

AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
Tuesday, February 22, 2011, 7:00 p.m., M.T.

THURSDAY STUDY SESSION AT FOUR RIVERS CULTURAL CENTER

1) Call to order

A) Roll Call: Norm Crume ___ Jackson Fox ___ Charlotte Fugate ___ Dan Jones ___
David Sullivan ___ Ron Verini ___ Mayor Joe Dominick ___

2) Pledge of Allegiance

This Agenda was posted on Wednesday, February 16, 2011, and a study session was held on Thursday, February 17, 2011 at the Four Rivers Cultural Center. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) Motion to adopt the entire agenda

4) Consent Agenda: Motion Action Approving Consent Agenda Items

A) Approval of Minutes of Regular Meeting of 2/7/2011 1-4
B) Bid Award: Bodiford Construction, Inc: Parallel Force Main to WWTP Project 5-6
C) Resolution #2011-103: Accept/Expend Grant Funds for Child Protection Seating 7-9
D) Resolution #2011-104: Accept/Expend Grant Funds for Drug Forfeiture Funds 10-12
E) Asset Inventory and Valuation Agreement for Services 13-22
F) Approval of the Bills

5) Public Comments: Citizens may address the Council on items not on the Agenda. Council may not be able to provide an immediate answer or response, but will direct staff to follow up within three days on any question raised. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

6) New Business

A) Intergovernmental Agreement #27027 between City of Ontario and ODOT for R-O-W Services for Washington Avenue Realignment 23-37

7) Topics for Discussion (Thursday):

A) Council Liaison Appointments (See hand-out)
B) Downtown Angled Parking
C) Arsenic Water Standards
D) Golf Course Pro-Shop Contract
E) Malheur Farms-Oregon Department of Fish & Wildlife Volunteer Project

8) Correspondence, Comments and Ex-Officio Reports

9) Budget Priority Session (1-2 Hours)

10) Adjourn

MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE

COUNCIL MEETING MINUTES

February 7, 2011

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, February 7, 2011, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, and David Sullivan. Ronald Verini was excused.

Members of staff present were Henry Lawrence, Tori Barnett, Al Higinbotham, Chuck Mickelson, Mark Alexander, and camera operator Delaney Kee.

Charlotte Fugate led everyone in the Pledge of Allegiance.

AGENDA

David Sullivan moved, seconded by Jackson Fox, to adopt the Agenda as amended. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

CONSENT AGENDA

Charlotte Fugate moved, seconded by Norm Crume, to approve Consent Agenda Item A: Approval of Minutes of regular meeting of 01/18/2011; Item B: Approval of Minutes of Special Meeting of 01/13/2011; Item C: Golf Course Restaurant Concessionaire Lease; and Item D: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

PRESENTATION

Mayor Dominick and Fire Chief Al Higinbotham presented a framed, signed picture of the new Fire Substation #2 to Mid-Valley Construction, Inc., for their work on the substation.

Tom Frazier, Tyler Frazier, Tim Hursh and Rehelio Sanchez, thanked the Council for the opportunity to bid and to construct the substation. They hoped to work with the City on projects in the future.

NEW BUSINESS

Appointments to City Committees

Mayor Dominick stated terms of service for various City committees expired at the end of every fiscal year. Below was a listing of which committees had vacancies, and the names of those who had submitted letters of interest, desiring to serve on the individual committees. Dale Cruson for the Airport Committee; Amanda Anderson and Paul Bentz for the Budget Committee; Earl Cheatham and Glenn Dwyer for the Golf Committee; Michael Rudd and Travis Curry for the Planning Commission; Riley Hill, Larry Tuttle, Bernie Babcock, Bill Toombs, and Bob Moore for the Public Works Committee; Maggie Wood for the Recreation Committee; and Doug Dean and Cheryl Cruson for the V&C Board.

The Public Works Committee was the only committee, which had more letters of interest than vacancies. The Council would need to select four of the five applicants to appoint.

Those appointed to the Airport Committee, the Budget Committee, the Golf Committee, and the Planning Commission would have terms that would expire on December 31, 2014. Those appointed to the Public Works Committee, Recreation Board, and V&C Board would have terms expiring December 31, 2013.

Jackson Fox moved, seconded by Dan Jones, move to appoint Riley Hill, Larry Tuttle, Bernie Babcock and Bill Toombs, to the Public Works Committee, term of service to December 31, 2013. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

David Sullivan moved, seconded by Jackson Fox, to appoint Dale Cruson to the Airport Committee, term of service to December 31, 2014; Amanda Anderson and Paul Bentz to the Budget Committee, term of service to December 31, 2014; Earl Cheatham and Glenn Dwyer to the Golf Committee, term of service to December 31, 2014; Travis Currey and Michael Rudd to the Planning Commission, term of service to December 31, 2014; Maggie Wood to the Recreation Board, term of service to December 31, 2013; and Doug Dean and Cheryl Cruson to the V&C Board, term of service to December 31, 2013. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

PUBLIC HEARING

Resolution #2011-102: LID #47 - Nadine Drive

It being the date advertised for public hearing on the matter of Resolution #2011-102, the Mayor declared the hearing open. There were no objections to the city's jurisdiction to hear the action, no abstentions, and no conflict of interest or ex-parte contact declared

Chuck Mickelson, Public Works Director, stated the purpose of the hearing was to present the Director's Report to the affected property owners and to take testimony on the content of the Report. The Report identified the location, estimated costs of construction, estimated costs of individual assessments, preliminary construction drawings and various other items required to create a local improvement district.

On August 12, 2010, during a Council Study Session, staff recommended that the Council adopt Resolution 2010-138 with the intent to create a local improvement district to extend sewer lines into the area. The Council deferred action on the resolution in order to hold an additional meeting with the property owners. On September 9, 2010, during a neighborhood meeting, the Council directed staff to do an additional survey to determine the interest in forming an LID for sewer only, for sewer and water, and for those opposed to any LID. On October 28, 2010, during a Council Study Session, Council directed staff to prepare a resolution declaring the intent to create the LID and to leave the Calvary Chapel Church property and the Michael Derrick property out of the proposed LID. On November 22, 2010, the Council adopted Resolution 2010-152, which was the intent to create LID #47 to construct water and mains on Alameda Drive from SW 16th Avenue 615 feet south, and on Nadine Drive from Alameda Drive to the west terminus of Nadine. On January 11, 2011, the Council adopted Resolution 2011-101, a resolution adopting the Public Works Director's Report for LID #47 and setting a public hearing date of February 7, 2011.

With respect to dealing with the Director's Report and taking testimony at a public hearing, Ontario City Code 8-2-4 (Notice of Hearing) stated: *After the Council has approved the Public Works Director's report as submitted or as amended by the Council, it shall direct the City Recorder to cause to be published once each week for two (2) successive weeks in a newspaper of general circulation, printed and published in the City, a notice stating: (A) That the report, or amended report, of the Public Works Director, as approved by the Council, is on file in the City Recorder's office, subject to examination, giving the date, no earlier than ten (10) days immediately following the first publication of notice when any objections thereto will be considered by the Council at a public hearing which will be the date of the first publication of said notice. (B) That written remonstrances may be filed against the proposed improvement in the office of the City Recorder not later than the scheduled time for the Council hearing*

of objections to the proposed improvement.(C) That the improvement will be abandoned for at least six (6) months if there is presented a valid remonstrance of the owners of two-thirds (2/3) of the frontage of the property to be specially affected by such an improvement.(D) A description of the boundaries of the district to be specially benefited by the improvement and a description of the project in general terms.(E) The estimated total cost of the improvement which is to be paid for by special assessment of benefited properties. The Council may in its direction, direct the City Recorder, upon the basis of the Council-approved Director's report, to advertise for bids and designate the time at which such bids shall be open, which time may be the time of the aforesaid hearing; provided that no such contracts shall be let before said public hearing or after any valid remonstrance to the Council-approved Director's report has been made as herein provided and providing that in the letting of any such contract, provisions of Section 8-2-6 herein shall be followed by the Council.

Regarding OMC 8-2-5 (Hearing): *At the aforesaid hearing the Council shall hear oral objections to the proposed improvement and shall consider any written remonstrances thereto. Written remonstrances of the owners of two-thirds (2/3) of the frontage of the property to be specially affected by such improvement shall defeat the proposed improvement, in which event no further action to effect the improvement shall be taken for at least six (6) months. "Owner" shall have the meaning for this purpose that it is given and defined herein. If the Council, after hearing objections and considering any remonstrances, finds that there is not a sufficient remonstrance, it may proceed with the improvement.*

The Mayor opened the hearing for public testimony.

Proponents: None.

Opponents: None.

There being no Proponent and no Opponent testimony, the Mayor declared the hearing closed.

Norm Crume moved, seconded by Jackson Fox, that the City Council adopt Resolution 2011-102, A RESOLUTION TO PROCEED WITH CONSTRUCTION IMPROVEMENTS IN CONNECTION WITH LOCAL IMPROVEMENT DISTRICT #47. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Chief Higinbotham stated that on Saturday, March 5th, the annual Volunteer Firefighter's BBQ and Dance would be held. Tickets were available from any firefighter for \$25 per couple. Raffle tickets were also being sold - \$1 each or 6 for \$5 - and among the items up for raffle were a 40" HD television, two \$250 gift certificates for the Diamond Gallery, a \$100 gift certificate to the Co-Op, and they were working on a 4-day trip to Las Vegas. The event would be held at the armory, with dinner and dancing beginning at 7:00p.m.
- Mayor Dominick stated the exchange students from Ontario's Sister City – Osakasayama, Japan, would be here March 16-26. They were still seeking host families, and were busy planning special activities for the students to participate in. There would be airplane rides at the Ontario Airport, they would have the opportunity to go golfing, and the downtown merchants were doing the charms trail. Last year, 15 students had come over, but this year there would only be five – four girls and one boy. Anyone interested in hosting a student, or with thoughts on an activity could contact the Mayor at this office
- Mayor Dominick stated they would be discussing the appointments of Council liaisons at the next study session. He asked the Councilors to let him know what you were interested in serving on.

Councilor Fugate asked the difference between the internal and external appointments.

Mayor Dominick explained the internal assignments were to the various departments within City hall, such as Administration, Fire, Finance, etc. The external appointments were to the various City boards, such as the Golf Committee, or the Planning Commission.

- Chuck Mickelson provided an update from the public hearing held by DEQ that afternoon. Approximately 40/50 people had attended, and there had been good representation from the council. The City needed to stay engaged in the issue. It was statewide, and they were working with some very knowledgeable people on this. The entire issue was being driven by the EPA and the state. Staff would work diligently to keep the rates down for the ratepayers.
- Councilor Fugate stated she had a conversation with Kit Kamo, the Director for SREDA, and Kit had indicated that she was working on getting projects only for Idaho. Councilor Fugate felt that statement should be researched.

ADJOURN

David Sullivan moved, seconded by Jackson Fox, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-out; Dominick-yes. Motion carried 6/0/1.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

CONSENT AGENDA
February 22, 2011

TO: Mayor and City Council

FROM: Chuck Mickelson, Public Works Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: Parallel Force Main to Waste Water Treatment Plant Project

DATE: February 11, 2011

SUMMARY:

Bids were opened by Holladay Engineering Co. on February 2, 2011 to secure a bid price for the construction of approximately 1,400 linear feet of 20-inch sewer force main to the Waste Water Treatment Plant. Fourteen bidders received plans for this project. Bid packages were provided to 14 potential bidders.

The following bids were received:

Bodiford Construction Inc.	1093 E Iron Eagle Dr, Ste. 105, Eagle, ID 83616	\$182,142.00
Cascade Pipeline Corp	P.O. Box 1135, Meridian, ID 83680	\$271,895.00
Eastern Oregon Construction	P.O. Box 640, Ontario, OR 97914	\$198,213.00
JAL Construction, Inc.	P.O. Box 6269, Bend, OR 97708	\$247,141.00
Knife River	5450 W Gowen Rd, Boise, ID 83709	\$244,489.80
Landis & Landis Construction	P.O. Box 50, Marylhurst, OR 97036	\$264,194.00
Lurre Construction, Inc.	307 Badiola St, Caldwell, ID 83605	\$247,453.00
MVCI, LLC	P.O. Box 670, Ontario, OR 97914	\$265,170.10
Owyhee Construction, Inc.	6434 W Gowen Rd, Boise, ID 83709	\$294,680.00
Titan Technologies, Inc.	3790 S Suntree Pl, Boise, ID 83706	\$254,350.00
Warrington Construction	P.O. Box 910, Ontario, OR 97914	\$244,864.00

Engineers Estimate: \$245,000

PREVIOUS COUNCIL ACTION:

June 15, 2009 Council approved the Biennial Budget for 2009-2011, which included CIP SEW-13: Install 24" Parallel Force Main in the amount of \$260,000.

BACKGROUND:

The City experienced a failure of the existing 24” sewer force mainline into the wastewater plant in 2007. The failure occurred approximately midway up the 24” force main on the Waste Water Treatment Plant site. City crews were able to pump the raw sewage from this failure into the finishing pond at the WWTP, eliminating the discharge of raw sewage out onto the surface of the ground. The repair of this line took about one week and created various problems with meeting DEQ requirements for discharging the effluent water from the WWTP. This new pipeline will be constructed parallel to the entrance road to the WWTP and will build redundancy into the sewer force main system that receives the majority of the influent sewer from the City.

RECOMMENDED MOTION:

Staff recommends City Council award the bid to Bodiford Construction, Inc., for the construction of approximately 1,400 linear feet of 20-inch sewer force main to the Waste Water Treatment Plant, and authorize the City Manager to be signatory to said award contract.

CONSENT AGENDA REPORT

February 22, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Interim Police Chief

THROUGH: Henry Lawrence, City Manager

SUBJECT: RESOLUTION NO. 2011-103: A RESOLUTION ACKNOWLEDGING RECEIPT OF ODOT TRAFFIC SAFETY FUNDS AND APPROPRIATING EXPENDITURES FOR CHILD PROTECTION SEATING WITHIN THE GRANT FUND

DATE: February 11, 2011

SUMMARY:

Attached is the following document:

- Resolution 2011-103

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

On average, 90% of child safety seats in motor vehicles in Oregon are either improper for the age of the child, installed incorrectly or even under recall. Proper safety seat fitment reduces injuries and saves lives in the event of a motor vehicle crash.

Sheri Smith, the Police Department's office manager, is a Certified Child Protection Seat Technician Instructor and applied for a grant to be administrated through the police department.

The Oregon Department of Transportation has awarded the grant in the amount of \$3,500 to fund the purchase of child protection seats and technician training.

Once a month, a fitting station is conducted in order to assure motorists have the correct child safety seat and that it is also being used correctly. The purchase of seats will be used during those fitting stations.

ALTERNATIVE:

The Council could decline the grant award.

FINANCIAL IMPLICATIONS:

It is proposed that the grant revenues and expenditures for supplies be budgeted as an increase within the City's Grant Fund.

RECOMMENDATION:

Staff recommends the Council adopt Resolution 2011-103, A RESOLUTION ACKNOWLEDGING RECEIPT OF ODOT TRAFFIC SAFETY FUNDS AND APPROPRIATING EXPENDITURES FOR CHILD PROTECTION SEATING AND TECHNICIAN TRAINING WITHIN THE GRANT FUND.

RESOLUTION NO. 2011-103

A RESOLUTION ACKNOWLEDGING RECEIPT OF ODOT TRAFFIC SAFETY FUNDS AND APPROPRIATING EXPENDITURES FOR CHILD PROTECTION SEATING AND TECHNICIAN TRAINING WITHIN THE GRANT FUND

WHEREAS, the 2009-2011 Biennial Budget was adopted without the knowledge of funding for a traffic safety project; and

WHEREAS, the City was awarded an Oregon Department of Transportation grant thru its Police Department to purchase child safety seats and fund technician training; and

WHEREAS, the City desires to modify the 2009-2011 Budget, acknowledging new grant revenue of \$3,500 and appropriating expenditures within the Grant Fund to complete the project.

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council to approve the following adjustments to the 2009-2011 Biennial Budget:

Line Item	Item Description	FY 09-11 Budget	Amount of Change	Adjusted Budget
GRANT FUND				
Revenue				
010-000-456182	Police SAFE Kids Project	\$4,000	\$3,500	\$7,500
Expenses				
010-038-714182	Police SAFE Kids Project	\$4,000	\$3,500	\$7,500

Effective Date: Upon adoption

Passed and adopted by the Ontario City Council this _____ day of _____ 2011.

Ayes:

Nays:

Absent:

Approved by the Mayor this _____ day of _____ 2011.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, City Recorder

CONSENT AGENDA REPORT

February 22, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Interim Chief of Police

THROUGH: Henry Lawrence, City Manager

SUBJECT: RESOLUTION NO. 2011-104: A RESOLUTION ACKNOWLEDGING RECEIPT OF DRUG FORFEITURE FUNDS AND APPROPRIATING EXPENDITURES WITHIN THE GENERAL FUND

DATE: February 15, 2011

SUMMARY:

Attached is the following document:

- Resolution 2011-104

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In 2008, members of the High Desert Drug Task Force seized a 1999 Chrysler 300 during a drug investigation. The assigned Ontario Police Detective led the case at the time.

Oregon has civil forfeiture laws that allow police departments to take possession of property seized during the commission of illegal drug transactions. Those who have interest in the property must be served notice of the seizure, must have an opportunity to make a claim on the property and ultimately there must be a Judgment signed by a judge, giving all interest in the property to the police department.

Once a police department becomes entitled to the property, that property or the value of that property is distributed among different entities. 3% of the value must be given to the State Asset Oversight Advisory Committee, 7% is given to the State Illegal Drug Cleanup Fund, 10% is given to the State General Fund, 40% goes to drug rehabilitation of choice and 40% is retained by the seizing agency.

The police department has worked with the Malheur County District Attorney's Office to assure that requirements have been satisfied for the police department to take possession of the vehicle. Notice has been given to interested parties, time has lapsed for claims and a Judgment has been signed by Malheur County Circuit Court Patricia Sullivan for the property to go to the police department.

The value of the vehicle has been determined to be \$1026. A total of \$616 would need to be distributed to the mentioned entities in order to keep possession of the vehicle.

Fruitland Police Department is in need of an undercover vehicle for their assigned member of the High Desert Drug Task Force. This vehicle would be appropriate for their needs. The Fruitland Police Department has paid the Ontario Police Department 60% of the value of the vehicle that goes to the mandated entities for distribution.

The Ontario Police Department would like to make the required distributions and turn the vehicle over to Fruitland Police Department for their use in the High Desert Drug Task Force.

ALTERNATIVE:

The Council could authorize staff to retain the vehicle, returning funding back to the Fruitland Police Department.

FINANCIAL IMPLICATIONS:

None.

RECOMMENDATION:

Staff recommends the Council adopt Resolution 2010-104, A RESOLUTION ACKNOWLEDGING RECEIPT OF DRUG FORFEITURE FUNDS AND APPROPRIATING EXPENDITURES WITHIN THE GENERAL FUND.

RESOLUTION NO. 2011-104

**A RESOLUTION ACKNOWLEDGING RECEIPT OF DRUG FORFEITURE FUNDS AND
APPROPRIATING EXPENDITURES WITHIN THE GENERAL FUND**

WHEREAS, the 2009-2011 Biennial Budget was adopted without the knowledge of receiving drug forfeiture funding; and

WHEREAS, the City was awarded a 1999 Chrysler 300 in accordance to State Civil Forfeiture laws relating to drug investigations; and

WHEREAS, the City desires to modify the 2009-2011 Budget, acknowledging new forfeiture revenue of \$616 and appropriating expenditures within the General Fund to satisfy distribution requirements.

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council to approve the following adjustments to the 2009-2011 Biennial Budget:

Line Item	Item Description	FY 09-11 Budget	Amount of Change	Adjusted Budget
GRANT FUND				
Revenue				
001-000-456195	Forfeiture Revenues	\$3,000	\$616	\$3,616
Expenses				
001-024-618320	Forfeiture Expenses	\$	\$616	\$616

Effective Date: Upon adoption

Passed and adopted by the Ontario City Council this _____ day of February 2011.

Ayes:

Nays:

Absent:

Approved by the Mayor this _____ day of February 2011.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, City Recorder

CONSENT AGENDA REPORT

February 22, 2011

TO: Mayor and City Council

FROM: Rachel Hopper, Finance Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: ASSET INVENTORY & VALUATION AGREEMENT FOR SERVICES

DATE: February 15, 2011

SUMMARY:

Attached is the following document:

- Agreement with Scope of Work with AssetWorks, Inc.

The City's property insurance carrier, CIS, contracted with AssetWorks, Inc., to provide a building asset inventory and replacement valuation this year for a number of their insured cities, including the City of Ontario. As staff was preparing to solicit proposals for fixed asset inventory services, we contacted CIS and the third-party asset valuation contractor to request a proposal for the additional work required for the City's accounting of fixed assets.

As a result of the planned site visit by AssetWorks, Inc., to the City's facilities in January, we worked with CIS and AssetWorks, Inc., to create a scope of additional services and were able to secure a reduced price for services by 'piggy-backing' onto the services already ordered and paid for by CIS.

PREVIOUS COUNCIL ACTION:

2009 City's Audit Firm, Dickey & Tremper, LLP, provided a qualified opinion as to the City's fixed asset recording and depreciation schedules. The qualified opinion is required when a firm cannot verify all of the reported data, in this case, they cannot verify the asset inventory valuations down to the specific asset due to a lack of comprehensive fixed asset inventory.

STAFF RECOMMENDATION:

Staff recommends the Council authorize the City Manager to enter into an agreement with AssetWorks, Inc., for additional fixed asset inventory and valuation work beyond what they have already completed under a separate agreement with CIS, the City's property insurance carrier, to bring the City up to date with asset reporting and depreciation as required by the Governmental Accounting Standards Board (GASB) 34 and the Governmental Accounting Accepted Practices (GAAP) formatting.

TABLE OF CONTENTS

1. **Executive Summary.....Page 1**

2. **AssetWorks Qualifications & Experience.....Page 2**

3. **Project Scope & Approach.....Page 3**

4. **Onsite Services & Procedures.....Page 4**

5. **Methodology for Establishing Values.....Page 5**

6. **Timeline of Activities.....Page 5**

7. **Deliverables Process.....Page 6**

8. **Terms & Conditions.....Page 7**

9. **Fees & Authorization.....Page 8**

1. EXECUTIVE SUMMARY

You can confidently select AssetWorks, Inc. as your partner to conduct your Asset Inventory Service for the following reasons:

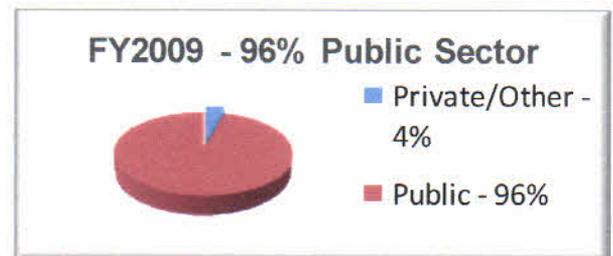
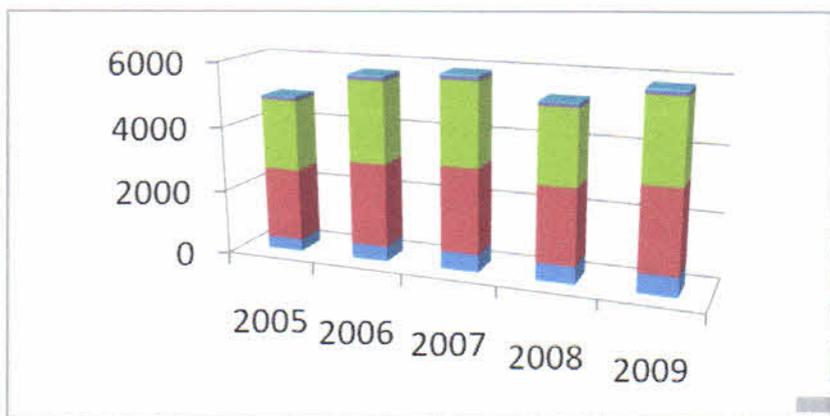
- We have been in the business of property appraisals for 20 years and have the reputation of being the “best of class” provider. We are already a trusted partner with municipalities across the United States who have utilized our appraisal services in years past.
- Our project team consists of full-time employees who are associated with the American society of Appraisers (ASA). Our team specializes in providing asset inventory services for accounting reporting and compliancy efforts.
- We have successfully provided property valuation and appraisal services for more than 5,000 entities across the United States, Europe, and Puerto Rico.
- Quality, communication and resulting customer satisfaction are our hallmarks.



AssetWorks, Inc. is a wholly owned subsidiary of Constellation Software, Inc., an international provider of market leading software and services to industries across both the public and private sectors. The organization has more than 2,200 employees and is publicly traded on the TSX under the symbol CSU. CSI's 2008 consolidated revenues exceeded US \$330 million.

AssetWORKS AssetWorks offers asset valuation solutions that embrace all aspects of capital asset and real property tracking, valuation and reporting. Our innovative solutions help organizations to vastly improve their asset management and tracking programs, insurance and accounting compliancy, generate detailed and customized reports, and much more. Maintaining a strong presence in the Western Region with offices in Los Angeles, San Diego, Oakland, Portland and Denver, AssetWorks has the experience, capacity and local presence to provide efficient and timely professional asset services.

AssetWorks' revenue is derived as follows:



- Insurance Services
- Accounting Services
- Asset Hardware
- Asset Software

2. ASSETWORKS QUALIFICATIONS & EXPERIENCE

To ensure mutual success, AssetWorks designates an empowered contact person who also serves as your Partnership Manager.

Mr. David Middendorf is the designated contact person who is authorized to contract for AssetWorks. He is also the designated AssetWorks Partnership Manager for this project.

The Partnership Manager ensures that a true partnership develops with the recognition that neither party can be successful if the other is not.

Mr. Middendorf is well qualified to serve as the Partnership Manager. He is a current Vice President and a former Lead Appraiser with AssetWorks. His tenure at AssetWorks has included regional project management, the design, planning, and execution of numerous property appraisals and capital asset accounting studies for school districts municipalities, and various other public sector entities.

The administration aspect of this project will be headquartered from our Portland Area office with the onsite project team also being based out of our Oregon offices, comprised of:

Region Manager – Ms. Sandra Hou, ASA – Los Angeles, CA

Ms. Hou is our Western Region Operations Manager and has attained the ASA designation, the highest available in the industry. Her experience has included asset inventory projects across the country, including serving as the current Project Manager for CityCounty Insurance Services project in Oregon.

Lead Data Collection Specialist – Mr. Jackson Stahl – Sherwood, OR

Mr. Stahl has been serving our clients since 1998 and is a seasoned asset inventory project specialist. He has worked alongside Ms. Hou for many years and has managed numerous similar projects for municipalities.

Data Collection Specialist – Mr. Danny Auchard – Medford, OR

Mr. Auchard has been serving our clients since 1999 and has performed asset inventory projects across the country, working alongside Ms. Hou and Mr. Stahl for many of those projects.

Lead Data Processor – Mr. Brett Johnson – Los Angeles, CA

Mr. Johnson has been serving our clients since 1991 and is known as “Commander Data” within the organization due to his significant ability to accommodate complex data systems such as Springbrook Software.

The AssetWorks Team performing the onsite asset inventory have all undergone background checks and fingerprinting by the Dept of Justice and are in compliancy with Code 45125.1. Each team member will wear a badge stating this, including a photo to fully identify by face and name.

3. PROJECT SCOPE & APPROACH

Project Scope

The scope of this project is focused on the proper stewardship of City assets as well as the compliancy requirements of GASB Statement 34. This includes the identification of assets/property as well as the determination of historical costs. Additionally, identifying depreciable lives and calculation of accumulated and annual depreciations will take place followed by reporting in a format that is both useable and compliant. Data will be provided in both hard copy and electronic formats suitable for Springbrook upload. An additional focal point will be the reconciliation of assets using the current City database as a baseline for the inventory efforts.

Project Work Plan

Client Staff Expectations

AssetWorks believes that clients retain our services with the expectation that AssetWorks staff, as paid professionals and consultants, will perform the necessary tasks in a high quality manner to successfully complete the project on time. We do, of course, view our clients as active participants and anticipate their assistance with the following:

- **Pre-Project Planning and Announcement** – AssetWorks will identify key items to have prepared for the project kickoff meeting. We ask that you prepare a memo for staff members to announce the project and give the general purpose and time frame.
- **Access to All Sites** – AssetWorks appraisers will be granted access to all sites and buildings based on a mutually agreed upon appraisal schedule.
- **Asset Interrupt** – We ask that the City pause any incoming/outgoing asset activity during this project.

Project ‘Kickoff’ Meeting

Our project team will hold a comprehensive project-planning meeting with City representatives prior to the commencement of onsite fieldwork. We advise that members of the administrative staff, purchasing, warehouse, facilities or other directly involved personnel attend this meeting. Topics of discussion include confirmation of project scope and deliverable time frames, the physical inventory schedule, accessibility to buildings, and contacts for each building or location. This meeting lays the foundation for the methods and procedures used during the onsite fieldwork.

Fieldwork ‘Closeout’ Meeting

Upon completion of the on-site investigation, the AssetWorks project manager will conduct a final closeout meeting with the City liaison. The focus is to ensure that all sites and properties have been accounted for and to answer any questions that may exist. This is also the time at which City staff should ensure that they have transferred all client supplied data to the project manager.

4. ONSITE SERVICES & PROCEDURES

Machinery, Furniture & Equipment

A detailed inspection and field inventory will be conducted at all buildings, identifying each capital asset by location, building and room. All assets included in our inventory and appraisal will be recorded and categorized by major account. This segregation of items will assist in reporting asset valuation totals for capital asset reporting formats. Our appraisers will utilize hand held computers equipped with laser scanners to document the required information for each asset where available:

- | | |
|--------------------------------|-----------------------------------|
| a. Asset Identification Number | i. Building |
| b. Description | j. Site/Location |
| c. Quantity | k. Room/Sublocation |
| d. Acquisition Date | l. Cost Information |
| e. Manufacturer | m. Funding Source (Grant Assets) |
| f. Model | n. Department |
| g. Serial Number | o. Asset Classification |
| h. Asset Account | p. Miscellaneous (e.g. old tag #) |

AssetWorks appraisers will apply bar code tags assets where no tag exists and enter the tag numbers along with all the corresponding asset information into the database. Our base fee includes the cost of all tags necessary for the inventory and may use existing City tags if that is preferred.

Control Assets – Assets with an original cost more than \$500 or more, and having an estimated useful life of two years or greater will be inventoried and identified in reports, inclusive of all assets.

Capital Assets – All assets with an original unit cost of \$5,000 or more, and having an estimated useful life of two years or greater will be inventoried and identified individually and capitalized in the resulting reports and data. These reports are provided in order to comply with GASB Statement 34.

Buildings, Land & Infrastructure

Assets within these classifications are reportable under GASB 34 guidelines and as a result, existing assets will be carried over from the City database, as they exist, depreciated and included in the final reports. This will provide a more complete and auditable product for the City to utilize. Our recent investigation of the City buildings for CIS provides valuable data for the ‘buildings’ class of assets. We will transfer all building entries that currently exist for the City as stated above, but for any buildings that we reviewed for CIS that don’t exist in the City database, we will apply that information and valuation to ensure these buildings are now accounted for. This will bring about an even more comprehensive and complete database of assets for the City. For recent land and infrastructure assets that need implementation into the database, we ask that the City provide historical cost, dates and descriptions.

5. METHODOLOGY FOR ESTABLISHING VALUES

Our investigation of each property will follow generally accepted appraisal techniques and valuations in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). This includes the use of various research sources to develop the cost conclusions for each building. Sources include price lists, trade journals, industry publications, technical and pricing subscription services, internet sources and inquiries with local producers as well as direct cost research. Assets are depreciated on a straight-line basis.

The **Direct Costing** method will be used where historical data is readily available from City records. The actual purchase cost and acquisition date will be maintained for those assets by utilizing the current Oracle database as a baseline of data.

The **Standard Costing** is used when inventoried assets not reconciled to a historical record receive an estimated cost, where possible, based upon a standard cost (a known average installed cost for a like unit) at the estimated acquisition date.

The **Normal Costing** method will be used where no historical information is readily available. These assets will be valued on a current basis and back-trended to an estimated date of acquisition to estimate the original cost. During the costing and valuation procedures, all items will be assigned a useful life. The useful life of an item will determine its approximate replacement year.

6. TIMELINE OF ACTIVITIES

AssetWorks' automated approach and depth of experienced staff qualify us to complete all phases of this project in a timely fashion. Upon receipt of your authorization, AssetWorks will arrange a 'Kickoff Meeting' with the City along with the transition of data in preparation for the project.

ID	Task Name	Start Date	End Date	Duration	2011		
					March	April	May
1	Project Award	3/1/2011	3/1/2011	1d			
2	Project Preparation	3/2/2011	3/25/2011	18d	■		
3	Onsite Fieldwork	3/28/2011	4/15/2011	15d		■	
4	Offsite Valuations	4/18/2011	5/6/2011	15d		■	
5	Data Formatting & Review	5/9/2011	5/20/2011	10d			■
6	Preliminary Reports Delivery	5/23/2011	5/27/2011	5d			■

7. DELIVERABLES PROCESS

Reconciliation Process

Upon completion of the onsite fieldwork and offsite valuations, a data match comparing the existing current City database to the database of information recorded during the onsite fieldwork will occur resulting in the following electronic .pdf reports:

- ✚ **Inventoried Assets – “Matches”**
- ✚ **Exceptions Assets – “Not Found”**
- ✚ **Additional Assets – “New Assets”**

Quality control is implemented during this stage through project manager assets review in coordination with the lead data processor to ensure all assets are allocated into the applicable category. This occurs on two levels utilizing the asset and inventory experience of the onsite project manager as well as the technology employed by the lead processor.

Preliminary Reports

Based upon the reconciliation process, draft summary and detail reports will be sent to the City via email in .pdf format for review. We provide two weeks (or more as requested) to determine acceptability of the final data. Though we do not expect changes to occur at this time, this gives a final opportunity to fine tune the data and make adjustments prior to hard copy reports preparation and electronic database distribution to the City.

Final Reports

Upon acceptance of preliminary reports, AssetWorks will immediately prepare and deliver final reports in electronic and hard-copy format.

- ✚ **Hard Copy Reports**
 - Includes:**
 - 1) Certification Letter
 - 2) Accounting Summary
 - 3) Accounting Detail
 - 4) Depreciation Reports
 - 5) Additional Reports (As requested by the City)

- ✚ **Electronic Reports on CD**
 - Includes:**
 - 1) .pdf Files of all Hard Copy Reports
 - 2) Excel File of Reports Data

8. TERMS & CONDITIONS

- 1) AssetWorks shall provide guidance in determining the data required for purposes of the contemplated services. The City agrees to provide all data specifically requested, including documentation and information to AssetWorks in a timely manner. AssetWorks shall assume without incurring liability therefore, that all data so provided is correct and complete.
- 2) In the event that the City provides additional and/or corrected data, documentation and information at a later date, AssetWorks' efforts with respect to such additional and/or corrected data, documentation and information shall be deemed additional services and compensated in addition to the fees set forth herein based on applicable hours, professional fees and expenses.
- 3) The City acknowledges project completion upon delivery of final reports.
- 4) The fees proposed in this contract are valid for a period of 90 days.
- 5) To the extent a claim is not covered by the required insurance, each party agrees that each party's total liability for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed the total amount of this Agreement. To the extent a claim is covered by the required insurance, each party's total liability will be limited to the amount of required insurance.
- 6) The City and AssetWorks shall each retain ownership of, and all right, title and interest in and to, their respective pre-existing Intellectual Property, and no license therein, whether express or implied, is granted by this Agreement or as a result of the Services performed hereunder. To the extent the parties wish to grant to the other rights or interests in pre-existing Intellectual Property, separate license agreements on mutually acceptable terms will be executed.
- 7) AssetWorks will invoice for 70% of fees during the fieldwork portion of the project with the final contract amount invoiced with our final reports

9. FEES & AUTHORIZATION

Please return a copy of this executed agreement to the attention of the undersigned via fax at 503-925-8776 and the original project fees page mailed back to this office. All professional fees outlined below are in US Dollars and include out-of-pocket expenses. The TOTAL investment is as follows:

Professional Services Fees

Initial Here

Asset Inventory & GASB 34 Reporting Services

@ \$5,000 Threshold - \$14,960_____

Or

@ \$500/\$5,000 Thresholds- \$22,920_____

RESPECTFULLY OFFERED BY:

AssetWorks, Inc.



David E. Middendorf, ASA, ARM-P
Vice President
AssetWorks, Inc.

Date: February 1, 2011

ACCEPTED BY:

City of Ontario

Signature

Name

Title

Date

*If the City would like deliverables in a 100% electronic format, please indicate so by initialing the box:

AGENDA REPORT
February 22, 2011

TO: Mayor and City Council

FROM: Chuck Mickelson, Public Works Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: APPROVAL OF INTERGOVERNMENTAL AGREEMENT NUMBER 27027 FOR RIGHT OF WAY SERVICES FOR THE NW WASHINGTON AVENUE REALIGNMENT BETWEEN THE CITY OF ONTARIO AND THE STATE OF OREGON ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION

DATE: February 14, 2011

SUMMARY:

Attached is the following document:

- Intergovernmental Agreement for Right of Way Services Number 27027

This agreement provides for right of way acquisition (appraisal, negotiations, etc.) by the Oregon Department of Transportation right of way section for the NW Washington and N Park Blvd project.. Funds are being provided by the State of Oregon in the amount of \$4.875 million for the completion of design, acquisition of right of way and construction of a realigned NW Washington to North Oregon and the extension of Park Boulevard to the recently acquired city property. Right of way acquisition costs are estimated at \$1.6 million.

PREVIOUS COUNCIL ACTION:

- 2001 ODOT and Ontario entered into agreement No. 697 where Ontario accepted maintenance responsibility for West Idaho, including the underpass, SW 2nd Street, SW 4th Avenue and North Oregon Street. ODOT agreed to pay the City \$490,000 for future maintenance of these facilities, and the agreement superseded prior agreements made in 1975 and 1979. All right, title and interest in the above mentioned streets would be transferred to Ontario upon completion of the Yturri Beltline.
- 2006-07 Council approved a project to realign NW Washington to North Oregon.
- 2007 City hired the firm of CH2M Hill to prepare plans and specifications for this project. Funding for the acquisition of right of way and construction of the realignment was not clearly identified at that time.

- 10/2009 City approved Resolution 2009-126 Amendment No. 1 with ODOT to the Miscellaneous Agreement No. 23255 also known as Cooperative Agreement OR 201 North Ontario Interchange Bridge # 08635, an agreement transferring NW Washington to the City of Ontario. In return, ODOT paid the City of Ontario \$375,200 for the realignment of the intersection of NW Washington and North Oregon and the construction of curb, gutter and sidewalks along NW Washington.
- 07/2010 Council adopted Resolution #2010-136 approving a local agency agreement for fund distribution for the NW Washington Avenue realignment between the City of Ontario and the State of Oregon, acting by and through its Department of Transportation, and as authorized by the Oregon Jobs and Transportation Act of 2009, also known as HB2001.
- 11/2010 City approved Amendment No. 1 to Misc. Contracts and Agreements (#26720) between ODOT and City for Fund Distribution for NW Washington Avenue Realignment (Funds from HB 2001).

BACKGROUND:

Since the early 1990's ODOT and Ontario have been discussing various transportation related issues within and adjacent to the City. During this period of time, ODOT has reconstructed East Idaho, rebuilt the overpass over I-84, reconstructed the freeway ramps leading to East Idaho, constructed the Yturri Beltline bypass around the City, reconstructed the North Oregon overpass and ramps, constructed an overpass over the railroad on SW 18th Avenue and other miscellaneous projects.

Funding for this project includes \$4.5 million authorized by HB 2001 and \$375,200 cash paid to the City for the project. The \$4.5 million will be released as the city bills ODOT.

This agreement allows ODOT to begin the right of way acquisition phase of the project.

ALTERNATIVE:

The City could not approve this agreement and the project will not go forward or the city could seek outside consultants to conduct the acquisition.

FINANCIAL IMPLICATIONS:

This agreement authorizes up to \$1.6 million for right of way acquisition for the project.

RECOMMENDATION:

Staff recommends approval of Agreement Number 27027.

PROPOSED MOTION:

I move that the City Council approve INTERGOVERNMENTAL AGREEMENT NUMBER 27027 FOR RIGHT OF SERVICES FOR THE NW WASHINGTON AVENUE REALIGNMENT BETWEEN THE CITY OF ONTARIO AND THE STATE OF OREGON ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION and authorize the City Manager to sign the agreement on behalf of the City of Ontario.

**INTERGOVERNMENTAL AGREEMENT
FOR RIGHT OF WAY SERVICES
(N.W. Washington Avenue Re-Alignment)**

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

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.
2. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. That certain NW Washington Avenue and other adjoining streets are a City Streets under the jurisdiction and control of Agency and Agency may enter into an agreement for the acquisition of real property.
4. N/A, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC).
5. This Agreement shall define roles and responsibilities of the Parties regarding the real property to be used as part of right of way for road, street or construction of public improvement. The scope and funding may be further described in Oregon Jobs and Transportation Act of 2009 (JTA) Agreement number 26720. Hereinafter, all acts necessary to accomplish services in this Agreement shall be referred to as "Project."

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

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree to perform certain right of way activities shown in Special Provisions - Exhibit A, attached hereto and by this reference made a part hereof. If the State performs right of way services on behalf of the Agency, under no conditions shall Agency's obligations for said services exceed a maximum of \$1,600,000.00, including all expenses, unless agreed upon by both Parties.
2. The work shall begin on the date all required signatures are obtained and shall be completed no later than December 31, 2012, on which date this Agreement automatically terminates unless extended by a fully executed amendment.
3. The process to be followed by the Parties in carrying out this Agreement is set out in Exhibit A.
4. It is further agreed both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual".

STATE OBLIGATIONS

1. State shall perform the work described in Special Provisions - Exhibit A.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. If the State performs right of way services on behalf of the Agency, State shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
4. State's right of way contact person for this Project is Leslie Hasse, ODOT Right of Way Project Manager, 3012 Island Ave., La Grande, OR 97850, (541) 963-1576, lesliehasse@odot.state.or.us, or assigned designee upon individual's absence.

AGENCY OBLIGATIONS

1. Agency shall perform the work described in Special Provisions - Exhibit A.
2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within

Agency's current appropriation or limitation of current budget. Agency is willing and able to finance all, or its pro-rata share of all, costs and expenses incurred in the Project up to its maximum.

3. Agency may utilize its own staff or subcontract any of the work scheduled under this Agreement provided Agency receives prior written approval of any staff, consultant or contractor by the State's Region Right of Way office.
4. Agency represents that this Agreement is signed by personnel authorized to do so on behalf of Agency.
5. Agency's right of way contact person for this Project is Chuck Mickelson, Public Works Director, 444 SW 4th, Ontario, OR 97914, (541) 881-3231, chuckmickelson@ontariooregon.com, or assigned designee upon individual's absence.

PAYMENT FOR SERVICES AND EXPENDITURES:

1. In consideration for the services performed by State (as identified in the attached Exhibit A), Agency agrees to pay or reimburse State a maximum amount of \$1,600,000.00. Said maximum amount shall include reimbursement for all expenses, including travel expenses. Travel expenses shall be reimbursed to State in accordance with the current Oregon Department of Administrative Services' rates. Any expenditure beyond federal participation will be from, or reimbursed from, Agency funds. Payment in Agency and/or federal funds in any combination shall not exceed said maximum, unless agreed upon by both Parties.
2. State shall upon execution of this Agreement, forward to Agency either: 1) a request to sign an irrevocable limited power of attorney to access the Local Government Investment Pool account of the Agency, or 2) a letter of request for an advance deposit. Agency shall make any advance deposit to the State's Financial Services Branch, in an amount equal to the estimate of costs to be incurred by State for the Project. The preliminary estimate of costs is \$1,600,000.00. Additional deposits, if any, shall be made as needed upon request from State and acceptance by Agency. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete Project.
 - a. Agency agrees to pay or reimburse all salaries and payroll reserves of State employees working on Project, direct costs, costs of rental equipment used, and per-diem expenditures, plus 10 percent surcharge on salary costs to cover administrative costs of Right of Way Section.
 - b. State shall present invoices for 100 percent of actual costs incurred by State on behalf of the Project directly to Agency's right of way contact for review and

approval. Such invoices shall be in a form identifying the Project, the agreement number, invoice number or account number, and shall itemize all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one (1) month duration, based on actual expenses incurred.

- c. Upon completion of right of way acquisition and receipt from State of a final itemized statement, Agency shall pay an amount which, when added to said advance deposit, will equal 100 percent of the final total actual cost. Any portion of deposits made in excess of the final total costs of Project shall be refunded to Agency.

GENERAL PROVISIONS:

1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person, under any of the following conditions:
 - a. If either Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If either Party fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
3. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable

records shall be made available upon request. Payment for costs of copies is reimbursable by State.

4. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
5. All employers, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. Both Parties shall ensure that each of its subcontractors complies with these requirements.
6. Both Parties shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless each other, their officers and employees from any and all claims, suits, or actions may occur in their respective performance of this Project. Agency's total liability shall not exceed the tort claims limits provided in Oregon Tort Claims Act, ORS 30.260 to 30.300, for 'local public bodies'.
7. Notwithstanding the foregoing defense obligations under the paragraph above, neither Party nor any attorney engaged by either Party shall defend any claim in the name of the other Party or any agency/department/division of such other Party, nor purport to act as legal representative of the other Party or any of its agencies/departments/divisions, without the prior written consent of the legal counsel of such other Party. Each Party may, at anytime at its election assume its own defense and settlement in the event that it determines that the other Party is prohibited from defending it, or that other Party is not adequately defending it's interests, or that an important governmental principle is at issue or that it is in the best interests of the Party to do so. Each Party reserves all rights to pursue any claims it may have against the other if it elects to assume its own defense.
8. If federal funds are involved in this Agreement, Exhibits B and C are attached hereto and by this reference made a part of this Agreement, and are hereby certified to by Agency.

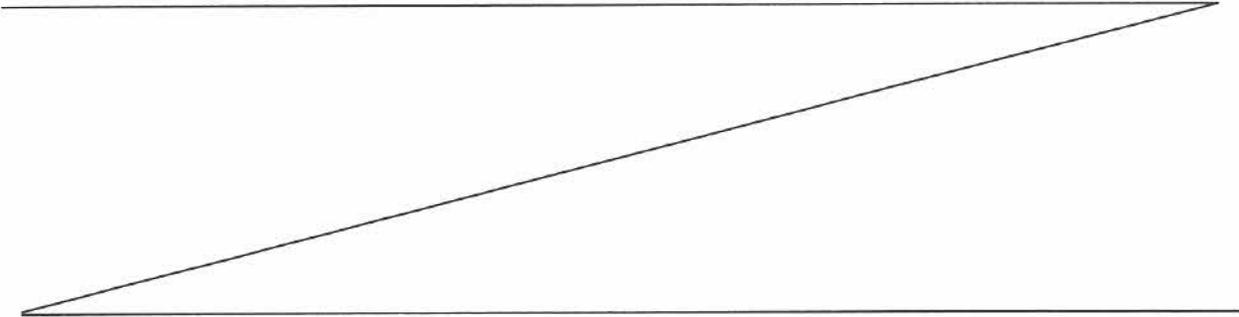
9. If federal funds are involved in this Agreement, Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
10. The Parties hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
11. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
12. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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

The Oregon Transportation Commission on May 20, 2009, approved Delegation Order No. 3, which authorizes the Director and Deputy Director, Highways to approve and execute all agreements pertaining to real property transactions.

On July 7, 2005, the Director and Deputy Director, Highways approved Subdelegation Order No. 4, in which the Director and Deputy Director, Highways delegates authority to

the Technical Services Manager/Chief Engineer to approve and execute all agreements pertaining to real property transactions.



Signature Page to Follow

Pursuant to a Letter of Authority dated August 3, 2005, the Technical Services Manager/Chief Engineer authorized the State Right of Way Manager to approve and sign all Department real property deeds, contracts, agreements, and other documents pertaining to real property transactions and to approve and execute agreements with other governmental jurisdictions to employ Right of Way Section staff.

City of Ontario, by and through
Council

By _____

Date _____

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____

Date _____

Agency Contact:

Chuck Mickelson, Public Works Director
444 SW 4th, Ontario, OR 97914
(541) 881-3231
chuckmickelson@ontariooregon.com

State Contact:

Stephanie Anderson, Interim Manager
3012 Island Ave. La Grande, OR 97850
(541) 963-1373
Stephanie.Anderson@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
State Right of Way Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region 5 Right of Way Manager

Date _____

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By (insert n/a if not applicable)
Assistant Attorney General

Date _____

APPROVED

(If Litigation Work Related to Condemnation is
to be done by State)

By N/A
Chief Trial Counsel

Date _____

SPECIAL PROVISIONS EXHIBIT A
Right of Way Services

THINGS TO BE DONE BY STATE OR AGENCY

1. Pursuant to this Agreement, the work performed on behalf of the Agency can be performed by the Agency, the Agency's consultant, or a State Flex Services consultant. The work may be performed by Agency staff or any of these representatives on behalf of Agency individually or collectively provided they are qualified to perform such functions and after receipt of approval from the State's Region Five Right of Way Manager. Said approval must be obtained, in writing, prior to the performance of said activities.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. Both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual".

Instructions: Insert either: State, Agency, or N/A on each line.

A. Preliminary Phase

1. State shall provide preliminary cost estimates.
2. State shall make preliminary contacts with property owners.
3. Agency shall gather and provide data for environmental documents.
4. Agency shall develop access and approach road list.
5. Agency shall help provide field location and Project data.

B. Acquisition Phase

1. General:
 - a. When doing the Acquisition work, State shall provide Agency with a status report of the Project Monthly.
 - b. Title to properties acquired shall be in the name of the Agency.

- c. Prior to the initiation of acquisitions, if title to the properties is to be acquired in the name of the Agency, the Agency shall adopt a resolution of intention and determination of necessity in accord with ORS 35.235 and ORS 35.610, authorizing acquisition and condemnation. If the Oregon Department of Justice is to handle condemnation work, prior approval evidenced by Chief Trial Counsel, Department of Justice, signature on this Agreement is required; and authorization for such representation shall be included in the resolution adopted by the Agency. Prior approval by Oregon Department of Justice is required.

2. Legal Descriptions:

- a. Agency shall provide sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.
- b. Agency shall provide construction plans and cross-section information for the Project.
- c. Agency shall write legal descriptions and prepare right of way maps. If the Agency acquires any right of way on a State highway, the property descriptions and right of way maps shall be based upon centerline stationing and shall be prepared in accordance with the current "State Right of Way & Rail/Utility Coordination Manual", "Contractor Services Guide" and the "Right of Way Engineering Manual". The preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by the State.
- d. Agency shall specify the degree of title to be acquired (e.g., fee, easement).

3. Real Property and Title Insurance:

- a. State shall provide preliminary title reports, if State determines they are needed, before negotiations for acquisition commence.
- b. State shall determine sufficiency of title (taking subject to). If the Agency acquires any right of way on a State highway, sufficiency of title (taking subject to) shall be determined in accordance with the current "State Right of Way Manual" and the "Contractor Services Guide". Agency shall clear any encumbrances necessary to conform to these requirements, obtain Title Insurance policies as required and provide the State copies of any title policies for the properties acquired.

- c. Agency shall conduct a Level 1 Hazardous Materials Study within project limits to detect presence of hazardous materials on any property purchase, excavation or disturbance of structures, as early in the project design as possible, but at a minimum prior to property acquisition or approved design.
 - d. Agency shall conduct a Level 2 Site Investigation of sufficient scope to confirm the presence of contamination, determine impacts to properties and develop special provisions and cost estimates, if the Level 1 Corridor study indicates the potential presence of contamination that could impact the properties.
 - If contamination is found, a recommendation for remediation will be presented to Agency.
 - e. Agency shall be responsible for arrangement of any necessary remediation.
 - f. Agency shall conduct asbestos, lead paint and other hazardous materials surveys for all structures that will be demolished, renovated or otherwise disturbed. Asbestos surveys must be conducted by an AHERA (asbestos hazard emergency response act) certified inspector.
4. Appraisal:
- a. State shall conduct the valuation process of properties to be acquired.
 - b. State shall perform the Appraisal Reviews.
 - c. State shall recommend Just Compensation, based upon a review of the valuation by qualified personnel.
5. Negotiations:
- a. State shall tender all monetary offers to land-owners in writing at the compensation shown in the appraisal review. Conveyances taken for more or less than the approved Just Compensation will require a statement justifying the settlement. Said statement will include the consideration of any property trades, construction obligations and zoning or permit concessions. If State performs this function, it will provide the Agency with all pertinent letters, negotiation records and obligations incurred during the acquisition process.
 - b. State and Agency shall determine a date for certification of right of way and agree to cosign the State's Right of Way Certification form. State and Agency agree possession of all right of way shall occur prior to advertising of any

construction contract, unless appropriate exceptions have been agreed to by Agency and State.

- c. State agrees to file all Recommendations for Condemnation at least seventy (70) days prior to the right of way certification date if negotiations have not been successful on those properties.

6. Relocation:

- a. State shall perform any relocation assistance, make replacement housing computations, and do all things necessary to relocate any displaced Parties on the Project.
- b. State shall make all relocation and moving payments for the Project.
- c. State shall perform the relocation appeal process.

C. Closing Phase

1. State shall close all transactions. This includes drawing of deeds, releases and satisfactions necessary to clear title, obtaining signatures on release documents, and making all payments. If Agency is handling the closing, State shall submit all signed Final Report packets, information required by the Uniform Act, and agreements to the Agency.
2. State shall record conveyance documents, only upon acceptance by appropriate agency.

D. Property Management

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

E. Condemnation

1. Agency may offer mediation if the Parties have reached an impasse.
2. Agency shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.

3. Agency shall perform all legal and litigation work related to the condemnation process. (If State agrees to handle legal and litigation work, prior approval evidenced by Chief Trial Counsel, Department of Justice, signature on this Agreement is required. Where it is contemplated that property will be obtained for Agency for the Project, such approval will be conditioned on passage of a resolution by Agency substantially in the form attached hereto as Exhibit D, and by this reference made a part hereof, specifically identifying the property being acquired.)
4. Where State shall perform legal or litigation work related to the condemnation process, Agency acknowledges, and agrees and undertakes to assure that no member of Agency's board or council, nor Agency's mayor, when such member or mayor is a practicing attorney, nor Agency's attorney nor any member of the law firm of Agency's attorney, board or council member, or mayor, will represent any Party, except Agency, against the State of Oregon, its employees or contractors, in any matter arising from or related to the Project which is the subject of this Agreement.

F. Transfer of Right of Way to State

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