feb	Mar	Total
AGGRAVATED ASSAULT	1	1	1	3
ANIMAL CRUELTY	0	1	0	1
ANIMAL ORDINANCES	1	0	2	3
ASSAULT SIMPLE	3	8	8	19
BURGLARY - OTHER STRUCTURE	0	2	0	2
BURGLARY - RESIDENCE	0	2	0	2
CHILD NEGLECT	0	0	1	1
CRIME DAMAGE-NO VANDALISM OR ARSON	1	0	1	2
CURFEW	1	4	0	5
CUSTODY - DETOX	1	0	1	2
CUSTODY - MENTAL	5	0	2	7
DISORDERLY CONDUCT	6	4	5	15
DRIVING UNDER INFLUENCE	7	3	11	21
DRUG LAW VIOLATIONS	21	9	8	38
DWS/REVOKED - FELONY	1	0	0	1
DWS/REVOKED-MISDEMEANOR	4	1	2	7
ELUDE	2	0	0	2
FAIL TO DISPLAY OPERATORS LICENSE	0	0	2	2
FAILURE TO REGISTER AS SEX OFFENDER	0	1	0	1
FAMILY-OTHER	1	0	0	1
FORCIBLE RAPE	1	1	0	2
FORGERY/COUNTERFEITING	2	1	4	7
FRAUD - IMPERSONATION	1	0	0	1
FRAUD - OF SERVICES/FALSE PRETENSES	0	0	1	1
FRAUD-OTHER	0	2	0	2
FUGITIVE ARREST FOR ANOTHER AGENCY	23	22	32	77
GARBAGE LITTERING	1	0	0	1
HIT AND RUN FELONY	0	1	0	1
HIT AND RUN-MISDEMEANOR	2	1	2	5
IDENTITY THEFT	1	0	1	2
INTIMIDATION /OTHER CRIMINAL THREAT	2	1	1	4
MINOR IN POSSESSION	9	16	0	25
MOTOR VEHICLE THEFT	1	3	0	4
OTHER	4	6	2	12
RECKLESS DRIVING	2	1	2	5
RECKLESSLY ENDANDERING	2	2	2	6
RESTRAINING ORDER VIOLATION	0	1	2	3
ROBBERY - BANK	0	0	1	1
ROBBERY - OTHER	2	0	0	2
RUNAWAY	1	1	1	3
SEX CRIME - EXPOSER	0	0	1	1
SEX CRIME - INCEST	0	1	0	1
STALKER	3	2	0	5
STOLEN PROPERTY - RECEIVING,BUYING,POSSESSING	0	4	0	4
THEFT - BICYCLE	1	0	0	1
THEFT - BUILDING	2	0	0	2
THEFT - OTHER	4	2	0	6
THEFT - SHOPLIFT	10	6	7	23
TRAFFIC VIOLATIONS	3	1	16	20
TRESPASS	3	0	2	5
UNAUTHORIZED ENTRY INTO MOTOR VEHICLE	0	4	0	4
VANDALISM	0	0	4	4
WARRANT ARREST FOR OUR AGENCY	2	0	0	2
WEAPON - CARRY CONCEALED	0	3	1	4

# Woodburn Police Department

## MONTHLY ARRESTS BY OFFENSES JANUARY THRU DECEMBER 2014

	Jan	Feb	Mar	Total
<b>WEAPON - EX FELON IN POSSESSION</b>	2	1	0	3
<b>WEAPON - POSSESS ILLEGAL</b>	0	1	1	2

	Jan	Feb	Mar	Total
<b>2014 Total</b>	139	120	127	386
<b>2013 Total</b>	188	165	135	488
<b>2012 Total</b>	165	158	95	418



# Woodburn Police Department

## ORDINANCE VIOLATIONS

### JANUARY - DECEMBER 2014

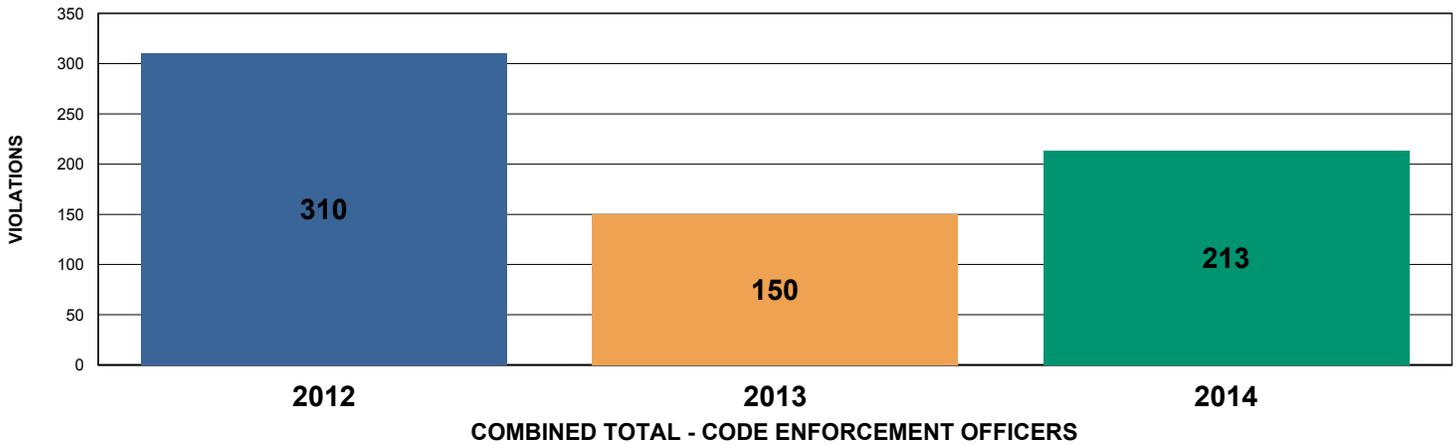
4/21/2014

Ordinance Discription	Jan	Feb	Mar	Total
Animal Complaint	32	26	47	105
Ordinance - Abate/Nuisances	6	3	2	11
Ordinance - Abandoned Vehicles	11	11	14	36
Ordinance - Abate Graffiti	7	18	21	46
Ordinance - Oth Violation	60	64	105	229
<b>2014 Total</b>	<b>116</b>	<b>122</b>	<b>189</b>	<b>427</b>

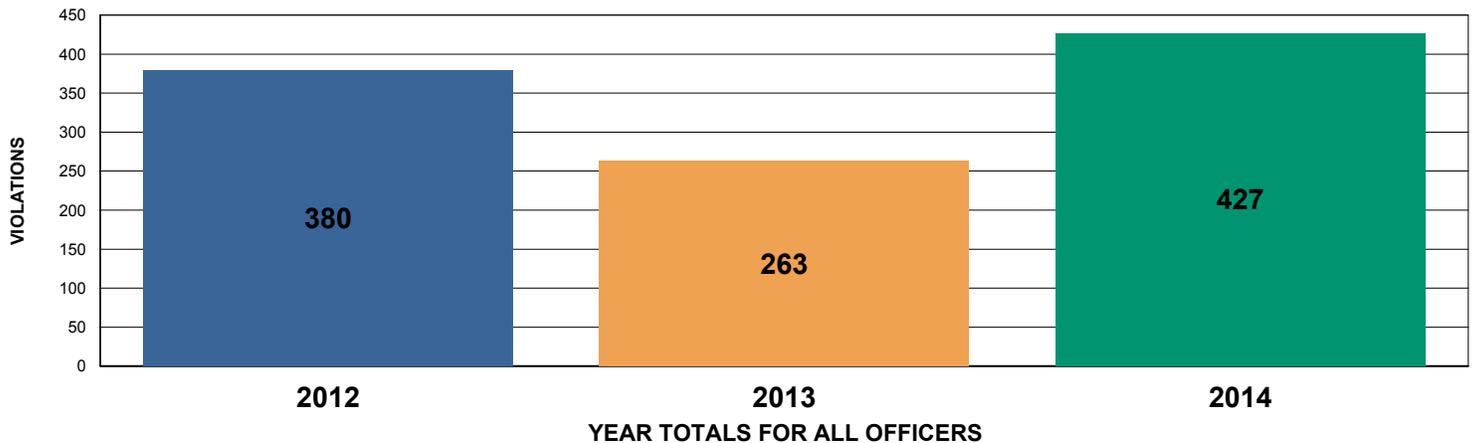
<b>2013 Total</b>	<b>72</b>	<b>89</b>	<b>102</b>	<b>263</b>
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<b>2012 Total</b>	<b>130</b>	<b>106</b>	<b>144</b>	<b>380</b>
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#### Ordinance Violations / Code Enforcement Officers



#### Ordinance Violations / Year





# Agenda Item

April 28, 2014

TO: Honorable Mayor and City Council through City Administrator  
FROM: Randy Scott, Public Works Director  
SUBJECT: **AeroVironment EV Charging Station Agreement**

## **RECOMMENDATION:**

It is recommended that the City Council authorize the City Administrator to enter into a Service Agreement with AeroVironment, Inc., for the operation of an EV Charging Station at the Woodburn Memorial Transit Facility.

## **BACKGROUND:**

The Woodburn Memorial Transit Facility was selected by the Oregon Department of Transportation (ODOT) through their Electric Vehicle Corridor Connectivity Project as a location for installation of an electric vehicle fast charging station and a level II charging station. The site will be one of twenty-two new locations developed along major travel corridors in Northwest Oregon.

The equipment being installed, for comparison purposes, is one fast charging station that can, depending on conditions and battery type, reach 80% battery capacity charge in less than 10 minutes. The Level II charging station can take anywhere from up to 3 to 8 hours to charge depending on conditions.

The EV Charging Station Installation of equipment and labor is funded through ODOT's Transportation Infrastructure Generating Economic Recovery (TIGER II) grant funds. The grant expires at the end of this fiscal year. AeroVironment is ODOT's contracted firm to supply, install, operate and maintain the charging stations at the various site locations. The program requires a host to partner with ODOT for sites to locate the charging facilities.

## **DISCUSSION:**

With respect to the Woodburn Memorial Transit Facility, In accordance with the Cooperative Improvement Agreement No. 25169 with the State of Oregon, through its Department of Transportation, the City of Woodburn is responsible for

Agenda Item Review: City Administrator  City Attorney  Finance

maintenance and operation of the transit facility, including the electrical charging station facilities if so installed and is, therefore, acting as the host for the site.

Contract administration, adhering to grant requirements and funding for the contract to install the charging equipment is between ODOT and the vendor AeroVironment. There is no cost to the City acting as the host for the site for the proposed charging equipment.

There is however cost to the City as the host for the site in additional power usage charges to the Woodburn Memorial Transit Facility. The additional power cost based on rough estimates could range from \$500 to \$3500 annually depending on usage and system demand charges from PGE. The 5% rent fee per the agreement will not fully cover the additional charge for electric usage, revenue is only estimated to be about \$500 or less per year.

ODOT in conjunction with the construction of the Woodburn Memorial Transit Facility installed all of the infrastructure, electrical panels, conduits and concrete pads in preparation of installation of charging units on the site. The infrastructure has also been installed to accommodate additional units in the future if so desired.

The Cities agreement with ODOT to maintain and operate the transit facility also stipulates that the City shall not enter into any third party agreements, such as for charging of electric vehicles, without obtaining prior approval from the State. The Service Agreement review process has taken quite some time, but the agreement has been reviewed by the State Department of Justice, Various ODOT Divisions, the Vendor AerVironment and City staff. The document as attached is ready for execution once the signature page is revised to include ODOT as signer.

**FINANCIAL IMPACT:**

Per the Service Agreement with AeroVironment, 5% of gross revenues collected by the vendor will be provided to the City to offset the additional electrical cost. The estimates for additional electric charge could range from \$500 to \$3500, Maintenance fund 140.631.4211.5431 will be used to fund the charge.

Attachment

Service Agreement with AeroVironment, Inc.

## SERVICE AGREEMENT

THIS SERVICE AGREEMENT (“Agreement”) dated and effective as of \_\_\_\_\_, is between AeroVironment, Inc., (“AVI”), and the City of Woodburn (“Woodburn”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Premises. Woodburn leases, from the State of Oregon, acting by and through its Oregon Department of Transportation (“ODOT”), a parcel of land (“**Land or Property**”) located in the City of Woodburn, County of Marion, State of Oregon, commonly known as 2895 Newberg Hwy, Woodburn, OR 97071 (APN: 052W12AC-04304). The Land is more particularly described in Exhibit A attached hereto. Subject to the provisions of Paragraph 2 below (“Effective Date), Woodburn hereby authorizes AVI:

(i) to utilize approximately five hundred seventy (570) square feet of space on the Land (“**Premises**”) for AVI’s installation, operation, and maintenance of electrical vehicle charging service facilities on the Premises;

(ii) to have access to the Premises, only over surfaces improved to accommodate ordinary vehicle passage and parking and over improved curb-cuts, to the extent that access is reasonably necessary to AVI’s installation, operation, and maintenance of electrical vehicle charging service facilities on the Premises; and

(iii) to use those electric power transmission pathways and/or conduits that are reasonably necessary for AVI’s installation, operation and maintenance of electrical vehicle charging service facilities on the Premises.

The contours of the Premises, of the authorized access pathways, and of the electrical power transmission pathways are depicted in Exhibit B, which is attached hereto and incorporated into this Agreement.

2. Effective Date. This Agreement shall be effective on the date of full execution hereof (“**Effective Date**”). Beginning on the Effective Date and continuing until the Term Commencement Date as defined in Paragraph 4 below (“**Due Diligence Period**”), AVI shall be permitted to enter the Property only for the limited purpose of making appropriate engineering and boundary surveys and environmental tests, inspections, and other reasonably necessary investigations (collectively, “**Investigations and Tests**”) that AVI may deem necessary or desirable to determine the physical condition, feasibility and suitability of the Premises. In the event that AVI determines, during the Due Diligence Period, that the Premises are not appropriate for AVI’s intended use, or if for any other reason, AVI decides not to commence its use of the Premises, then AVI shall have the right to terminate this Agreement without penalty upon written notice to Woodburn at any time during the Due Diligence Period and prior to the Term Commencement Date. Woodburn and AVI expressly acknowledge and agree that AVI’s access to the Property during this Due Diligence Period shall be solely for the limited purpose of performing the Investigations and Tests, and that AVI shall not be considered an owner or operator of any portion of the Property, and shall have no ownership or control of any portion of the Property (except as expressly provided in this Paragraph 2), prior to the Term Commencement Date.

3. Use. The Premises may be used by AVI exclusively for AVI’s installation, operation, and maintenance of electrical vehicle charging service facilities on the Premises, including the provision of electrical vehicle charging services and the operation and maintenance of related support facilities. Woodburn agrees, at no expense to Woodburn, to cooperate with AVI, in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for AVI’s intended use of the Premises. No signage for AVI’s installation shall be permitted on the state highway. All other signs are subject to ODOT approval and must be submitted with plans prepared in accordance with Paragraph 7.1.

4. Term. The term of this Agreement shall commence upon the date AVI begins construction of the AVI Facilities (as defined in Paragraph 7 below) or twelve (12) months following the Effective Date, whichever first occurs (“**Term Commencement Date**”) and shall terminate on the fifth anniversary of the Term Commencement Date (“**Term**”) unless otherwise terminated as provided herein. AVI and Woodburn, subject to the prior written consent of ODOT in each instance (which ODOT may grant or withhold in its discretion), may agree to

extend the Term for up to three (3) successive five (5) year periods (“**Renewal Terms**”) on the same terms and conditions as set forth herein., but shall not extend beyond the term of the City’s agreement with ODOT for use of the Transit Facility per Cooperative Improvement Agreement No. 25169.

5. Third-Party Beneficiary. ODOT shall constitute a third-party beneficiary of this Agreement. Subject to this exception, Woodburn and AVI are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. 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 any third person other than ODOT.

6. Compensation. Within ninety (90) days following the Term Commencement Date and on the twenty-fifth day of each month thereafter, AVI shall pay to Woodburn as rent five percent (5%) of gross revenues received from electrical vehicle charging services conducted at the Premises (“**Rent**”) for the previous calendar month. Rent for any fractional month at the beginning or at the end of the Term or Renewal Term shall be prorated. Rent shall be payable to Woodburn at 270 Montgomery Street, Woodburn, OR 97071; Attention: Randy Scott. Woodburn shall be required to provide an accurate and executed W-9 Form and provide a copy to ODOT’s Project Manager.

7. Improvements. AVI has the right to construct, maintain, install, repair, secure, replace, remove and operate on the Premises electrical vehicle charging services and facilities, including a freestanding charging station, utility lines, electronic equipment, and supporting equipment and structures therefor (“**AVI Facilities**”). In connection therewith, AVI has the right to do all work reasonably necessary to prepare, maintain and alter the Premises for AVI’s operations and to install electric power utility lines connecting the Facilities to electrical services as needed. All of AVI’s construction and installation work shall be performed at AVI’s sole cost and expense and in a good and workmanlike manner. Title to the AVI Facilities and any equipment placed on the Premises by AVI shall be held by AVI or its permitted lenders or assigns and Facilities and equipment installed by AVI shall be regarded as personal property and not as fixtures. AVI has the right to remove the AVI Facilities at its sole expense on or before the expiration or earlier termination of this Agreement, and AVI shall repair any damage to the Premises caused by such removal. Upon the expiration or earlier termination of this Agreement, AVI shall remove the AVI Facilities from the Property.

7.1 Prior Design Approval by Woodburn and ODOT. Before commencing any installation or construction work under Paragraph 7 of this Agreement, AVI must submit, to Woodburn and ODOT, proposed detailed written plans for all construction and installation of improvements, signage and access routes, and electrical power utility lines for approval by Woodburn and ODOT (Miscellaneous Permits). Woodburn and ODOT shall not unreasonably withhold approval of the plans, but may exercise discretion to reasonably ensure that all construction, installation, access and egress, and delivery of electrical power are consistent with the efficient operation of the Property as a highway-oriented Park and Ride facility, and to assure that implementation of the plans will comply with all applicable state and Federal Highway Administration limited access freeway regulations and policies, with any Federal Transit Administration , regulations and policies, and with any transportation construction or development project adopted in any approved state transportation plan, as well as with any change in state, federal or local policies, laws or regulations, or receipt of legislative, executive, or administrative directions that affect the Property.

7.2 Review and Incorporation of Woodburn and ODOT Comments. AVI shall coordinate with Woodburn and ODOT staff members as necessary to solicit either approvals of or comments on the plans submitted to them by AVI and shall revise the proposed plans to incorporate Woodburn’s and ODOT’s plan review comments into the final plans. AVI shall incorporate any comments from Woodburn and ODOT into the proposed plans, and return the revised plans to Woodburn and ODOT, within ten (10) business days of AVI’s receipt of the comments, unless a different timeframe is otherwise agreed to in writing by Woodburn or ODOT. AVI shall not proceed with any installation or construction activity on the Property without the written approval of the plans by Woodburn and ODOT.

7.3 Future Modifications. The requirement for prior Woodburn and ODOT review and approval of plans shall apply to any future change, remodeling, renovation, or replacement of improvements, access routes, or electrical power utility lines that require any construction activity or disturbance of the ground on the Property.

8. Access and Utilities.

8.1 Woodburn shall provide AVI, AVI's employees, agents, contractors, subcontractors and assigns with access to the Premises twenty-four (24) hours a day, seven (7) days a week, at no charge to AVI. Woodburn grants to AVI, and AVI's agents, employees and contractors, a non-exclusive right for pedestrian and vehicular ingress and egress across the Property, as described in Exhibit B.

8.2 Woodburn shall maintain all access roadways from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and vehicular access at all times under normal weather conditions. Woodburn shall be responsible for maintaining and repairing such roadways, at its sole expense, except for any damage caused by use of such roadways by AVI, its officers, employees, contractors or agents.

9. Termination

9.1 This Agreement may be terminated without further liability on thirty (30) days prior written notice as follows: (i) by either party upon a default of any covenant or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default, except that this Agreement shall not be terminated if the default cannot reasonably be cured within such sixty (60) day period and the defaulting party has commenced to cure the default within such sixty (60) day period and diligently pursues the cure to completion; provided that the grace period for any monetary default is ten (10) days from receipt of written notice. This Agreement may be terminated by AVI without further liability for any reason or for no reason, provided AVI delivers written notice of termination to Woodburn prior to the Term Commencement Date.

9.2 This Agreement may also be terminated by AVI without further liability on thirty (30) days prior written notice (i) if AVI is unable to reasonably obtain or maintain any certificate, license, permit, authority or approval from any governmental authority, thus restricting AVI from installing, removing, replacing, maintaining or operating the AVI Facilities or using the Premises in the manner intended by AVI; (ii) if AVI determines that the Premises are not appropriate for its operations for economic, environmental or technological reasons, or (iii) or AVI otherwise determines, within its sole discretion, that it will be unable to use the Premises for AVI's intended purpose.

9.3 If the Parties find that it is mutually beneficial to terminate this Agreement, they may terminate it at any time by mutual agreement.

9.4 This Agreement automatically shall terminate at any time the Property ceases to be used as a public Park and Ride facility or ceases to qualify as a Park and Ride facility under any state or federal law, regulation, rule, or policy.

9.5 Woodburn may terminate this Agreement, immediately upon written notice to AVI or at such later date as Woodburn may establish in such notice, on the occurrence of any of the following events:

(i) If Woodburn or ODOT fail to receive appropriations, limitations or other expenditure authority sufficient to allow Woodburn and ODOT, in the exercise of their reasonable administrative discretion, to continue to administer and support the Property as a public Park and Ride facility;

(ii) If federal, state or local laws, regulations or guidelines are modified or interpreted in such a way that Woodburn's or ODOT's administration or support of the Property as a public Park and Ride facility, or Woodburn's continued participation in this Agreement is prohibited;

(iii) If AVI no longer holds any license, permit, or certificate that is required to install, operate, and maintain AVI's electrical vehicle charging service Facilities on the Premises; or

(iv) If AVI institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis.

10. Destruction or Condemnation. If the Premises or AVI Facilities are damaged, destroyed, condemned or transferred in lieu of condemnation, AVI may elect to terminate this Agreement as of the date of the damage, destruction, condemnation or transfer in lieu of condemnation by giving notice to Woodburn no more than forty-five (45) days following the date of such damage, destruction, condemnation or transfer in lieu of condemnation. If AVI chooses not to terminate this Agreement, Rent shall be reduced or abated in proportion to the actual reduction or abatement of use of the Premises.

11. Restoration of Land and Premises. On the expiration or termination of this Agreement, AVI shall, at AVI's expense, remove all improvements and Facilities it installed or constructed on the Land and restore the Land and Premises to substantially the same condition as existed at the time this Agreement was executed. AVI must give Woodburn and ODOT no fewer than ten (10) calendar day's written notice prior to conducting any removal and restoration work for the purpose of inspecting the premises before and after the removal and restoration work to ensure AVI's compliance with this paragraph.

12. Risk of Damage to AVI Facilities. AVI assumes all risks of casualty, damage to, or destruction of the Premises or AVI Facilities arising out of any cause except the negligence of Woodburn, its officers, agents, or employees. AVI also assumes all risks associated with any change in law or withdrawal or reduction in ODOT's authority or appropriations, limitations, allotments or other expenditure authority that would prevent ODOT, as determined in the exercise of ODOT's reasonable administrative discretion, to continue to permit the operation of the Land as a public Park and Ride facility. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon or ODOT.

13. Indemnification. AVI agrees, to the fullest extent permitted by law, to indemnify, defend and hold harmless Woodburn, the State of Oregon, the Oregon Transportation Commission, ODOT, and their members, officers, employees, and agents, against any and all claims, actions, losses, damages, liabilities, costs and expenses of every kind, including reasonable attorney, expert and consultant fees and costs, to the extent arising from, related to, or in connection with the errors, omissions, or negligent performance of services under this Agreement by AVI or any of its representatives, officers, directors, employees, agents, consultants, or contractors.

14. Survival. Paragraphs 11, 12, 13, 18.1, and 18.4 of this Agreement shall survive the expiration or termination of this Agreement.

15. Insurance. AVI shall obtain, at AVI's expense, the insurance specified in this Paragraph 15 prior to performing any activities under this Agreement and shall maintain that insurance in full force throughout the Term of this Agreement and any extensions. AVI must obtain all the required insurance from an insurance company or companies that are authorized to transact the business of insurance and issue coverage in the State of Oregon and are acceptable to Woodburn. AVI's required insurance policy or policies under this Paragraph shall include commercial general liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 (Two Million Dollars) for each occurrence for bodily injury and property damage. The required insurance shall include Comprehensive General or Commercial General Liability, including personal injury, contractual liability, products liability, completed operations coverage, and Automobile Liability. Coverage shall be written on an occurrence basis and must name Woodburn, the State of Oregon, the Oregon Transportation Commission, ODOT, and their members, officers, employees, and agents, as additional insureds. AVI shall provide proof of the required insurance as evidenced by a certificate or certificates of insurance approved by Woodburn.

16. Assignment. AVI may assign this Agreement with Woodburn's and ODOT's prior written consent and upon such reasonable terms and conditions as Woodburn and ODOT may require. Any purported assignment of this Agreement made in violation of this Paragraph 16, whether voluntary, by operation of law, or otherwise, shall be void and of no effect.

17. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by for next-business-day delivery by a nationally recognized overnight carrier to the following addresses:

If to Woodburn, to:

City of Woodburn  
Attn: Randy Scott  
270 Montgomery St.  
Woodburn, OR 97071

If to AVI, to:

AeroVironment, Inc.  
Attn: Vice President, EV Solutions  
181 W. Huntington Dr., Suite 202  
Monrovia, CA 91016

With a copy to:

AeroVironment, Inc.  
Attn: General Counsel  
181 W. Huntington Dr., Suite 202  
Monrovia, CA 91016

18. Miscellaneous.

18.1 Applicable Law and Venue. . This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") involving AVI, Woodburn, or ODOT that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. In no event shall this Paragraph be construed as a waiver by Woodburn, the State of Oregon, or ODOT of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise, from any Claim or from the jurisdiction of any court. AVI HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURT.

18.2 Independent Contractor Status. Nothing contained in this Agreement is intended to or may be construed as creating the relationship of partners, joint-venturers, or any association between AVI and Woodburn, or a principal/agent relationship. Neither shall the employees, agents, or representatives of either AVI or Woodburn be considered to be employees, agents, or representatives of the other party. Woodburn cannot and will not control the means or manner of AVI's performance under this Agreement. AVI shall be exclusively responsible for determining the appropriate means and manner of discharging its obligations under this Agreement. AVI is not, and at no time in the performance of this Agreement shall be, an officer, employee or agent of Woodburn, the State of Oregon, or ODOT within the meaning of the Oregon Tort Claims Act, ORS 30.260 to 30.302.

18.3 Non-discrimination. AVI agrees not to discriminate against any person or entity on the grounds of race, religion, color, national origin, sex, marital status, familial status, mental or physical disability, sexual orientation, gender identity, source of income, or age, in its performance of this Agreement. AVI agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

18.4 Access to Records. AVI shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for minimum of six (6) years, or a longer period as may be required by applicable law, following Agreement termination or full performance, the period required by applicable law following Agreement termination or full performance, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever ending is later. AVI must maintain all financial Records in accordance with generally accepted accounting principles. During this Record-retention period, AVI shall permit Woodburn, ODOT, the Oregon Secretary of State's Office and their duly authorized representatives, and the federal government, access to the Records at reasonable times and places for purposes of examination and copying.

18.5 Severability. If any provision of the Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to

whom it is held invalid or unenforceable, shall not be affected and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18.6 Entire Agreement. This Agreement constitutes the entire Agreement between the parties, and supersedes all understandings, offers, negotiations and other leases concerning the subject matter contained herein. There are no representations or understandings of any kind not set forth herein. Any amendments, modifications or waivers of any of the terms and conditions of this Agreement must be in writing and executed by both parties.

18.7 Limitation of Liability. In no event shall either party, its affiliated corporations, officers, employees, or any of its subcontractors be liable for any incidental, indirect, special, punitive, economic or consequential damages, including but not limited to loss of revenue or profits, suffered or incurred by the other party or any of its agents, including other contractors engaged at the Premises, as a result of this Agreement or the party's performance or non-performance. **This limitation does not apply to AVI's responsibility, under Section 13 of this Agreement, to indemnify Woodburn, the State of Oregon, the Oregon Transportation Commission, ODOT, and their members, officers, employees, and agents, to the extent those claims are covered by AVI's general liability insurance policy or policies required to cover AVI and the parties covered as additional insureds under Section 15 of this Agreement. AVI's indemnification obligation under Section 13 shall not exceed the \$2 million coverage limitation stated in Section 15.**

19. This Agreement may be executed in separate counterparts, each of which shall constitute an original and of which, when taken together, shall constitute one and the same amendment.

20. The individuals signing this Agreement on behalf of AVI and Woodburn represent that they are duly authorized by Licensee and Licensor, respectively, to execute this Amendment.

**WOODBURN:**

**AVI:**

City of Woodburn

AeroVironment, Inc.

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

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

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

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

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

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

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

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

**EXHIBIT A**

**DESCRIPTION OF LAND**

to the Agreement dated \_\_\_\_\_, by and between the City of Woodburn, as Woodburn, and AeroVironment, Inc, as AVI.

The Land is described and/or depicted as follows:

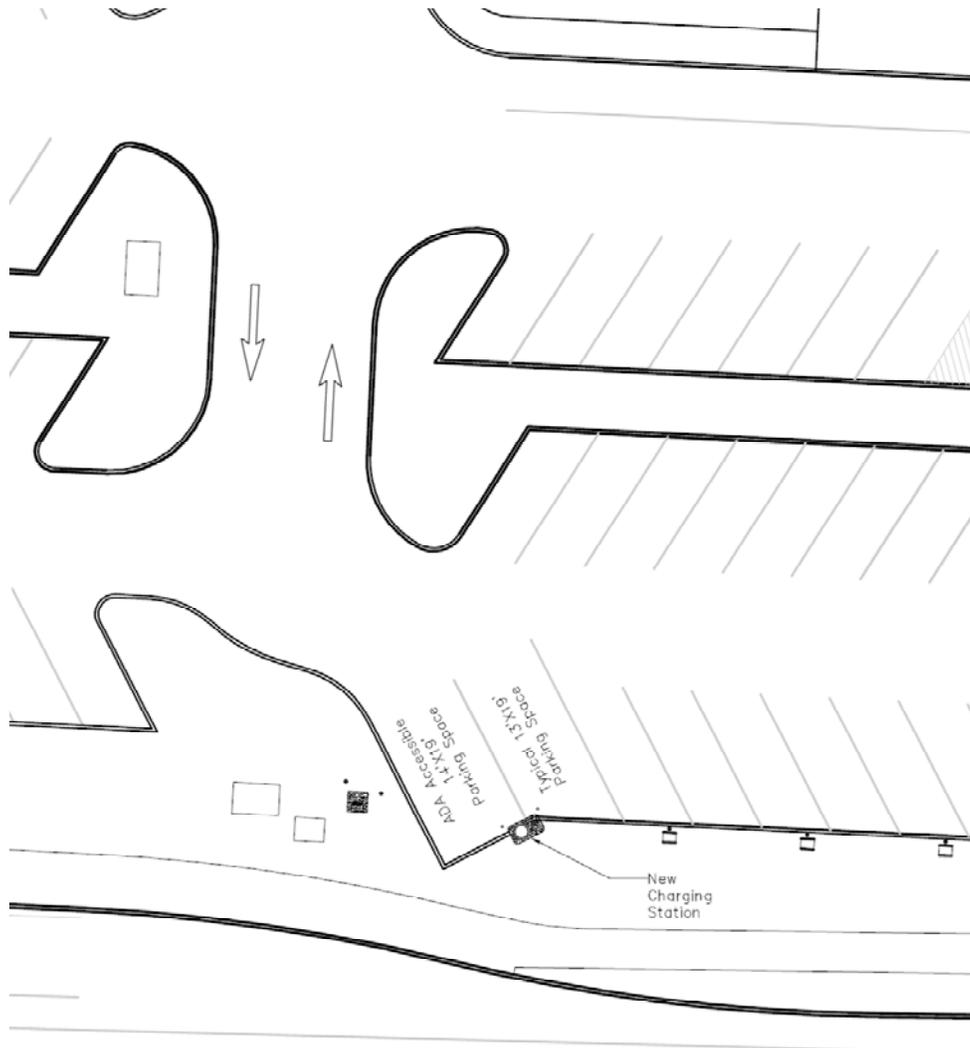
APN: 052W12AC-04304

## EXHIBIT B

### DESCRIPTION OF PREMISES

to the Agreement dated \_\_\_\_\_, by and between the City of Woodburn, as Woodburn, and AeroVironment, Inc, as AVI.

The Premises are described and/or depicted as follows:



#### Notes:

1. AVI may replace this Exhibit with a survey of the Premises once AVI receives it.
2. The Premises shall be setback from the Property's boundaries as required by the applicable governmental authorities.
3. The access road's width will be the width required by the applicable governmental authorities, including police and fire departments.
4. The locations of any utility easements are illustrative only. The actual locations will be determined by the servicing utility company in compliance with all local laws and regulations.



# Agenda Item

April 28, 2014

TO: Honorable Mayor and City Council through City Administrator

FROM: Jim Row, Community Services Director

SUBJECT: **Transit Shelter Easement Acceptance**

**RECOMMENDATION:**

Authorize the City Administrator to accept on behalf of the City an Easement from Goodwill Industries of the Columbia Willamette for the construction and maintenance of a transit bus shelter at 948 N. Pacific Hwy (Tax Lot 05W17BA00400).

**BACKGROUND:**

In 2013, the City was awarded a grant from the Oregon Department of Transportation (ODOT) for the construction of six transit bus shelters. This will bring the total number of shelters in Woodburn’s system to 12. The new shelters will be installed at the following locations:

1. 1018 N. Boones Ferry Rd
2. 1596 Country Club Rd
3. 3350 Linda Street
4. Harvard Dr. (near the intersection of Stacey Allison Way)
5. 1030 Young St
6. 948 N. Pacific Hwy

With the exception of number 6, each of the shelters will be constructed entirely on City property or within City or ODOT street rights-of-way. Due to insufficient right-of-way, the shelter at location number 6 will be located partially on property owned by Goodwill Industries. As a result, the City negotiated an easement that provides for the construction and maintenance of a bus shelter with Goodwill.

Since the project involves federal funds, an environmental analysis is required by the National Environmental Policy Act (NEPA). Fortunately, this project should qualify for a categorical exclusion, which simplifies the review process. The

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Agenda Item Review: City Administrator  City Attorney  Finance

process involves a required approval of any easements by the Federal Transit Administration, which they have provided. Additionally, Goodwill Industries representatives have reviewed the easement agreement and have determined that it is acceptable to them, as written.

**DISCUSSION:**

The shelter project is consistent with the 2010 Transit Plan, which recommends that the City provide high quality transit amenities (benches, shelters, information, and lighting) – especially at high volumes stops and key destinations.

Due to the interchange construction related re-routing of the fixed route bus, the shelters at locations 1 and 2 will not be utilized until the bus returns to its normal route.

If this item is approved by the Council, City engineering staff will draft the legal description and related sketch, which will enable the easement to be executed and recorded.

**FINANCIAL IMPACT:**

This project is estimated to cost \$55,500. It is supported by a \$44,400 grant from the Oregon Department of Transportation, and requires a local match of \$11,100. Matching funds are available in the Transit Fund.

Attachment

Bus Stop/ Shelter Easement Agreement

After recording return to:  
City Recorder  
City of Woodburn  
270 Montgomery Street  
Woodburn, OR 97071

**AGREEMENT AND EASEMENT FOR  
BUS STOP/SHELTER AND IMPROVEMENTS**

**THIS AGREEMENT** is made effective \_\_\_\_\_, 2014 ("Effective Date"), between City of Woodburn ("CITY") and Goodwill Industries of the Columbia Willamette ("GRANTOR").

**RECITALS:**

A. GRANTOR is the owner of the real property commonly known as Tax Lot 051W17BA00400 of Marion County Assessor's Map No. 51W 17BA, as more fully depicted in EXHIBIT "A", attached hereto and incorporated herein by reference ("TL 051W17BA00400").

B. CITY wishes to site a bus stop and shelter adjacent to the boundary of TL, which will necessitate the construction and installation of a shelter and pad over a portion of TL, in the approximate location and manner depicted on the site plan attached hereto as EXHIBIT "B" and incorporated herein. The exact location of the bus stop is uncertain at this time, but as constructed it will be approximately fifteen (15) feet wide by seven (7) feet deep.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Bus Stop and Shelter Easement.** In consideration of zero dollars (\$0.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys CITY an easement for a Bus Stop and Shelter in the location and manner shown in EXHIBIT "B" hereto, and incorporated herein by reference ("Bus Stop Easement"). CITY has the right to install, use, maintain, repair and replace the Bus Stop and Shelter within said Bus Stop Easement at its sole discretion. GRANTOR hereby grants and acknowledges that the easement described herein shall allow use by the general public for regular bus and transit purposes.

2. **Maintenance and Repairs.** CITY shall maintain and repair at its own expense, the Bus Stop and Shelter within the Bus Stop Easement, and shall repair and replace any landscaping on GRANTOR's property which may be removed or destroyed during construction. All maintenance, repair and improvements performed with respect to the easements granted herein shall be completed in a good and workmanlike manner.

3. **Term of Easements.** Except as provided in this Section 2, the easements granted herein are for a period of 10 years or the useful life of the Bus Shelter.

4. **Easements Appurtenant.** The easements granted herein are appurtenant to the real properties described herein. It is the intent of the parties that the easements granted herein shall run with the land. This agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

6. **Further Assurances.** The parties agree to cooperate and execute any and all documents necessary to effectuate the terms of this agreement. At the request of any party, or their successors in interest, the other parties, or their successors in interest, hereto agree to execute such documents, statements and certificates as may be reasonably necessary to confirm or certify the existence and effectiveness of this agreement.

7. **Liability.** Grantee shall maintain fire, theft, and liability insurance on said shelter and agrees to indemnify and hold harmless Grantor and the officers, employees and agents of Grantor against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which may result in an injury to or death of any person(s) or from the loss of or damage to property of any kind or nature, when such injury, loss, death or damage is due to the act or negligence of Grantee, its officers, agents and employees acting within the scope of their employment duties or when such loss or damage to person or property is occasioned by the use of such transit stop/shelter. It is the intention of the parties hereto that the Grantee shall bear full responsibility for the use and enjoyment of the property and shall hold the Grantor harmless from any claim of damages to person(s) or premises resulting from the use, occupancy and possession thereof by the Grantee.

8. **Arbitration.** Any controversy or claim arising out of or relating to this Agreement, including, without limitation, the making, performance, or interpretation of this Agreement, shall be settled by arbitration in Marion County, Oregon, in accordance with the Uniform Arbitration Act in ORS Chapter 36. There shall be no right to appeal the decision or award of the arbitrator for a trial de novo, and the decision of the arbitrator shall be a judgment, binding upon the parties and entered as a judgment pursuant to ORS Chapter 36. The parties agree that all facts and other information relating to any arbitration arising under this Agreement shall be kept confidential to the fullest extent permitted by law. Except as otherwise provided for herein, the cost of arbitration shall be shared equally between the parties; however, the prevailing party shall be entitled to recover attorney's fees as provided in Section 8.

9. **Attorney's Fees.** If any suit, action or arbitration is filed or commenced by any party to enforce this Agreement or otherwise with respect to the subject matter of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees incurred in preparation or in prosecution or defense of such suit, action or arbitration as fixed by the trial court or arbitrator(s), and if any appeal is taken from the decision of the trial court, reasonable attorney fees as fixed by the appellate court.



**IN WITNESS WHEREOF**, the parties have set their hands to be effective as of the Effective Date.

GRANTOR

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

\_\_\_\_\_  
(printed name of GRANTOR representative)

\_\_\_\_\_  
(printed title of GRANTOR representative)

STATE OF OREGON            )  
  ) ss.  
County of Marion            )

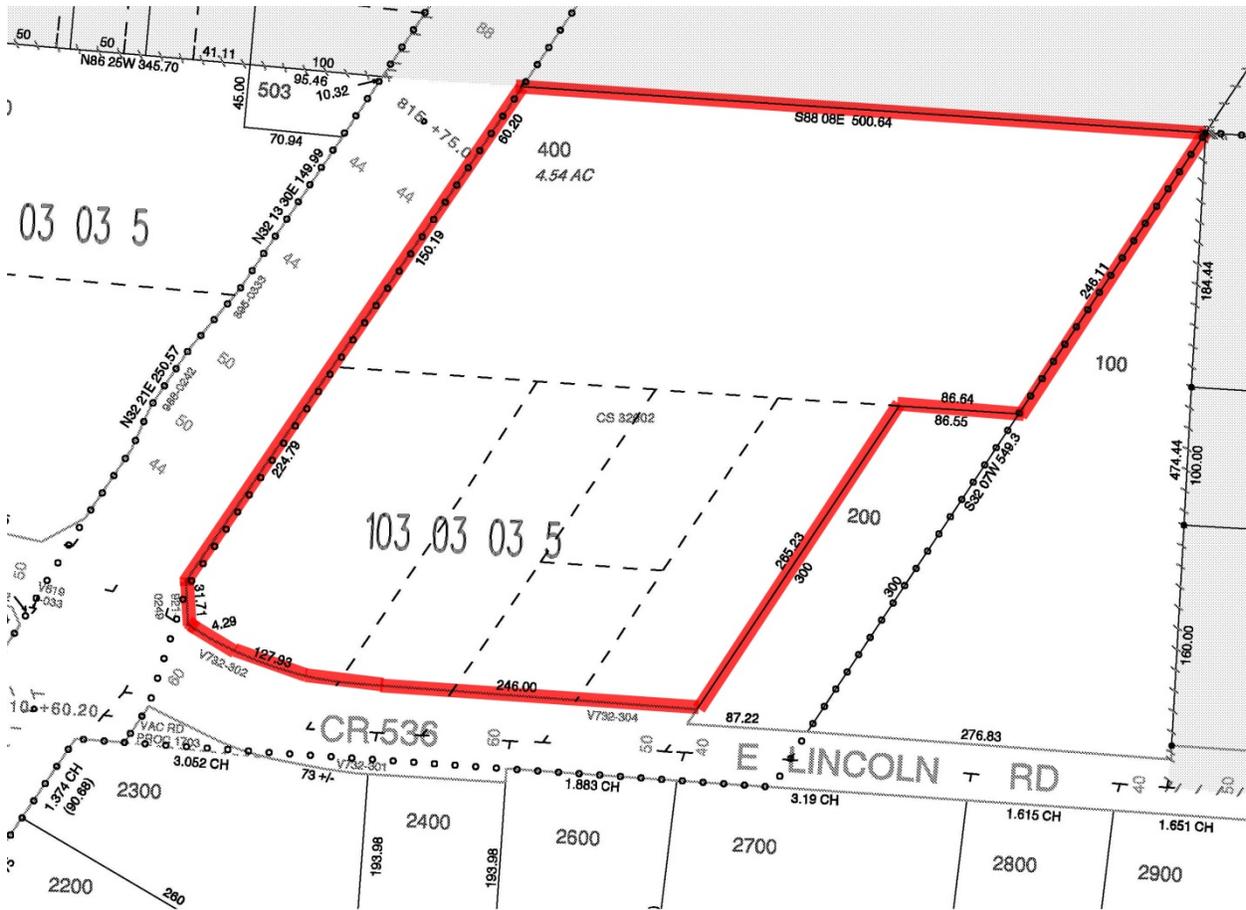
This instrument was acknowledged before me on \_\_\_\_\_, 2014 by

\_\_\_\_\_ as \_\_\_\_\_  
of GRANTOR.

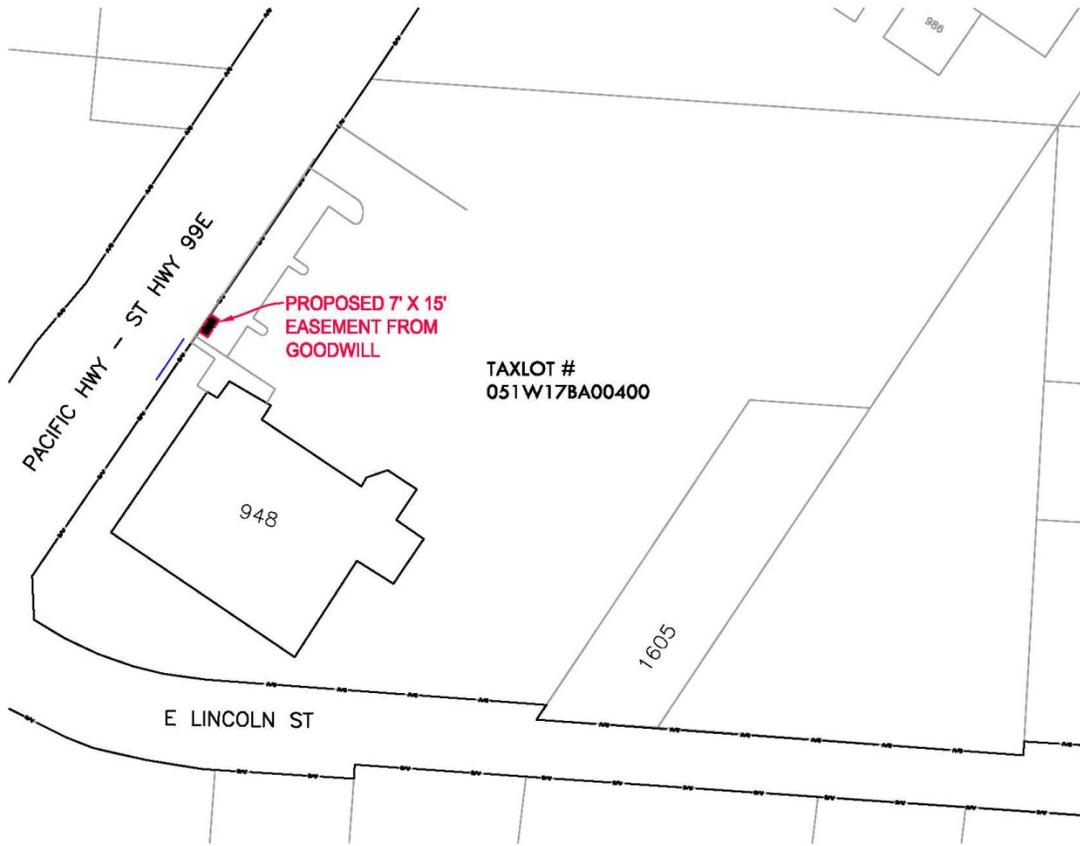
\_\_\_\_\_  
Notary Public – State of Oregon

# EXHIBIT "A"

## Tax Lot 051W17BA00400



# EXHIBIT "B"



948 N PACIFIC HIGHWAY  
GOODWILL STORE  
948 N Pacific Hwy  
Woodburn OR 97071

