

PROCLAMATION

Public Works Week 2014 in Woodburn

WHEREAS, public works services provided in our community are an integral and necessary part of our citizens' everyday lives; and

WHEREAS, the health, safety, comfort and economic vitality of this community greatly depends on the facilities and services such as water, wastewater collection and disposal, transportation, street, building and parks maintenance, etc. and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction are vitally dependent upon the efforts and skills of the public works officials; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff public works departments are materially influenced by the people's attitude and understanding of the importance of the work they perform; **NOW THEREFORE**

BE IT RESOLVED, that I, Kathryn Figley, Mayor of the City of Woodburn, Oregon, do hereby proclaim May 18 – 24, 2014 as "**PUBLIC WORKS WEEK**" in Woodburn, Oregon, and call upon all citizens and civil organizations to acquaint themselves with the problems involved in providing our public works and to recognize the contributions that public works officials make every day to our health, safety and comfort.

Kathryn Figley, Mayor

PROCLAMATION

Police Memorial Week

WHEREAS, The Congress and President of the United States have designated May 15, 2014 as Peace Officers' Memorial Day, and the week in which May 15th falls as National Police week; and

WHEREAS, the members of the Woodburn Police Department play an essential role in safeguarding the rights and freedoms of the citizens of Woodburn; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

WHEREAS, the men and women of the Woodburn Police Department unceasingly provide a vital public service;

NOW, THEREFORE, I, Kathryn Figley, Mayor of the City of Woodburn, call upon all citizens of Woodburn and upon all patriotic, civic and educational organizations to observe the week of May 11th – May 17th, 2014, as Police Week with appropriate national and local ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities.

I further call upon all citizens of Woodburn to observe Thursday, May 15th, 2014 as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Woodburn to be affixed.

Kathryn Figley, Mayor
City of Woodburn

**COUNCIL MEETING MINUTES
APRIL 28, 2014**

0:00 **DATE COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, APRIL 28, 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, Assistant City Engineer Liljequist, Police Captain Alexander, Police Captain Garrett, Human Resources Director Hereford, Community Development Director Row, Finance Director Shearer, Communications Coordinator Horton, City Recorder Pierson

0:00 **APPOINTMENTS**

Mayor Figley proposed the following appointments to the Budget Committee:

Position II Zandi Cox
Position V Sharon Schaub

Cox/Ellsworth...approve the appointments. The motion passed unanimously.

0:01 **CONSENT AGENDA**

- A. Woodburn City Council minutes of April 14, 2014
- B. Woodburn Public Library Board minutes of April 9, 2014
- C. Woodburn Recreation and Park Board minutes of April 8, 2014
- D. Crime Statistics through March 2014

McCallum/Lonergan... adopt the Consent Agenda. The motion passed unanimously.

0:02 **AEROVIRONMENT EV CHARGING STATION AGREEMENT**

City Administrator Derickson provided a staff report. Councilor Cox stated that the City shouldn't be subsidizing the charging stations and that ODOT or Aerovirement should pay the power bill and that he would like to see if we can negotiate a better deal. Councilor Morris suggested that we modify the agreement to say that the revenue received from the stations will not be less than that amount paid for the power. City Administrator Derickson stated that he could talk to ODOT about that. Councilor Lonergan concurs with Councilor Cox. Councilor McCallum stated that he likes Councilor Morris's suggestion. Councilor McCallum asked that the agreement be tabled and Councilor Cox agreed since there is a consensus.

Cox/Alonso Leon.... table the agreement. The motion passed unanimously.

0:33 **TRANSIT SHELTER EASEMENT ACCEPTANCE**

This item was removed from the agenda.

**COUNCIL MEETING MINUTES
APRIL 28, 2014**

CITY ADMINISTRATOR'S REPORT

The City Administrator stated that he will be attending the League of Oregon Cities Marijuana workshop on Thursday of this week.

0:34 **MAYOR AND COUNCIL REPORTS**

Councilor Cox stated that he is disappointed that staff didn't perceive that the charging stations would be controversial and didn't give the Council a heads up on it.

Councilor Ellsworth stated that the Ford Leadership group is going to be installing work out equipment at Centennial Park on May 10 and a ribbon cutting ceremony will take place on May 18 at 1:00 p.m.

Councilor McCallum announced that he would not be running for re-election for Ward III.

Mayor Figley thanked Councilor McCallum for all that he has done for the City of Woodburn.

Councilor Lonergan told Councilor McCallum that he will enjoy serving with him for the next eight months and that it has been a pleasure serving with him.

Councilor Alonso Leon thanked Councilor McCallum for his service and thanked the coordinators of the El Día del Niño.

0:40 **ADJOURNMENT**

McCallum/Lonergan... meeting be adjourned. The motion passed unanimously.

The meeting adjourned at 7:42 p.m.

APPROVED _____
KATHRYN FIGLEY, MAYOR

ATTEST _____
Heather Pierson, City Recorder
City of Woodburn, Oregon



Agenda Item

May 12, 2014

TO: Honorable Mayor and City Council through City Administrator
THRU: Scott Russell, Chief of Police
FROM: Jason R. Alexander, Captain
SUBJECT: **Limited On-Premise Sales – New Outlet**

RECOMMENDATION:

The Woodburn City Council recommends that the OLCC approve the **Limited On-Premise Sales-New Outlet**, for Sora Sushi Restaurant

BACKGROUND:

Applicants: Shu Chen
13618 NE Davis Ct.
Portland, OR 97230
541.221.8980

Business: Sora Sushi Restaurant Inc.
111 N Arney Rd. Suite B
Woodburn, OR 97071
503.981.3838

Owners: Same as Applicant (Above)

Agenda Item Review: City Administrator City Attorney Finance

License Type: **Limited On-Premise Sales – New Outlet** - Permits beer, wine, and cider, for on-premise consumption only.

On April 16, 2014, the Woodburn Police Department received an application, requesting approval for a **Limited On-Premise – New Outlet** for Sora Sushi Restaurant Inc. located at 111 N Arney Rd. Suite B Woodburn, Oregon. This location was formally the Quiznos sandwich shop which did not hold a license through the Oregon Liquor Control Commission.

The business will be open Sunday thru Saturday from 11:00am to 9:00pm. This being a restaurant there will be food service while the business is open and alcohol will be served during this time. The business will play recorded music only, no live music, karaoke, video lottery games, or pool tables. The Police Department has received no communication from the public or surrounding businesses in support of or against the new outlet.

DISCUSSION:

The Police Department has completed a background investigation, in connection with the OLCC, on the applicant and found nothing of a questionable nature, which would preclude the issuance of this license.

FINANCIAL IMPACT:

None



Agenda Item

May 12, 2014

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

RECOMMENDATION:

Enter into the Service Agreement (as revised) with AeroVironment, Inc., for the installation and operation of an EV Charging Station at the Woodburn Memorial Transit Facility.

BACKGROUND:

On January 14, 2013, the City Council approved Cooperative Improvement Agreement No. 28835 with the State of Oregon through the Oregon Department of Transportation (ODOT). Under the Cooperative Agreement, the City would be responsible for paying all power costs associated with the operation of the electric vehicle charging station.

On April 28, 2013, staff presented to the City Council for consideration a proposed Service Agreement with AeroVironment, Inc. that obligated the City to pay the electric vehicle charging station power costs. After Council discussion, the Service Agreement was tabled for future decision. The consensus of the Council was that the Service Agreement should be cost neutral for the City. Staff was directed to attempt to renegotiate the Service Agreement with the involved parties.

DISCUSSION:

Staff is pleased to report that the Service Agreement has been renegotiated consistent with Council's April 28, 2013 discussion. The agreement has been modified to identify AVI as being responsible for electrical power cost associated the electric charging services. Specifically, Section 6 is modified to include the following "Electric power cost associated with the electric charging service shall

Agenda Item Review: City Administrator City Attorney Finance

be paid by AVI, either by direct invoice from the electric power provider, Portland General Electric, or invoiced to AVI by Woodburn".

As renegotiated by staff, the Service Agreement provides that AVI will pay all electrical costs for the operation of the electric charging station and, in addition, pay the City 5% of the gross revenues, which would cover any additional administrative costs.

The Oregon Department of Transportation has been notified of the proposed change to the Service agreement; they take no issue with the proposed modification and will not affect their approval of the document.

FINANCIAL IMPACT:

Per the Service Agreement with AeroVironment, 5% of gross revenues collected by the vendor will be provided to the City.

Attachments: Service Agreement (as modified)
January 14, 2013 Staff Report
April 28, 2014 Staff Report

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. Electric power cost associated with the electric charging service shall be paid by AVI, either by direct invoice from the electric power provider, Portland General Electric or invoiced to AVI by Woodburn.

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: Scott Derickson

Name: _____

Title: City Administrator

Title: _____

Date: _____

Date: _____

State of Oregon:

Approved by:

Sonny P. Chickering, ODOT Region 2 Manager

Date

Approved by:

Richard Crager, ODOT Right of Way Manager

Date

Approved by:

Ashley N. Horvat, State of Oregon Chief EV Officer

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:

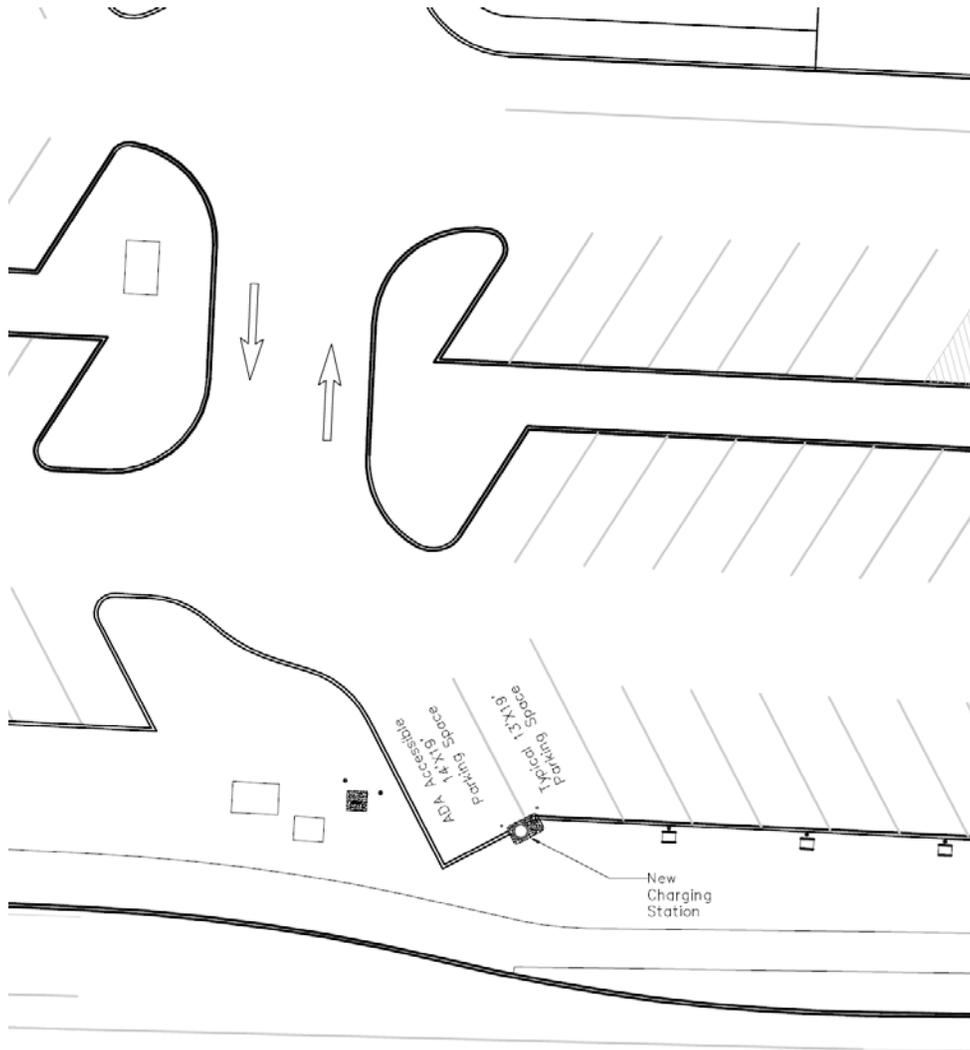
APN: 052W12AC-04304

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

January 14, 2013

TO: Honorable Mayor and City Council through City Administrator

FROM: Dan Brown, Public Works Director

SUBJECT: **APPROVAL OF COOPERATIVE IMPROVEMENT AGREEMENT**

RECOMMENDATION:

That Council adopt the attached resolution approving Cooperative Improvement Agreement No. 28835 ("the Cooperative Agreement") with the State of Oregon through the Oregon Department of Transportation (ODOT).

BACKGROUND:

The combined project will include the reconstruction of the Woodburn Interchange to a partial cloverleaf (loop ramps in advance of the overcrossing structure of I-5), widening of I-5 at the OR 214 and OR 219 overcrossing structure, and widening of OR 214 and OR 219 approximately one-half (1/2) mile on each side of the overcrossing structure. This design concept follows the Recommended Interchange Alternative, analyzed in the 2006 Revised Environmental Assessment and as defined in the prior approved Interchange Area Management Plan (IAMP). Included in the combined project is a new public transit facility and park-and-ride lot in the northeast quadrant of the Woodburn Interchange at the intersection of OR 214 and Evergreen Road and an extension of Evergreen Road from OR 214 to Country Club Court, as described in the Cooperative Agreement.

DISCUSSION:

In addition to combining the Woodburn Interchange and Evergreen Road Transit Facility projects into a single project for administrative and funding purposes, the Cooperative Agreement defines City of Woodburn funding obligations with regard to future maintenance of enhanced right-of-way, electrical service for enhanced lighting, and the operation and maintenance of the Evergreen Road Transit Facility. The enhanced landscaping and lighting associated with the Project are design features requested by the City and intended to provide a "Gateway to Woodburn" when completed and is referred to in the Cooperative Agreement as the "Gateway Design Package". The "Gateway Design Package" was recommended by the appointed Citizen

Agenda Item Review: City Administrator City Attorney Finance

Advisory Committee commissioned to identify and recommend aesthetic enhancements to the Project that would define the community of Woodburn and distinguish the Woodburn Interchange from other interchanges along the I-5 corridor. Council approved the Gateway Design Package on June 11, 2012.

ODOT has identified that some advanced clearing work needs to be completed prior to the award of the construction contract in order to meet migratory bird regulatory requirements and avoid project delays. The City will perform clearing functions for ODOT and the Cooperative Agreement defines how the work shall be assigned and how the City shall be reimbursed for work performed. Work performed by the City and consistent with the conditions outlined in the Cooperative Agreement will be deducted from the **\$5,500,000** the City has remaining to contribute towards the Project.

FINANCIAL IMPACT:

Approval of the Cooperative Agreement will obligate the City of Woodburn to long-term operational and maintenance expenditures in sustaining the Gateway Design Package of the combined Woodburn Interchange and Evergreen Road Transit Facility project. The annual cost for operation and maintenance of the enhanced features associated with the Gateway Design Package are estimated at \$60,000 per year. These expenditures will be budgeted annually within the Street fund (Fund 140).

Additionally, approval of the Cooperative Agreement will allow the City to recover Project support expenditures from the remaining **\$5,500,000** of the **\$8,000,000** committed as the City's contribution to the overall Project cost. These support costs are currently estimated at **\$1,500,000** for clearing and reimbursed utility relocation costs.

Upon approval of the Cooperative Agreement, staff will prepare a supplementary budget that will allow Project related expenditures to be funded in FY 12-13 from the Transportation System Development Charges Fund (Fund 376).

Attachment

A. City Obligations under Cooperative Improvement Agreement No. 28835

Attachment A

City Obligations under Cooperative Improvement Agreement No. 28835

The following is a list of the key City obligations under the Cooperative Agreement:

- Upon Completion of the Project, City shall at its own expense:
 - Maintain all features of the Gateway Design Package
 - Pay all electrical energy costs for features of the Package
 - Maintain all landscaping
- City's total financial contribution toward the Project is limited to \$8,000,000
 - State and City agree that \$2,500,000 provided by the City to State in 2004 to acquire the Zimmel property is included as part of the City's total financial contribution. City's balance of financial contribution towards the Project at this time equals \$5,500,000.
 - City's total contribution, equal to the balance owed of \$5,500,000 is due no later than two (2) years from the date State issues a "Notice to Proceed" for construction of the Project.
- City shall be permitted to credit against its balance of financial contribution to the Project certain items of work specifically so described:
 - Fifty (50) percent of all non-reimbursable utility relocation costs (as outlined in MC&A 25169); and
 - One Hundred (100) percent of costs of tree removal and other construction and engineering services authorized by this Agreement and the State's Project Manager.
- City shall, at its own expense remove all trees and shrubs within the Project right of way, as identified in the Agreement.
- City agrees to waive all required City fees associated with the planning, design, permitting, and construction of this Project (e.g. hook-up fees, meter fees, permit fees).
- City shall be responsible, at its own expense, for removal, storage, and reinstallation of the "Welcome to Woodburn" sign currently located at the northwest corner of the intersection of OR 219 and Evergreen Road.
- City grants permission to allow State to connect the OR 214 storm water sewer line to City's 48" storm sewer trunk line at the manhole at station HSC 562+67.6, 49.5 feet right in Settlemier Avenue.
- City will coordinate efforts with Marion County to inform the public of alternate routes on their respective websites during construction of the Project.

Attachment A

- In accordance with City Resolution No. 2017, City agrees to allow State to conduct night work, waiving the requirements of the City of Woodburn's Ordinance No. 2312 (Noise Ordinance) for the duration of Project construction.
- City shall maintain all new roadway and storm water systems constructed by State as a part of the Project on local streets intersecting OR 214/219, and the storm water laterals within the Transit Facility and park-and-ride lot.
- City shall maintain e-vehicle charging stations and pay power costs for the Transit Facility, including park-and-ride lot lighting and electric vehicles charging stations. City shall have the power company send bills directly to City.
- When the City hires any outside contractor(s) and subcontractor(s) to perform work on the Project, those contractors shall specifically agree to indemnify the State from any injury due to the contractor's actions. The City shall include in its agreement with such contractors the contractor's duty to indemnify the State
- As to any third party claims, there is no indemnification clause. Both the State and City are entitled to participate in defense of the claim with legal counsel of their own choosing. If there is a legal determination that the State and City are jointly liable on a third party claim, the State and City agree to contribute to the amount of expenses (including attorneys' fees) in such proportion as is appropriate to reflect the relative fault of both parties. The relative fault of the State and City shall be determined by the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses.



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.



May 12, 2014

TO: Honorable Mayor and Council through City Administrator
FROM: Christina Shearer, Finance Director
SUBJECT: 2013-2014 SUPPLEMENTAL BUDGET REQUEST

RECOMMENDATION:

Hold a public hearing and adopt the attached resolution approving a supplemental budget for fiscal year 2013-2014 for the funds and departments listed on Exhibit A.

SUPPLEMENTAL BUDGETS GENERALLY:

Every year, after the budget is adopted by Council, circumstances and events arise that were either unforeseen or not quantifiable at the time the budget was prepared and adopted. In addition, supplemental budgets can be used to correct errors or oversights. This request includes both of these types of situations.

Oregon Budget Law provides for changes to adopted budgets through a supplemental budget process that requires that the City provide public notice of the proposed changes and, if the change is greater than 10% of any funds total expenditures, hold a public hearing to discuss the proposed changes and accept public testimony on the changes. Staff provided the required public notice via the Woodburn Independent and the hearing will be held at the Council meeting on May12th prior to consideration of the resolution.

Like the adopted budget, supplemental budget requests must be balanced; in other words, net revenue and net expense for the request must be equal. This can be accomplished by budgeting additional revenue, or by reducing another expenditure category (such as contingencies).

DETAIL OF THIS REQUEST

REVENUE

Building Fund: Construction Excise Tax \$70,000

Beginning in FY 2013-14, the City is able to withhold a portion (4%) of Construction Excise Taxes collected on behalf of the Woodburn School District (WSD) to cover administrative expenses of our collection activities. This changes

Agenda Item Review: City Administrator __x__ City Attorney __x__ Finance __x__

the nature of the accounting transactions involved and makes both the total revenue collected and the associated distribution to the WSD subject to budget requirements. Previously, these transactions were non-budget items. Therefore, due to this accounting change, the City must adjust the budget to recognize both revenue and expense for Construction Excise Taxes collected. The notice indicated that \$60,000 would be necessary for this fiscal year; however, current estimates are closer to \$70,000 which is the amount of this request.

This accounting change has been included in the proposed budget for FY 2014-15.

Building Fund: Permit Revenue \$8,000

When the budget is prepared, a projection of the revenue to be received for the year is estimated. Building activity in Woodburn has exceeded our initial estimates, so additional revenue has been received.

General Fund: Aquatic Center Program Revenue \$8,000

Due to the increasing popularity of the Aquatic Center and its programs, revenue has exceeded our projections for the year.

EXPENDITURES

Building Fund: Construction Excise Tax \$70,000

See discussion above.

Building Fund: Overtime \$8,000

Consistent with the increase in Building activity that has increased our permit revenue, workloads have also increased in the Building Department. This has resulted in the need for overtime.

General Fund: Aquatic Center Program Expense \$15,000

Consistent with the increase in Aquatic Center usage that has increased our Aquatic Center revenue, costs associated with lifeguard staff and training has also increased. This has resulted in the need for additional funding for part-time lifeguard staff wages and training. This item was added to our request after the hearing notice was published. As the public was already notified of a supplemental budget request and because this item is less than 10% of the General Fund budget, a special notice for this item is not required.

Water Capital Construction Fund - Withdrawn

Staff included an item in the initial public notice for a Water Capital Construction item. This item has been withdrawn pending further research.

FINANCIAL IMPACT:

Building Fund

Revenue:

Construction Excise Tax	\$	70,000
Building Permit Revenue		<u>8,000</u>
Total Revenues		78,000

Expenditures:

Construction Excise Tax	\$	70,000
Overtime		<u>8,000</u>
Total Building Fund Expenditures		78,000

General Fund

Revenue:

Aquatic Center Fee Revenue	\$	<u>8,000</u>
Total General Fund Revenues		8,000

Expenditures:

Part-Time Wages	\$	10,000
Materials and Services		5,000
Reserve - SMCR		<u>(7,000)</u>
Total General Fund Expenditures		8,000

COUNCIL BILL NO. 2953

RESOLUTION NO. 2042

A RESOLUTION APPROVING TRANSFERS OF FY 2013-2014 APPROPRIATIONS AND APPROVING A SUPPLEMENTAL BUDGET

WHEREAS, ORS 294.463(1) permits “transfers of appropriations” within any fund “when authorized by official resolution or ordinance of the governing body”; and

WHEREAS, ORS 294.463(2) limits “transfers of general operating contingency appropriations to no more than ten (10) percent of the total appropriations of the fund” unless adopted pursuant to a supplemental budget; and

WHEREAS, transfers made pursuant to any of the above must state the need for the transfer, the purpose for the authorized expenditure, and the amount of the appropriation transferred; and

WHEREAS, ORS 294.471(1)(a) permits supplemental budgets when “an occurrence of condition which had not been ascertained at the time of the preparation of a budget for the current year or current budget period which requires a change in financial planning”; and

WHEREAS, ORS 294.473 requires the governing body to hold a public hearing on the supplemental budget when the estimated expenditures contained in the supplemental budget for fiscal year or budget period differ by then (10) percent or more of any one of the individual funds contained in the regular budget for that fiscal year; and

WHEREAS, the transfers contained herein are made pursuant to ORS 294.463; and

WHEREAS, the supplemental budget contained herein is made pursuant to ORS 294.471; and

WHEREAS, a public hearing was held May 12, 2014 on the supplemental budget changes pursuant to ORS 294.480(4); **NOW, THEREFORE**,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. That pursuant to the applicable ORS provisions cited above,

the City Council hereby approves the transfers of appropriations and supplemental budget for FY 2013-14 in the amounts listed in Exhibit "A."

Approved as to Form: _____
City Attorney Date

APPROVED: _____
Kathryn Figley, Mayor

Passed by the Council _____
Submitted to the Mayor _____
Approved by the Mayor _____
Filed in the Office of the Recorder _____

ATTEST: _____
Heather Pierson, City Recorder
City of Woodburn, Oregon

City of Woodburn
 2013-2014 Supplemental Budget
 Exhibit A
 May, 2014

Fund	Original	Supplemental	Revised
Building Fund			
Revenue			
Construction Excise Tax	-	70,000	70,000
Building Permits	-	8,000	8,000
Total Revenue	-	78,000	78,000
Expense			
Construction Excise Tax	-	70,000	70,000
Overtime	-	8,000	8,000
Total Expense	-	78,000	78,000
General Fund			
Revenue			
Program Revenue	-	8,000	8,000
Total Revenue	-	8,000	8,000
Aquatic Center			
Personal Services	-	10,000	10,000
Materials & Services		5,000	5,000
Ending Fund Balance			
Reserve - SMCR	1,494,410	(7,000)	1,487,410
Total Expenditures	1,494,410	8,000	1,502,410



Agenda Item

May 12, 2014

TO: Mayor and City Council through City Administrator
FROM: Scott D. Russell, Chief of Police
SUBJECT: **ORS 190 Agreement with Cities of Hubbard, Mt. Angel, and Silverton for a Police Mobile Data System and Records Management System**

RECOMMENDATION:

Pass the resolutions entering into new ORS 190 agreements with the cities of Hubbard, Mt. Angel, and Silverton to provide Police Mobile Data System and Records Management System.

BACKGROUND:

The Woodburn Police Department operates a multi-user mobile data system (MDS), and records management system (RMS) which allows simultaneous access by more than one agency. The Woodburn Police Department has offered this system to our partner agencies in Marion County since 2002. The sharing of our system provides the following benefits:

- City of Woodburn can recoup a portion of the cost of annual system operation and maintenance
- Quality mobile data and records management systems to other cities at a reduced cost
- Improved police operations through enhanced communication and the sharing of records and information

DISCUSSION:

Currently, Hubbard, Silverton, Stayton, and Mt. Angel Police Departments participate in the MDS system. Hubbard, Silverton, and Mt. Angel also participate in the RMS system. Stayton joined the MDS last year under a new ORS 190 agreement. The time has come to renew the RMS/MDS agreements for the other participating cities. The charges to the cities relate to the use of software licenses owned by the City of Woodburn, staff support, system

Agenda Item Review: City Administrator City Attorney Finance

maintenance, and charges for Standard Software Maintenance agreements. The agreements have been reviewed for current language and future cost assessments.

FINANCIAL IMPACT:

The cities will contribute to the annual system maintenance costs in accordance with Addendum "A" of the agreement. Existing costs are already accounted for within the budget of the Police and Information Services Departments.

Itemization of charges

Billing Item	2014-15	2015-16	2016-17	2017-18
Annual SSMA (Aegis)	74,502	76,737	79,039	81,410
Annual Hardware and Software Maintenance RS6000	2,200	2,310	2,426	2,547
Backup of app servers	800	800	800	800
Symantec Antivirus	1,070	1,070	1,070	1,070
NetMotion	2,750	2,750	2,750	2,750
WebLEDS	2,760	2,760	2,760	2,760
Server Replacement Costs	9,000	9,000	9,000	9,000
Woodburn Tech Support (690 hrs @ 75/hr yrs 1 & 2, 80/hr yrs 3 & 4)	51,750	51,750	55,200	55,200
Sub-Total	144,832	147,177	153,045	155,537
Stayton's Portion	7,211	7,340	7,594	7,732
Woodburn Fire Portion	1,803	1,835	1,899	1,933
Total	135,818	138,001	143,552	145,872

Stayton ONLY

	2014-15	2015-16	2016-17	2017-18
Annual SSMA	3,725	3,837	3,952	4,071
Annual Hardware and Software Maintenance RS6000	352	370	388	407
Backup of app servers	64	64	64	64
NetMotion	550	550	550	550
Server Replacement Costs	720	720	720	720
Woodburn Tech Support (24 hrs @ 75/hr yrs 1 & 2, 80/hr yrs 3 & 4)	1,800	1,800	1,920	1,920
Total	7,211	7,340	7,594	7,732

Stayton is separate because they don't use all the functionality of the software.

Allocation to agencies

Agency			2014-15	2015-16	2016-17	2017-18	2013-14	% change
	Population	% Share						
Woodburn	24,080	60.56%	86,189	87,511	90,872	92,277	83,346	
Hubbard	3,173	7.98%	11,357	11,531	11,974	12,159	11,195	1.45%
Silverton	9,222	23.19%	26,511	27,017	28,305	28,843	23,318	13.69%
Mt. Angel	3,286	8.26%	11,761	11,942	12,401	12,592	15,198	-22.61%
Total	39,761	100%	135,818	138,001	143,552	145,872	133,057	2.08%
Stayton			7,211	7,340	7,594	7,732		
Woodburn Fire			1,803	1,835	1,899	1,933		

	Previous Years Revenue			
	2010-11	2011-12	2012-13	2013-14
	Budget	Budget	Budget	Budget
Hubbard	10,641	10,352	11,195	11,195
Mt Angel	10,641	13,579	15,198	15,198
Silverton	24,281	36,373	23,315	23,318

	\$4,990 Portion Re-allocated			4990
	2010-11	2011-12	2012-13	
Woodburn	24,080	78.85%	\$ 3,935	
Hubbard	3,173	10.39%	\$ 518	
Mt. Angel	3,286	10.76%	\$ 537	
	30,539	100.00%		

COUNCIL BILL NO. 2954

RESOLUTION NO. 2043

A RESOLUTION AUTHORIZING EXECUTION OF A POLICE RECORDS MANAGEMENT SYSTEM AND MOBILE DATA SYSTEM AGREEMENT BETWEEN THE CITY OF WOODBURN AND THE CITY OF SILVERTON

WHEREAS, it is mutually beneficial for public agencies to supplement, coordinate, and support one another; and

WHEREAS, the community welfare is best preserved through such supplemental support; and

WHEREAS, Oregon Revised Statutes, Chapter 190 authorizes intergovernmental agreements for cooperation services; and

WHEREAS, the City of Woodburn previously executed an agreement with the City of Silverton to provide a Mobile Data System and Records Management System; and

WHEREAS, the City of Woodburn and the City of Silverton desire to enter into a new agreement for the mutual benefit of both agencies; **NOW, THEREFORE**,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to sign the Police Records Management System and Mobile Data System Agreement between the City of Woodburn and the City of Silverton a copy of which is affixed hereto as Attachment "A" and, by this reference, incorporated herein.

Approved as to form: _____
City Attorney Date

Approved: _____
Kathryn Figley, Mayor

Passed by the Council _____
Submitted to the Mayor _____

Approved by the Mayor

Filed in the Office of the Recorder

ATTEST:

Heather Pierson, City Recorder

Agreement

Police Records Management System and Mobile Data System

This Agreement is made to engage the services of City of Woodburn to provide a Police Records Management System (RMS) and a Mobile Data System (MDS) to the City of Silverton; and is made under the authority and in consideration of the provisions of ORS190.003 to 190.110.

In consideration of mutual benefits and obligations herein set forth, the parties agree as follows:

A. Scope of Services

1. City of Woodburn shall maintain a police records management system (RMS) for the City of Silverton. The system shall provide a user generated law enforcement records data base and provide Silverton Police Department message switching to the Oregon Law Enforcement Data System (LEDS).
2. City of Woodburn shall maintain a police Mobile Data System for the City of Silverton. The system shall provide a user generated law enforcement mobile data system and provide Silverton Police Department message switching to the Oregon Law Enforcement Data System (LEDS).
3. City of Silverton shall provide and maintain desk top computers, printers, controllers, mobile data computers, all required desktop and mobile software, all telecommunication lines and related equipment, and any other equipment for access to the RMS, and any other equipment for access to the Mobile Data System and Message Switch. All ownership rights to said equipment shall remain with the City of Silverton.
4. The following standard data processing services shall be provided:
 - 4.1 Full time (24 hour, 7 days a week) operation and support for RMS server and software, and maintenance of backup and archival data storage media according to Woodburn Police Department standard procedures, and access of RMS and LEDS message switching facilities; all of which is subject to reasonable downtime for routine maintenance, support, and emergency repairs.
 - 4.2 Record information entered into the RMS shall be retained on line for a minimum of five years unless altered or deleted by Silverton Police Department or ordered to be altered, sealed, or deleted by a court of

competent jurisdiction.

4.3 Current manuals and other necessary documentation, protocols, and procedures will be provided.

4.4 City of Woodburn upon request, but no more than once a month, meet with City of Silverton and participate in a records management user group.

4.5 Ownership of all records information entered into the RMS by Silverton Police Department shall remain with Silverton Police Department. Once a year, and/or at the termination of this Agreement, all of Silverton's records entered into the RMS shall be saved to appropriate data storage media and provided to the Silverton Police Department at no cost.

5. In addition to the standard data processing services as agreed to in the primary Agreement the following standard data processing services shall be provided:

5.1 Full time (24 hour, 7 days a week) operation and support for Message Switch and software, and maintenance of backup and archival data storage media according to Woodburn Police Department standard procedures, and access of RMS and LEDS message switching facilities; all of which is subject to reasonable downtime for routine maintenance, support, and emergency repairs.

5.2 Current manuals and other necessary documentation, protocols, and procedures will be provided.

5.3 Ownership of all records information entered into the system by Silverton Police Department shall remain with Silverton Police Department.

B. Fees and Charges

1. Fees and charges for the police RMS and Mobile Data System shall be based on a per capita pricing model. Fees and charges are reflected in Addendum "A" of this Agreement.

2. When a new user is added to the police RMS and Mobile Data System, fees and charges shall be recalculated using the per capita pricing model. The recalculated fees and charges shall go into effect within 30 days of completed installation.

3. The City of Silverton will be offered new records management and/or Mobile Data System modules as they become available and agreed to be purchased by the City of Woodburn. Fees and charges for the new modules will be based on the current users per capita pricing model.

Unless otherwise agreed upon, new modules shall be paid within 45 days after delivery of the software.

4. If the parties do not agree as to the need for a new records management or Mobile Data module(s) the City of Silverton may elect to purchase the new records management module(s) for it's own use as long as the module(s) has no detrimental effect on the operation of the overall RMS. The City of Woodburn shall have no responsibility or obligation with respect to the purchase of this module(s).
5. The parties agree to renegotiate fees beginning in November 2016

C. Billing and Payment

1. The annual charges and fees shall be due in equal quarterly installments commencing July 1, 2014.
2. Fees and charges for new records management modules shall be due 30 days after installation is completed.

D. Security

1. City of Woodburn shall provide adequate system and data security for police RMS and Mobile Data in accordance with requirements of Oregon Law Enforcement Data System (LEDS) and the U.S. Department of Justice National Crime Information Center (NCIC).
2. City of Woodburn shall have no responsibility or obligation with respect to access to the Silverton RMS and/or the Mobile Data System through individual members of Silverton Police except to allow access to the RMS/Mobile Data System only upon use of passwords and procedures adopted in accordance with provisions herein.
3. City of Woodburn shall have no responsibility or obligation to verify the identity or authority of any person using the Silverton RMS/Mobile Data System who has used appropriate passwords and procedures to gain access to the system.
4. Silverton Police Department shall be exclusively responsible for the content of any messages sent from their terminals and using the RMS/Mobile Data System as a medium.
5. Silverton Police Department shall be exclusively responsible for the protection and security of terminal equipment located in their facility.

E. Limitations of Liability/Indemnification

1. City of Woodburn assumes no liability for the accuracy of any data entered by the Silverton Police Department in the RMS/Mobile Data System, nor errors in data transmission over an internet system or telephone lines. City of Woodburn represents and warrants only that it will use its best efforts to maintain a database of information exactly as entered, modified, or deleted by those data entry signals which reach its modem.

2. Each Party shall indemnify and hold harmless the other Party, its officers, agents and employees, from and against any and all claims, actions, causes of action, demands, or liabilities of whatsoever kind and nature, including judgments, interest, reasonable attorneys' fees, and all other costs, fees, expenses, and charges (collectively, "Claims") to the extent that such Claims arise out of or were caused by the negligence, gross negligence, or willful misconduct of the indemnifying Party or from any breach of this Agreement by the indemnifying Party.

F. Terms and Termination

1. This Agreement shall be effective upon execution hereof on behalf of both parties, and shall automatically renew on an annual basis unless any one of the following occur:

- a. The parties mutually agree in writing to terminate this agreement;

- b. Either party provides written notice prior to March 1st of each year that it intends to terminate the contract for any reason;

- c. Either party provides written notice of a material breach of this agreement and the other party fails to cure said breach within 30 days of receipt of notice;

2. Notwithstanding the giving of notice of termination as provided, City of Silverton shall remain obligated with respect to any unfulfilled financial obligation which accrued hereunder prior to the effective date of such termination.

G. Communication and Notice

1. Any notice in writing required to be given hereunder shall be sufficient if sent by regular mail or personally delivered to the Chief of Police, City of Woodburn; and to the Chief of Police, City of Silverton.

- 2. Each party shall designate, and may change from time to time, a representative for communication, negotiations, and general liaison with the other concerning the content, future, and administration of this Agreement. No such designated representative shall be held an agent or attorney-in-fact having authority to bind either party.

H. Attorney Fees

- 1. In the event it is necessary for either party to bring an action in the courts of the State of Oregon to enforce any rights under this Agreement, the non-prevailing party shall pay to the prevailing party its reasonable attorney fees at trial or on appeal in a sum determined by the court.

H. Amendments

- 1. This Agreement represents the complete and integrated Agreement between the parties with respect to the subject matter hereof, and may be amended only by written amendment executed by both parties. As such, this Agreement cancels and supersedes all prior written and oral Agreements, representations, negotiations, and communications between the parties and their representatives with respect to the subject matter hereof.

IN WITNESS WHEREOF the parties have caused the Agreement to be executed on behalf by their duly authorized representatives as of the dates set forth below.

City of Woodburn

City of Silverton

By: _____
Kathryn Figley, Mayor

By: _____

Title: _____

Date: _____

Date: _____

COUNCIL BILL NO. 2955

RESOLUTION NO. 2044

A RESOLUTION AUTHORIZING EXECUTION OF A POLICE RECORDS MANAGEMENT SYSTEM AND MOBILE DATA SYSTEM AGREEMENT BETWEEN THE CITY OF WOODBURN AND THE CITY OF MT. ANGEL

WHEREAS, it is mutually beneficial for public agencies to supplement, coordinate, and support one another; and

WHEREAS, the community welfare is best preserved through such supplemental support; and

WHEREAS, Oregon Revised Statutes, Chapter 190 authorizes intergovernmental agreements for cooperation services; and

WHEREAS, the City of Woodburn previously executed an agreement with the City of Mt. Angel to provide a Mobile Data System and Records Management System; and

WHEREAS, the City of Woodburn and the City of Mt. Angel desire to enter into a new agreement for the mutual benefit of both agencies; **NOW, THEREFORE**,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to sign the Police Records Management System and Mobile Data System Agreement between the City of Woodburn and the City of Mt. Angel, a copy of which is affixed hereto as Attachment "A" and, by this reference, incorporated herein.

Approved as to form: _____
City Attorney Date

Approved: _____
Kathryn Figley, Mayor

Passed by the Council _____
Submitted to the Mayor _____
Approved by the Mayor _____

Filed in the Office of the Recorder

ATTEST: _____
Heather Pierson, City Recorder

Agreement

Police Records Management System and Mobile Data System

This Agreement is made to engage the services of City of Woodburn to provide a Police Records Management System (RMS) and a Mobile Data System (MDS) to the City of Mt. Angel; and is made under the authority and in consideration of the provisions of ORS190.003 to 190.110.

In consideration of mutual benefits and obligations herein set forth, the parties agree as follows:

A. Scope of Services

1. City of Woodburn shall maintain a police records management system (RMS) for the City of Mt. Angel. The system shall provide a user generated law enforcement records data base and provide Mt. Angel Police Department message switching to the Oregon Law Enforcement Data System (LEDS).
2. City of Woodburn shall maintain a police Mobile Data System for the City of Mt. Angel. The system shall provide a user generated law enforcement mobile data system and provide Mt. Angel Police Department message switching to the Oregon Law Enforcement Data System (LEDS).
3. City of Mt. Angel shall provide and maintain desk top computers, printers, controllers, mobile data computers, all required desktop and mobile software, all telecommunication lines and related equipment, and any other equipment for access to the RMS, and any other equipment for access to the Mobile Data System and Message Switch. All ownership rights to said equipment shall remain with the City of Mt. Angel.
4. The following standard data processing services shall be provided:
 - 4.1 Full time (24 hour, 7 days a week) operation and support for RMS server and software, and maintenance of backup and archival data storage media according to Woodburn Police Department standard procedures, and access of RMS and LEDS message switching facilities; all of which is subject to reasonable downtime for routine maintenance, support, and emergency repairs.
 - 4.2 Record information entered into the RMS shall be retained on line for a minimum of five years unless altered or deleted by Mt. Angel Police Department or ordered to be altered, sealed, or deleted by a court of

competent jurisdiction.

4.3 Current manuals and other necessary documentation, protocols, and procedures will be provided.

4.4 City of Woodburn upon request, but no more than once a month, meet with City of Mt. Angel and participate in a records management user group.

4.5 Ownership of all records information entered into the RMS by Mt. Angel Police Department shall remain with Mt. Angel Police Department. Once a year, and/or at the termination of this Agreement, all of Mt. Angel's records entered into the RMS shall be saved to appropriate data storage media and provided to the Mt. Angel Police Department at no cost.

5. In addition to the standard data processing services as agreed to in the primary Agreement the following standard data processing services shall be provided:

5.1 Full time (24 hour, 7 days a week) operation and support for Message Switch and software, and maintenance of backup and archival data storage media according to Woodburn Police Department standard procedures, and access of RMS and LEDS message switching facilities; all of which is subject to reasonable downtime for routine maintenance, support, and emergency repairs.

5.2 Current manuals and other necessary documentation, protocols, and procedures will be provided.

5.3 Ownership of all records information entered into the system by Mt. Angel Police Department shall remain with Mt. Angel Police Department.

B. Fees and Charges

1. Fees and charges for the police RMS and Mobile Data System shall be based on a per capita pricing model. Fees and charges are reflected in Addendum "A" of this Agreement.

2. When a new user is added to the police RMS and Mobile Data System, fees and charges shall be recalculated using the per capita pricing model. The recalculated fees and charges shall go into effect within 30 days of completed installation.

3. The City of Mt. Angel will be offered new records management and/or Mobile Data System modules as they become available and agreed to be purchased by the City of Woodburn. Fees and charges for the new

modules will be based on the current users per capita pricing model. Unless otherwise agreed upon, new modules shall be paid within 45 days after delivery of the software.

4. If the parties do not agree as to the need for a new records management or Mobile Data module(s) the City of Mt. Angel may elect to purchase the new records management module(s) for it's own use as long as the module(s) has no detrimental effect on the operation of the overall RMS. The City of Woodburn shall have no responsibility or obligation with respect to the purchase of this module(s).
5. The parties agree to renegotiate fees beginning in November 2016

C. Billing and Payment

1. The annual charges and fees shall be due in equal quarterly installments commencing July 1, 2014.
2. Fees and charges for new records management modules shall be due 30 days after installation is completed.

D. Security

1. City of Woodburn shall provide adequate system and data security for police RMS and Mobile Data in accordance with requirements of Oregon Law Enforcement Data System (LEDS) and the U.S. Department of Justice National Crime Information Center (NCIC).
2. City of Woodburn shall have no responsibility or obligation with respect to access to the Mt. Angel RMS and/or the Mobile Data System through individual members of Mt. Angel Police except to allow access to the RMS/Mobile Data System only upon use of passwords and procedures adopted in accordance with provisions herein.
3. City of Woodburn shall have no responsibility or obligation to verify the identity or authority of any person using the Mt. Angel RMS/Mobile Data System who has used appropriate passwords and procedures to gain access to the system.
4. Mt. Angel Police Department shall be exclusively responsible for the content of any messages sent from their terminals and using the RMS/Mobile Data System as a medium.

5. Mt. Angel Police Department shall be exclusively responsible for

the protection and security of terminal equipment located in their facility.

E. Limitations of Liability/Indemnification

1. City of Woodburn assumes no liability for the accuracy of any data entered by the Mt. Angel Police Department in the RMS/Mobile Data System, nor errors in data transmission over an internet system or telephone lines. City of Woodburn represents and warrants only that it will use its best efforts to maintain a database of information exactly as entered, modified, or deleted by those data entry signals which reach its modem.
2. Each Party shall indemnify and hold harmless the other Party, its officers, agents and employees, from and against any and all claims, actions, causes of action, demands, or liabilities of whatsoever kind and nature, including judgments, interest, reasonable attorneys' fees, and all other costs, fees, expenses, and charges (collectively, "Claims") to the extent that such Claims arise out of or were caused by the negligence, gross negligence, or willful misconduct of the indemnifying Party or from any breach of this Agreement by the indemnifying Party.

F. Terms and Termination

1. This Agreement shall be effective upon execution hereof on behalf of both parties, and shall automatically renew on an annual basis unless any one of the following occur:
 - a. The parties mutually agree in writing to terminate this agreement;
 - b. Either party provides written notice prior to March 1st of each year that it intends to terminate the contract for any reason;
 - c. Either party provides written notice of a material breach of this agreement and the other party fails to cure said breach within 30 days of receipt of notice;
2. Notwithstanding the giving of notice of termination as provided, City of Mt. Angel shall remain obligated with respect to any unfulfilled financial obligation which accrued hereunder prior to the effective date of such termination.

G. Communication and Notice

1. Any notice in writing required to be given hereunder shall be sufficient if sent by regular mail or personally delivered to the Chief of Police, City of

Woodburn; and to the Chief of Police, City of Mt. Angel.

- 2. Each party shall designate, and may change from time to time, a representative for communication, negotiations, and general liaison with the other concerning the content, future, and administration of this Agreement. No such designated representative shall be held an agent or attorney-in-fact having authority to bind either party.

H. Attorney Fees

- 1. In the event it is necessary for either party to bring an action in the courts of the State of Oregon to enforce any rights under this Agreement, the non-prevailing party shall pay to the prevailing party its reasonable attorney fees at trial or on appeal in a sum determined by the court.

H. Amendments

- 1. This Agreement represents the complete and integrated Agreement between the parties with respect to the subject matter hereof, and may be amended only by written amendment executed by both parties. As such, this Agreement cancels and supersedes all prior written and oral Agreements, representations, negotiations, and communications between the parties and their representatives with respect to the subject matter hereof.

IN WITNESS WHEREOF the parties have caused the Agreement to be executed on behalf by their duly authorized representatives as of the dates set forth below.

City of Woodburn

City of Mt. Angel

By: _____
Kathryn Figley, Mayor

By: _____

Title:

Date: _____

Date: _____

COUNCIL BILL NO. 2956

RESOLUTION NO. 2045

A RESOLUTION AUTHORIZING EXECUTION OF A POLICE RECORDS MANAGEMENT SYSTEM AND MOBILE DATA SYSTEM AGREEMENT BETWEEN THE CITY OF WOODBURN AND THE CITY OF HUBBARD

WHEREAS, it is mutually beneficial for public agencies to supplement, coordinate, and support one another; and

WHEREAS, the community welfare is best preserved through such supplemental support; and

WHEREAS, Oregon Revised Statutes, Chapter 190 authorizes intergovernmental agreements for cooperation services; and

WHEREAS, the City of Woodburn previously executed an agreement with the City of Hubbard to provide a Mobile Data System and Records Management System; and

WHEREAS, the City of Woodburn and the City of Hubbard desire to enter into a new agreement for the mutual benefit of both agencies; **NOW, THEREFORE**,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to sign the Police Records Management System and Mobile Data System Agreement between the City of Woodburn and the City of Hubbard, a copy of which is affixed hereto as Attachment "A" and, by this reference, incorporated herein.

Approved as to form: _____
City Attorney Date

Approved: _____
Kathryn Figley, Mayor

Passed by the Council _____
Submitted to the Mayor _____

Approved by the Mayor

Filed in the Office of the Recorder

ATTEST: _____
Heather Pierson, City Recorder

Agreement

Police Records Management System and Mobile Data System

This Agreement is made to engage the services of City of Woodburn to provide a Police Records Management System (RMS) and a Mobile Data System (MDS) to the City of Hubbard; and is made under the authority and in consideration of the provisions of ORS190.003 to 190.110.

In consideration of mutual benefits and obligations herein set forth, the parties agree as follows:

A. Scope of Services

1. City of Woodburn shall maintain a police records management system (RMS) for the City of Hubbard. The system shall provide a user generated law enforcement records data base and provide Hubbard Police Department message switching to the Oregon Law Enforcement Data System (LEDS).
2. City of Woodburn shall maintain a police Mobile Data System for the City of Hubbard. The system shall provide a user generated law enforcement mobile data system and provide Hubbard Police Department message switching to the Oregon Law Enforcement Data System (LEDS).
3. City of Hubbard shall provide and maintain desk top computers, printers, controllers, mobile data computers, all required desktop and mobile software, all telecommunication lines and related equipment, and any other equipment for access to the RMS, and any other equipment for access to the Mobile Data System and Message Switch. All ownership rights to said equipment shall remain with the City of Hubbard.
4. The following standard data processing services shall be provided:
 - 4.1 Full time (24 hour, 7 days a week) operation and support for RMS server and software, and maintenance of backup and archival data storage media according to Woodburn Police Department standard procedures, and access of RMS and LEDS message switching facilities; all of which is subject to reasonable downtime for routine maintenance, support, and emergency repairs.
 - 4.2 Record information entered into the RMS shall be retained on line for a minimum of five years unless altered or deleted by Hubbard Police Department or ordered to be altered, sealed, or deleted by a court of

competent jurisdiction.

4.3 Current manuals and other necessary documentation, protocols, and procedures will be provided.

4.4 City of Woodburn upon request, but no more than once a month, meet with City of Hubbard and participate in a records management user group.

4.5 Ownership of all records information entered into the RMS by Hubbard Police Department shall remain with Hubbard Police Department. Once a year, and/or at the termination of this Agreement, all of Hubbard's records entered into the RMS shall be saved to appropriate data storage media and provided to the Hubbard Police Department at no cost.

5. In addition to the standard data processing services as agreed to in the primary Agreement the following standard data processing services shall be provided:

5.1 Full time (24 hour, 7 days a week) operation and support for Message Switch and software, and maintenance of backup and archival data storage media according to Woodburn Police Department standard procedures, and access of RMS and LEDS message switching facilities; all of which is subject to reasonable downtime for routine maintenance, support, and emergency repairs.

5.2 Current manuals and other necessary documentation, protocols, and procedures will be provided.

5.3 Ownership of all records information entered into the system by Hubbard Police Department shall remain with Hubbard Police Department.

B. Fees and Charges

1. Fees and charges for the police RMS and Mobile Data System shall be based on a per capita pricing model. Fees and charges are reflected in Addendum "A" of this Agreement.

2. When a new user is added to the police RMS and Mobile Data System, fees and charges shall be recalculated using the per capita pricing model. The recalculated fees and charges shall go into effect within 30 days of completed installation.

3. The City of Hubbard will be offered new records management and/or Mobile Data System modules as they become available and agreed to be purchased by the City of Woodburn. Fees and charges for the new modules will be based on the current users per capita pricing model.

Unless otherwise agreed upon, new modules shall be paid within 45 days after delivery of the software.

4. If the parties do not agree as to the need for a new records management or Mobile Data module(s) the City of Hubbard may elect to purchase the new records management module(s) for it's own use as long as the module(s) has no detrimental effect on the operation of the overall RMS. The City of Woodburn shall have no responsibility or obligation with respect to the purchase of this module(s).
5. The parties agree to renegotiate fees beginning in November 2016

C. Billing and Payment

1. The annual charges and fees shall be due in equal quarterly installments commencing July 1, 2014.
2. Fees and charges for new records management modules shall be due 30 days after installation is completed.

D. Security

1. City of Woodburn shall provide adequate system and data security for police RMS and Mobile Data in accordance with requirements of Oregon Law Enforcement Data System (LEDS) and the U.S. Department of Justice National Crime Information Center (NCIC).
2. City of Woodburn shall have no responsibility or obligation with respect to access to the Hubbard RMS and/or the Mobile Data System through individual members of Hubbard Police except to allow access to the RMS/Mobile Data System only upon use of passwords and procedures adopted in accordance with provisions herein.
3. City of Woodburn shall have no responsibility or obligation to verify the identity or authority of any person using the Hubbard RMS/Mobile Data System who has used appropriate passwords and procedures to gain access to the system.
4. Hubbard Police Department shall be exclusively responsible for the content of any messages sent from their terminals and using the RMS/Mobile Data System as a medium.
5. Hubbard Police Department shall be exclusively responsible for the protection and security of terminal equipment located in their facility.

E. Limitations of Liability/Indemnification

1. City of Woodburn assumes no liability for the accuracy of any data entered by the Hubbard Police Department in the RMS/Mobile Data System, nor errors in data transmission over an internet system or telephone lines. City of Woodburn represents and warrants only that it will use its best efforts to maintain a database of information exactly as entered, modified, or deleted by those data entry signals which reach its modem.
2. Each Party shall indemnify and hold harmless the other Party, its officers, agents and employees, from and against any and all claims, actions, causes of action, demands, or liabilities of whatsoever kind and nature, including judgments, interest, reasonable attorneys' fees, and all other costs, fees, expenses, and charges (collectively, "Claims") to the extent that such Claims arise out of or were caused by the negligence, gross negligence, or willful misconduct of the indemnifying Party or from any breach of this Agreement by the indemnifying Party.

F. Terms and Termination

1. This Agreement shall be effective upon execution hereof on behalf of both parties, and shall automatically renew on an annual basis unless any one of the following occur:
 - a. The parties mutually agree in writing to terminate this agreement;
 - b. Either party provides written notice prior to March 1st of each year that it intends to terminate the contract for any reason;
 - c. Either party provides written notice of a material breach of this agreement and the other party fails to cure said breach within 30 days of receipt of notice;
2. Notwithstanding the giving of notice of termination as provided, City of Hubbard shall remain obligated with respect to any unfulfilled financial obligation which accrued hereunder prior to the effective date of such termination.

G. Communication and Notice

1. Any notice in writing required to be given hereunder shall be sufficient if sent by regular mail or personally delivered to the Chief of Police, City of Woodburn; and to the Chief of Police, City of Hubbard.
2. Each party shall designate, and may change from time to time, a

Attachment A

representative for communication, negotiations, and general liaison with the other concerning the content, future, and administration of this Agreement. No such designated representative shall be held an agent or attorney-in-fact having authority to bind either party.

H. Attorney Fees

1. In the event it is necessary for either party to bring an action in the courts of the State of Oregon to enforce any rights under this Agreement, the non-prevailing party shall pay to the prevailing party its reasonable attorney fees at trial or on appeal in a sum determined by the court.

H. Amendments

1. This Agreement represents the complete and integrated Agreement between the parties with respect to the subject matter hereof, and may be amended only by written amendment executed by both parties. As such, this Agreement cancels and supersedes all prior written and oral Agreements, representations, negotiations, and communications between the parties and their representatives with respect to the subject matter hereof.

IN WITNESS WHEREOF the parties have caused the Agreement to be executed on behalf by their duly authorized representatives as of the dates set forth below.

City of Woodburn

City of Hubbard

By: _____
Kathryn Figley, Mayor

By: _____

Title:

Date: _____

Date: _____



Agenda Item

May 12, 2014

TO: Mayor and City Council through City Administrator
FROM: Scott D. Russell, Chief of Police
SUBJECT: **Authority to apply for 2014 COPS Police Officers Funding Grant**

RECOMMENDATION:

City Council authorize staff to make application for a School Resource Officer Position under the 2014 COPS Hiring Grant Program.

BACKGROUND:

The ability of the Woodburn Police Department to staff and maintain Police Officer positions is crucial to the Department's ability to provide timely and effective service to the citizens of The City of Woodburn. Staffing levels are a perennial topic of discussion as we see increased population and commensurate levels of crime. However, additional staff is expensive, takes large amounts of training and supervision time at the front end, and therefore gains in service levels and crime reduction can take substantial time to materialize. For these reasons the Department has sought high levels of computerization, maintained a flat organization, and strategically deployed our resources in order to maximize the number of officers on the street. Currently the Department maintains a level of 1.23 officers per 1000 citizens, slightly off the average of 1.5 for the Western U.S. In the past we have utilized grant positions to raise our staffing levels. Previous COPS (Community Oriented Policing Services Office of the US Department of Justice) programs have proved beneficial for the City of Woodburn including the COPS FAST grants of the 1990's which provided three additional police officer positions. As well as the COPS in Schools grant, this provided our current SRO (School Resource Officer) position. All of these grants provided for three year funding followed by a requirement that the City maintain the position for of least 12 months. Through careful planning and management all of these positions were eventually absorbed into the Department's budget at the appropriate time and are maintained to this day. This process allowed for additional police services to be in place and operating well before the City had to begin paying for them.

Agenda Item Review: City Administrator City Attorney Finance

DISCUSSION:

On April 24, 2014 the Office of Community Oriented Policing Services (COPS) announced the opening of their 2014 competitive grants process for the COPS Hiring Program. The grant process will be completed by the end of May 2014 and all grant applications must be received by that time. The grants will provide funding to assist in the hiring and rehiring of additional police officers by local governments. There is a 25% local match required and, the funding will be based on current entry level salary and benefits of the grantee agency. The grants will pay for 75% of the entry level salary and benefits for 36 months (to a maximum of \$125,000 see financial impact below) for newly hired, full time, sworn, law enforcement officer positions. All such hired positions must be retained for a minimum of 12 months after the conclusion of the grant.

The Department firmly believes that all reasonable efforts should be made to work on bringing department staffing closer to the 1.5 officers per thousand citizens level. The citizens of Woodburn have certain expectations of the level of performance of their police department, and these expectations can only be met through proper staffing levels and the availability of police manpower when they call upon us for service. The COPS hiring grant provides an opportunity to increase staffing during difficult financial times without placing a major burden on the current budget. It allows a police officer position to be brought in earlier than the normal course of budget growth would allow and assures that at the end of the grant there will be enough population and fiscal growth within the City to support the position.

The Department has for many years maintained a very successful School Resource Officer (SRO) position in cooperation with the Woodburn School District at Woodburn High School. Due to its success there has been a considerable request for an additional SRO position to serve the middle schools from school staff, parents, and WPD staff. The benefits of the SRO position are manifold and could be of significant assistance to our middle schools as well. Since the COPS Hiring Program provides additional preference points to SRO positions it seems prudent to apply for such a position. We have spoken with Woodburn School District leadership and they are in support of such an application.

FINANCIAL IMPACT:

In year one the grant will provide approximately \$60,000 towards the position and the City's share will be about \$20,000. In year two the grant will again

provide \$60,000 towards the position and due to the agreement with the WPA and projected health insurance costs the City's share will be approximately \$27,000. In year three the grant will only provide \$5,000 towards the position (because of the \$125,000 limit on the grant) and due to the agreement with the WPA and projected health insurance costs the City's share will be approximately \$ 90,000. Over the three year grant period the COPS Office will have provided a total of approximately \$125,000 towards the position and the City of Woodburn will have provided a total of about \$137,000. For the fourth year the City's cost to absorb the position would be approximately \$94,000.



Agenda Item

May 12, 2014

TO: Honorable Mayor and City Council through City Administrator

FROM: Randy Scott, Public Works Director

SUBJECT: **Award of Construction Contract for the 2013-14 Street Resurfacing Improvements, Bid No. 2013-11.**

RECOMMENDATION:

That the City Council, acting in its capacity as the Local Contract Review Board, award the construction contract for the 2013-14 Street Resurfacing Improvements to Salem Road & Driveway in the amount of \$479,861.25.

BACKGROUND:

The contract involves asphaltic concrete inlay of Grant St. (2nd to 5th) and Country Club Court. as well as chipseal micro-surfacing to Astor Way (Country Club to HWY 214), Lincoln St. (Front St to HWY 99E), Settlemier Ave. (Arthur to Lincoln), Mayana Dr., Leasure St., Princeton Rd. (Country Club to Rainier Road) and a multiple layer chip seal to Ogle St. The subject components of the contract are identified in the Capital Construction Projects of the adopted budget for fiscal year 2013/14.

Bids were opened on April 22, 2014. Four (4) bids were received, opened and recorded as follows:

Roy L. Houck Construction	\$611,934.85
Knife River Corp.	\$632,110.40
North Santiam Paving Co.	\$548,008.80
Salem Road & Driveway	\$479,861.25
 The Engineer's Estimate	 \$487,570.00

All Bidders were found to be responsible and responsive. The recommended award is 2% below the Engineers estimate.

Agenda Item Review: City Administrator City Attorney Finance

DISCUSSION:

This project is a continuation effort by the Public Works Department to preserve, maintain and improve the City's street system infrastructure.

The contract award is in conformance with public contracting laws of the State of Oregon as outlined in ORS Chapter 279C and the laws, regulations of the City of Woodburn, therefore, staff is recommending the contract be awarded.

FINANCIAL IMPACT:

The subject components of the contract are identified in the adopted fiscal year 2013/14 Budget, Capital Construction Projects in the amount of \$738,000.00. The project will be funded using the Street & Storm Capital Construction Fund (363).

Estimated Project Cost Summary:

• Design and Technical Services	\$ 63,000.00
• Construction Contract	\$ 479,861.25
• Construction Contingency	\$ 30,000.00
• Construction Management & Inspection	<u>\$ 45,000.00</u>
Total Estimated Project Cost	\$ 617,861.25
Budgeted Project Cost Estimate	\$ 738,000.00



Agenda Item

May 12, 2014

TO: Honorable Mayor and City Council through City Administrator
FROM: Jim Row, Community Services Director
SUBJECT: **Teen Center Agreement**

RECOMMENDATION:

It is recommended that the City Council authorize the City Administrator to enter into a Management Agreement with the Boys and Girls Club of Salem, Marion, and Polk Counties Inc., an Oregon Non-profit Corporation.

BACKGROUND:

This item will renew the "Teen Center" management agreement between the City and the Boys & Girls Club, which will expire on June 30, 2014. The Boys & Girls Club has operated the Settlemier Park Teen Center through previous versions of this management agreement for nearly two years.

The City and the Boys & Girls Club initiated the teen program partnership in the spring of 2010. This action followed on the heels of operational concerns raised in late 2009 and early 2010, which resulted in the City ceasing operations at the Legion and Settlemier Park Teen Centers. From the perspective of both agencies' staff, the current arrangement has been very successful.

The program's success is largely due to the implementation of many high quality programs, including Young Writers Club, Power Hour, Scrapbooking Club, Guitar Club, Keystone Power Teens, Torch Club, Woodburn Outdoors Program, Mentoring (in partnership with Recreation & Parks), Running Club, Manners Club, and the popular Cooking Classes.

DISCUSSION:

Most of the terms of the enclosed management agreement with the Boys and Girls Club will remain unchanged from the current agreement. The major tenants of the agreement include:

Agenda Item Review: City Administrator City Attorney Finance

- The agreement will be effective from July 1, 2014 to June 30, 2015, with the option to renew.
- The Boys and Girls Club will operate the Settlemier Park Teen Center four hours per day, Monday through Friday, a minimum of 45 weeks per year.
- The Legion Park Center will remain closed, so that the Boys and Girls Club can invest adequate resources into the Settlemier Teen Center Program.
- The City will continue to pay all facility utilities charges.
- The City will continue to provide limited facility maintenance, and information services support to the Settlemier Park Teen Center.
- The City will remain a stakeholder in the operation of the teen program and will have input into programming decisions.

The changes to this year's agreement include:

- The City will pay the Club \$3,745 per month for services provided under this agreement. This fee reflects a reduction from \$4,725 in FY 10/11 and FY 11/12, and \$4,166 in FY 12/13. These reductions are a part of the City's strategy of gradually eliminating the City's subsidy toward the program.

The Boys & Girls Club is aware of the City's financial constraints and has worked hard to reduce their dependence on City funding. They will continue working to further reduce the level of City support required for FY15/16 and beyond.

FINANCIAL IMPACT:

The annual cost to the City under this agreement will be reduced to \$45,000 and is included the proposed FY14/15 General Fund Budget.

MANAGEMENT AGREEMENT

This Management Agreement (this “Agreement”) is made and entered into by and between The City of Woodburn, an Oregon municipal corporation (“City”) and Boys & Girls Club of Salem, Marion, and Polk Counties Inc., an Oregon Non-profit Corporation (“Manager”) to be effective July 1, 2014.

RECITALS

WHEREAS, City provided and managed after school teen center drop-in programs at the Legion Park and Settlemier Park Teen Centers from 2002 until 2010; and

WHEREAS, in May 2010 City entered into a Management Agreement with Manager to operate the teen center drop-in program; and

WHEREAS, City believes that it is more efficient and cost effective for it to continue contracting with Manager to manage the teen center drop-in program; and

WHEREAS, Manager represents that it has the expertise necessary for the management and operation of the teen center drop-in program based upon 40 years of working with young people from disadvantaged economic, social and family circumstances;

WHEREAS, City and the Manager desire to continue the teen center drop-in program and renew the Management Agreement, which will expire on June 30, 2014; and

NOW, THEREFORE, based upon the foregoing recitals, and the mutual covenants hereinafter set forth, the parties agree as follows:

AGREEMENT

1. Definitions

As used in this Agreement, the following terms shall have the following meanings:

A. “Facility” shall mean the City’s teen center building (the “Facility”), located in the southwest corner of the Park that is available for use for the Program.

B. “Park” shall mean the real property, known as Settlemier Park (the “Park”), on Settlemier Avenue consisting of approximately 10.4 acres.

C. “Program” shall mean afterschool recreational, educational, and healthy lifestyles based activities for youth aged 6th – 12th grade as more fully set forth in this Agreement (the “Program”).

2. Use of the Facility

Subject to the terms of this Agreement, City grants to Manager permission to use the Facility to

conduct the Program pursuant to this Agreement. Manager has inspected the Facility and accepts the same as is, with all faults, in its then existing condition. City expressly disclaims any warranty, expressed or implied, concerning the condition of the facility or its fitness for use for Manager's purposes.

3. Term

A. This Agreement shall be for a term beginning on the effective date indicated above and expiring at 11:59PM, June 30, 2015, unless renewed as provided herein.

B. This Agreement may be renewed by written agreement of the parties.

4. Default and Termination

A. Termination by Manager for Default. This Agreement may be terminated by Manager upon default by City in the performance of any material covenant or agreement herein required to be performed by City and the failure of City to remedy such default within ten (10) days after receipt of a written notice from Manager to remedy the same.

B. Termination by City for Default. This Agreement may be terminated by City upon the occurrence of default by Manager in the performance of any material covenant or agreement herein required to be performed by Manager and the failure of Manager to remedy such default within ten (10) days after receipt of a written notice from City to remedy the same. A default by Manager shall occur if Manager shall become insolvent, shall make a general assignment for the benefit of creditors, shall file a voluntary petition in bankruptcy or indebtedness under the federal bankruptcy laws, or shall consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property.

C. Termination by City for Convenience. Notwithstanding the above, City may terminate this Agreement for any reason and at its sole discretion if City determines that termination is in the best interest of City. In the event of such termination, City shall provide Manager with at least sixty (60) days written notice to end the Program and vacate the Facility.

5. Compensation

City shall pay compensation to Manager for services rendered under this Agreement a management fee of \$3,750.00 per month. The management fee shall be paid no later than the 15th of the month for which services are rendered.

6. Program Management

A. Responsibilities of Manager.

1. The Program shall be managed by Manager as a teen center, providing after school recreational, educational, and healthy lifestyles based activities for youth aged 6th – 12th grade, in accordance with the terms of this Agreement. Manager shall operate the Program in accordance with

the “Boys & Girls Club of Woodburn Programs at a Glance” document, attached as Exhibit A.

2. Manager shall ensure that the Program remains open four hours per day, Monday through Friday, a minimum of forty-five (45) weeks per year, except as closures for legal holidays, inclement weather, and facility repairs necessitate.
3. Manager shall provide City an ongoing opportunity to influence decisions regarding teen programming and the activities provided by Manager under this Agreement.
4. Manager shall convene a Woodburn Advisory Council to assist Manager in developing funding and to advise regarding the strategic program direction of the project. The “Woodburn Advisory Council Functions and Expectations” are described in Exhibit B attached hereto.
5. Manager shall not charge teen center participants fees in excess of \$5.00 annually.
6. Manager shall control the scheduling of the Facility, but will cooperate with City in the use of the Facility for civic, public, or municipal events. Such use will be at no charge to City. In the event of such use, City shall restore the condition of the Facility to its condition prior to such use.
7. Manager shall secure the Facility and shall be solely responsible for the security of its personnel, property and equipment. City personnel shall have the authority to prohibit any activity when necessary to protect City property and equipment or the public health and safety; however this shall not decrease the liability of Manager in any way.
8. Manager shall permit reasonable and regular access, inspection and maintenance of the Facility by City.
9. Manager shall not interfere with public access to the Park during the hours it is open to the public and shall abide by all regulations adopted by City concerning the use of municipal parks.
10. Manager shall report annually to the Woodburn City Council on the Program and the status of upcoming events.

B. Responsibilities of City.

1. City shall permit Manager to use certain City owned property, including on site furnishings, the telephone and computer system, and inventory of City owned property as of April 18, 2014, as listed on Exhibit C attached hereto. City may, at its sole discretion, remove City owned property from

the Facility and disallow its use by Manager.

2. City shall provide maintenance to the Facility as provided in this Agreement.

7. Improvements

Manager shall obtain City's prior written approval before any modifications, alterations, or other changes ("Changes") to the Facility are undertaken, even if temporary in nature. Any approved Changes to the Premises will be at Manager's expense and Manager shall keep the Facility free from all liens, including construction, mechanics, and material man's liens. Upon termination of this Agreement, Manager shall, at its sole expense, dismantle and remove any Changes to facilitate and restore the Facility to its original condition, normal wear and tear excepted.

8. Employees of Manager

Manager shall employ such persons as may be required for the efficient operation of the Program. Manager shall comply with and be solely responsible for the requirements of all federal, state and local law and ordinances and regulations relating to minimum wages, social security, unemployment insurance and workers' compensation and shall not discriminate against any employee or applicant for employment because of race, sex, creed, religion, age, height, weight, color national origin, or disability.

9. Accounting

A. Manager shall keep accurate books of account and records of all Program operations, such records shall be provided to the City within 10 days upon the City's written request.

B. City shall have the right to audit the books, financial statements, and financial data of Manager regarding the Program.

10. Facility Maintenance

A. City Responsibilities. City is responsible for the following:

1. Heating, ventilation, and air conditioning systems;
2. Plumbing, electrical, mechanical systems;
3. Building structure;
4. Security and fire prevention systems;
5. All gas, electric, sewer, water or other utility or service charges;
6. Rain gutters and down spouts;

7. Integrated building appliances and fixtures, such as sinks; and
8. Telephone and personal computer system.

B. Manager Responsibilities. Manager is responsible for the following items:

1. Service and repair of office equipment and furnishings, excluding the telephone system and City owned personal computers;
2. Any interior redecorating of the Facility, including but not limited to interior painting, provided Manager has received prior City approval;
3. Replacing lights in outside light standards; and maintaining interior light fixtures in good working order, including lamp replacement;
4. Basic janitorial services;
5. To keep the walks and entries in the Facility free and clear of ice, snow, rubbish, debris, and obstructions.
6. Any repairs necessitated by the negligence of Manager, its agents, employees, and invitees; and
7. Any repairs or alterations to the Facility necessary for Manager to comply with laws and regulations set forth in this Agreement.
8. Manager shall keep the Facility in a clean and orderly condition and ensure clean up after Program activities.
9. Manager may utilize City vehicles for program use, but must track mileage and replace fuel used at Manager's expense.

11. Garden Activities

City will provide some initial site preparation for the garden area to be determined. City agrees that Manager may use a limited area of land adjacent to the Facility for gardening activities subject to the following requirements:

A. Garden Location and Layout Plan. Manager will submit to City for approval a written plan outlining Manager's planned location, design, layout, and set-up of the vegetable garden prior to beginning gardening. Any existing trees and shrubs shall remain. No permanent structures shall be erected on said property. Manager shall not deviate from the approved plan without written consent of City.

B. Gardening Activities. Manager shall comply with City ordinances, State and Federal law when conducting any activities on or in relation to the premises. Manager shall not

dispose or allow disposal of garden debris or products as solid waste on the premises. This shall not include composting or the use of compost as fertilizer. Manager shall not remove any soil from the Property without City's prior written approval.

C. Structures and Fences. Manager shall not build structures, fences or improvements without prior written approval of the owner.

D. Hours of Operation. Manager shall conduct all activities on the premises only between the hours of 8:00 a.m. and 8:00 p.m. All tools and other gardening implements shall be removed from the premises each day.

E. Water. City shall provide municipal water at no charge via hose to the Property only for the watering of gardens on the Property. City reserves the right to restrict Manager's water use if City determines Manager's use constitutes waste or as the City deems necessary to ensure adequate supply for City's uses. Manager shall be responsible for maintenance of water systems serving the garden plots.

F. Signage. Manager, at its own expense, may erect one (1) sign that conforms to Woodburn Development Ordinance 3.110 and the area of which may not exceed four (4) square feet. The purpose of the sign is to support community awareness of Manager and City must approve the location of said sign.

G. Participation. Manager shall allow only Manager's staff, known volunteers, and Program Participants, under Manager's supervision to participate in gardening activities on the premises.

H. ADA. Manager shall be responsible for any accommodation and costs related to compliance with the Americans with Disabilities Act (ADA).

I. Storage. Manager shall not store or permit storage of equipment not related to the gardening on the premises. Add: All garden equipment and supplies cannot be stored inside the Youth Activities Center building and must have its own safe and secure storage area.

J. Alcohol. Manager shall not allow any person to consume alcohol on said property.

K. Insecticides. Manager shall ensure that any use of insecticides, herbicides, fumigants, or other similar substances is in accordance with City ordinances, State and Federal law.

L. Commercial Activities. Manager shall not use the premises for any commercial activities, including, but not limited to, the sale of produce or other products to the public.

M. Other Adverse Activities. City reserves the right to terminate any activity that could prove to be an environmental hazard or adversely affect the operation of City government services or disturb the residents of the adjacent neighborhoods.

N. Maintenance. Manager shall provide the following maintenance:

1. Maintenance of the vegetation on the premises including keeping any grass mowed and weeds controlled; and
2. Perform daily litter and trash clean up on the premises; and
3. Keep premises in a safe and orderly fashion so as to not impede pedestrian or motor traffic.

O. Garden Space Assignment/Sublease. Manager shall not assign or sublease the premises to any individual or organization without prior written consent of City. Any assignment or sublease shall be void at inception.

P. Termination of Gardening Activities. Upon written notice by City, Manager shall terminate all gardening activities immediately and remove all Manager equipment within 10 days of notice. Garden Activities may be terminated without affecting the other terms of this Management Agreement.

12. Insurance

A. For its activities under the Program, Manager shall procure and maintain the following insurance, which shall be primary in coverage, and shall name City as an additional insured:

1. General comprehensive liability insurance covering all claims with respect to injuries or damages to persons or property sustained in, on or about the Facility and Program activities away from the Facility and the appurtenances thereto, including the sidewalks and alleyways adjacent thereto, with limits of liability of no less than the following: personal injury and property damage liability - \$2,000,000 each occurrence and \$4,000,000 in the aggregate.
2. Automobile bodily injury and property damage liability covering all owned, non-owned, and hired vehicles with limits of liability no less than the following: \$500,000 each occurrence (no aggregate applicable).
3. Worker's compensation and employer's liability insurance in respect of any work by employees of Manager on or about the Facility.
4. Physical damage insurance covering all Manager initiated improvements and City owned property on loan to Manager. Such coverage shall be in the amount of \$100,000 and shall be written on a replacement cost basis. Such insurance shall be provided on as broad form property coverage as may be customary for commercial properties in the vicinity of the Facility.
5. Manager shall provide to City certificates of insurance and copies of policies obtained by Manager hereunder 10 days prior to occupying the Facility. Further, all policies of insurance obtained by Manager shall:

- a. be written as primary policies not contributing with and not in excess of coverage that City may carry;
- b. contain an endorsement providing that such insurance may not be materially changed, amended, or canceled with respect to City except after twenty (30) days' prior written notice from insurance company to City; and
- c. expressly provide that City shall not be required to give notice of accidents or claims and that City shall have no liability for premiums.

13. Indemnity

A. Manager agrees to indemnify and hold harmless City, its officers and employees from and against any and all claims, loss, liability, damage, and expense arising from all of Manager's activities related to the Program. Manager agrees to defend City, its officers or employees against any such claims. This provision does not apply to claims, loss, liability or damage or expense arising from the sole negligence, or willful misconduct, of City.

B. City agrees to indemnify and hold harmless Manager, its officers and employees from any claims, loss, liability, damage, and expense arising from City activities at the Facility or the Park which are unrelated to Manager or the Program under this Agreement.

14. Force Majeure

Neither party shall be deemed in default for nonperformance or for any interruption or delay in performance of any of the terms, covenants, and conditions of this Agreement if the same shall be due to any 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 or causes beyond the reasonable control of either party, provided such cause is not due to the willful act or neglect of the party.

15. Re-delivery of Facility

Manager shall, upon termination of this Agreement, quit and deliver the Facility to City peaceably, quietly and in a condition as good or better as the same now exists, reasonable use and wear thereof excepted. Manager, at Manager's expense, shall repair any damage to the Facility caused by or was the result of Manager's use of the Facility. All keys and/or access cards shall be returned to the City.

16. Compliance with Laws

A. Manager shall comply and conform with all laws and all governmental regulations, rules and orders that may from time to time be put into effect relating to, controlling or limiting its use of the Facility and operation of the Program.

B. Manager shall comply with all applicable federal, state, and local laws and regulations, including those pertaining to nondiscrimination on the basis of race, gender, color, religion, national origin, age and disability in employment or the provision of services.

C. Manager acknowledges that the Americans with Disabilities Act (the "ADA") requires that programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Manager further acknowledges its obligation to comply with the ADA and any other federal, state or local disability rights legislation. Manager warrants that it will fulfill that obligation, and that it will not discriminate against disabled persons in the provision of services, benefits or activities pursuant to this Agreement.

17. Representations and Warranties

Manager represents and warrants to the City and covenants as follows:

A. Experience. Manager is experienced in aspects related to the operation and management of the Program and hereby agrees to apply its best efforts and most efficient methods.

B. Formation. Manager is a nonprofit corporation duly incorporated, validly existing and in good standing under the laws of the State of Oregon. Manager shall at all times during the Term of this Agreement maintain its tax-exempt status under Sections 501(c) (3) of the Internal Revenue Code.

C. Authority. Manager has full power and authority (corporate or otherwise) to enter into this Agreement and to consummate the transactions contemplated by it. This Agreement has been duly authorized by all necessary action on the part of Manager and no other corporate or other action on the part of Manager is necessary to authorize the execution and delivery of this Agreement. The individual executing this Agreement for Manager has full authority to do so and thereby to bind Manager to its terms.

D. Litigation. There is no litigation, action, arbitration, grievance, administrative proceeding, suit or claim filed and pending, nor is there any investigation by a governmental agency of Manager or any of its affiliates that, if adversely decided, could have a material adverse impact on Manager's ability to perform its obligations under this Agreement.

18. Authority of City

Manager acknowledges that City has certain responsibilities as a City to review, approve, and enforce land use applications, building permit applications, design review applications, and a myriad of other duties in connection with the development of property. Notwithstanding any other term or provision of this Agreement, City shall not be contractually obligated under this

Agreement to grant any approvals, consents, or authorizations in its nonproprietary capacity in connection with the review of Manager's land use applications, building permit applications, design review applications, and any other types of applications. It is expressly understood that City does not intend and does not have the legal authority to contractually modify its authority to review, approve, and enforce such applications and decisions.

19. Non-assignment

Manager shall not be entitled to assign this Agreement or delegate all or any part of its obligations without the written consent of City, which consent will not be unreasonably withheld.

20. General Provisions

A. Modification. There are no oral agreements between City and Manager affecting this Agreement, and this Agreement may not be modified except by written instrument executed by the parties.

B. Exhibits. Exhibit "A" (Manager's original proposal) and "B" (List of City Owned Property that may be Used by Manager) are attached hereto, incorporated herein, and made a part of this Agreement.

C. Waiver. If either City or Manager waives the performance of any term, covenant, or condition contained in this Agreement, such waiver shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement. Failure by City or Manager to enforce any of the terms, covenants, or conditions of this Agreement for any length of time shall not be deemed a waiver.

D. Severability. If any term of provision of this Agreement, shall be held to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

E. Contract Coordinator.

1. The Contract Coordinator for City shall be the Director of Community Services. The City's Contract Coordinator shall receive all written reports, financial statements, and other contract-related contacts from Manager and has the authority to execute documents necessary to implement this Agreement.
2. The Contract Coordinator for Manager shall be its Executive Director. The Executive Director shall provide all written reports, financial statements and other contract related documents required by City.

F. Notices. All notices, consents, and demands which may or are required to be given by either party to the other party pursuant to the terms of this Agreement shall be in

writing and shall be deemed given when actually received or forty-eight (48) hours after having been deposited in United States certified or registered mail, postage prepaid, and addressed to City or Manager at the address specified below.

Owner: City of Woodburn
270 Montgomery Street
Woodburn, OR 97071
Attn: Community Services Director

Manager: Boys & Girls Club of Salem, Marion, and Polk Counties
1395 Summer St NE
Salem, OR 97301
Attn: Executive Director

G. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive, but shall, whenever possible, be cumulative with all other remedies at law or in equity.

H. Attorney Fees. In any action brought by either party under this Agreement, the losing party shall pay to the prevailing party a reasonable sum for attorney fees in such action, or arbitration or appeal.

I. Governing Law. Any disputes that arise under or concern this Agreement shall be governed by the laws of the State of Oregon.

IN WITNESS WHEREOF, City and Manager have executed this Agreement in duplicate effective as of the date first above written.

City: The City of Woodburn, Oregon

By: _____
Title: _____
Date: _____

Manager: Boys & Girls Club of Salem, Marion, and Polk Counties, an Oregon Non-profit Corporation

By: _____
Title: _____
Date: _____

Exhibit A

Boys & Girls Club of Woodburn Programs at a Glance

GREAT FUTURES START HERE.



BOYS & GIRLS CLUBS
OF WOODBURN

Boys & Girls Club of Woodburn Programs at a Glance

SNAPSHOT OF WOODBURN PROGRAMS

- Programs focus on providing opportunities for teenagers, **grades 6-12, at a youth-dedicated facility**
- Programs run **230 days per year.**
- Over **500 teens per year** participate in Woodburn Boys & Girls Club programs and activities, **118 youth are registered members.**
- Over **2,600 free, healthy meals and snacks** are provided for youth annually.
- Youth participate **daily in experiential learning programs** including outdoor clubs, carpentry clubs, homework help, service-learning projects and leadership and character development clubs.
- Affordable programs for only **\$5 annual membership fee**

BOYS & GIRLS CLUB PROGRAM SERVICES MODEL

UTILIZING A 360° APPROACH:

The Boys & Girls Club offers a comprehensive continuum of services to serve youth ages 6-18. As part of our mission to inspire and enable all youth to reach their full potential, we utilize a 360-degree approach to meet youth where they are in life. This approach includes prevention, intervention and positive youth development strategies to help youth achieve their personal and professional goals.

MEETING ESSENTIAL NEEDS:

The Club empowers members to make lifelong positive choices. Programs are designed to develop young people's capacity to engage in positive behaviors that nurture their own well-being, set personal goals and provide for essential dental, health and nutritional needs.

IMPACTING YOUTH THROUGH THREE CORE AREAS:

The Club offers targeted programs focused on providing youth with opportunities to achieve academic success and enrichment, to become civically engaged in our community and empowered to make good decisions for their well-being.

PROVIDING TRANSFORMATIONAL OPPORTUNITIES:

The Club's goal is to prepare youth with a 21st century skill set that aligns academic theory with future career pathways and industry trends. This is achieved through the intersection of space, technology and active learning.



Club members receive daily tutoring, career and college planning assistance and mentoring.



Club members participate in a variety of group Clubs including Physics Club, Carpentry Club, Movie Makers, Cooking Club and many more.



Outdoor Club members learn survival skills, appreciation for nature and have the consistent support of positive role models.



Boys & Girls Club Woodburn Teen Center – 2014

The Woodburn Teen Center of the Boys & Girls Club is focused on strategic growth while deepening the impact we have on youth in our community. Our program service model focuses on utilizing a 360-degree approach, meeting essential needs, providing transformational opportunities, and impacting youth in three core areas: academic success; character and citizenship; and healthy lifestyles.

IMPACT:

The Woodburn Teen Center recently finished undergoing a series of renovations, all of which are a part of our new approach to youth development called Designing for Impact (DFI). In addition to new paint, flooring, ceiling tiles, furnishings, landscaping and a multi-purpose kitchen area, technology platforms were updated to the current generation, which will help our teens develop a 21st century skill set that will better prepare them for the workforce and/or higher education. The goal of DFI is for youth to be productive citizens in a global society that thrives on advanced technology and a culture of connectivity.

Programs and curricula will give youth access to real-time, relevant technology that helps them find their passion, explore future career paths and meet targeted metrics and benchmarks. All of this was made possible through grants and the generosity of our private donors. We greatly appreciate the support we are given by the City of Woodburn, as well as the community at large. Together we can ensure that our Woodburn youth have great futures.

SPECIALIZED PROGRAMS:

- Power Hour & STEM activities
- Project Learn
- Physics Club
- Carpentry Club
- Be Great Graduate
- Anime Club
- Movie Makers
- YouTube Tuesday
- Mentoring
- SMART Girls
- Keystone Club
- Cooking Club
- Outdoors Program
- Skate Club

SUSTAINABILITY & FUNDRAISING ACTIVITIES:

- “It Just Takes One” Fundraising Breakfast: June 10th
- Monthly giving initiative: Sustainers Club

FUNDRAISING HIGHLIGHTS TO DATE:

- \$25,000: Gift made via Woodburn Proud, in honor of the late Mayor Richard Jennings
- \$50,360: Grant-specific funds allocated to Woodburn Teen Center to transform building, furnishings and update technology through the Club’s new youth development approach, Designing for Impact (DFI)
- \$8,935: Facility maintenance funds allocated for additional building improvements and landscape upgrades
- \$25,000: Boys & Girls Clubs of America capacity building grant for new club startup

Exhibit B

Woodburn Advisory Council Functions and Expectations

GREAT FUTURES START HERE.



Woodburn Advisory Council Functions and Expectations

- 1. All council members shall insure that the organization has the funds to support the appropriate level of mission based programs as determined by the board:**
 - a. Council member personal giving:
 - 1) All council members shall contribute a personally meaningful financial gift to the Boys & Girls Club.
 - 2) All council members are asked to fill two tables at the annual It Just Takes One (IJTO) Complimentary Breakfast.

- 2. All council members shall be active in the determination of advice and direction for the organization which requires:**
 - a. Attendance of at least 80% of council meetings per year and all special events.
 - b. Active participation with specific tasks (i.e. sponsorship, recruitment, etc.) for the two major fundraising events/activities each year.
 - c. Commitment of serving on the council for a two year term, with the option to renew after each two year term.

- 3. All council members shall represent the Boys & Girls Club within the community so that the youth may be better served.**

I find the above criteria both reasonable for the operation of the Advisory Council and acceptable to me as a council member.

Signature

Date

Print Name

Exhibit C

Inventory of City Owned Property in the Settlemier Teen Center Building as of April 18, 2014

- 1 Billiard Table
- 1 Picnic Table
- 2 Telephones (one cordless, one stationary)
- 1 Bike Rack
- 1 Internet Router
- Janitorial Cart
- Restroom Storage Cabinet

Inventory of Club Owned Property in the Settlemier Teen Center Building as of April 18, 2014

- 1 Membership Services Table
- 2 Science Block Tables on Wheels
- 2 black high tables with 4 stools
- 1 Foosball Table
- 4 Black Sofa Chairs
- 4 Flip Tables
- 1 Microwave
- 1 Mini Oven
- 5 Desktop Computers
- 1 Desk
- 2 Desk Chairs
- 3 Large Gorillas Racks
- 2 Small Gorilla Racks
- 1 Membership Services Laptop
- 1 Office Laptop
- 8 iPads
- 4 Mac Laptops
- 2 small HP printers
- 1 large laser jet printer