AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
August 1, 2011, 7:00 p.m., M.T.

1) Call to order

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, July 27, 2011, and a study session was held on Thursday, July 28, 2011. 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 07/18/2011 1-10
B) Ordinance #2659-2011: Amend OMC 8-2-2 Verbiage Corrections (Final Reading) 11-13
C) Ordinance #2661-2011: Amend OMC 6-1-19, 20, 24 Police Regulations Final Reading) 14-17
D) Ordinance #2662-2011: Amend OMC 3-8-2 Yard Sale Permit Process (Final Reading) 18-20
E) 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) Change Order - FAA Project 3-41-0044-008/009/010 Valley Paving 21-28
B) Amendment #2 - Kimley-Horn - Ontario Airport Project AIP 3-41-0044-008 29-34

7) Topics for Discussion - Thursday Only

A) Ontario Fire Department - 24-hour Shift Study

8) Executive Session

A) ORS 192.660(2)(e)

9) Correspondence, Comments and Ex-Officio Reports

10) Adjourn

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COUNCIL MEETING MINUTES
July 18, 2011

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Monday, July 18, 2011, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Charlotte Fugate, Dan Jones, David Sullivan, and Ron Verini. Jackson Fox was excused.

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Al Higinbotham, Mark Alexander, Bob Walker, and David Richey. The meeting was recorded on tape, and the tapes are available at City Hall.

Charlotte Fugate led everyone in the Pledge.

AGENDA

Mayor Dominick asked to move item 6K to 6A, to address the action first.

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

CONSENT AGENDA

Ron Verini moved, seconded by Charlotte Fugate, to approve Consent Agenda Item A: Approval of Minutes of Regular Meeting of 06/20/2011; Item B: Approval of Minutes of Telephonic Meeting of 07/06/2011; Item C: Liquor License Application: New Outlet – Pho Mai Beef Noodle Soup Restaurant; Item D: Proclamation: Anniversary of the Americans with Disabilities Act; Item E: Encroachment Permit for Americold: 589 NE 2nd Street; Item F: Utility Easement for Idaho Power at Airport; Item G: Ordinance #2658-2011: Annexation/Rezone (Brown) Final Reading; and Item H: Approval of the Bills. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Mayor Dominick read the proclamation into the record:

WHEREAS, The Americans with Disabilities Act (ADA) has helped fulfill the promise of America for millions of individuals living with disabilities. The anniversary of this landmark legislation is an important opportunity to celebrate our progress over the last 21 years and the many contributions individuals with disabilities make to our country; and

WHEREAS, When President George H.W. Bush signed the ADA into law on July 26, 1990, he called this legislation a *"dramatic renewal not only for those with disabilities, but for all of us, because along with the precious privilege of being an American comes a sacred duty to ensure that every other American's rights are also guaranteed."* The ADA's far-reaching reforms have played a significant role in enhancing the quality of the life for millions of Americans who must overcome considerable challenges each day in order to participate fully in all aspects of American life; and

WHEREAS, My administration will continue its efforts to remove barriers confronting citizens of Ontario and Oregonians with disabilities and their families so that every individual can realize their full potential. The City of Ontario will renew its efforts at opening doors to access and employment opportunities for all citizens with disabilities; and

WHEREAS, On this anniversary of the ADA, we underscore our commitment to ensuring that the fundamental promises of our democracy are accessible to all our citizens. As we strive to be a more caring and hopeful society, let us continue to show the character of America and citizens of Oregon in our compassion for one another.

NOW, THEREFORE, I, Joe Dominick, Mayor of the City of Ontario, Oregon, by virtue of the authority vested in me, do hereby proclaim July 26, 2011 as a day in celebration of the 21st anniversary of the Americans with Disabilities Act. I call on all citizens of Ontario, Oregon to celebrate the many contributions of individuals with disabilities as we work towards fulfilling the promise of the ADA to give all our citizens the opportunity to live with dignity, work productively and achieve their dreams. In witness whereof, I have hereunto set my hand this 18th day of July, in the year of our Lord two-thousand eleven, and the Independence of the United States of America and the great State of Oregon.

PUBLIC COMMENT

Floyd D. Gray, Junior, 1070 SW 4th Street, stated, his first issue was with the by-pass. He questioned why, and where had the Council gotten the idea that it was necessary, especially on such a busy street? He lived right across from the ball fields at the college, by the triangle with the flag pole, the traffic separator. In 1994, they had put that in, and he thanked the Council for that. However, the bicycle path, he hadn't know that was going to be there. There's now a yellow curb in front of his house, and he had no parking in front now. Luckily, he had constructed a carport in the rear of his home, but any visitors had to park in the ball field parking lot and walk across the street. He was trying to get that taken care of. He removed his fence and his garden spot. If the Council wanted his suggestion was that the one on the east side of the street, do away with that bike path. Have the use the one on the other side. Also, he was giving up his involvement with the triangle as soon as he could meet with Bernie Babcock from TVCC, as Bernie indicated his desire to be responsible for that.

The other issue was the1014, right on the corner of SW 10th Avenue and 4th Street. There was a home in disrepair and should be condemned. The floor was sinking into the ground, and there was no foundation under it. There were three rvs parked along the fence, and they were in the process of tearing one apart. It looked horrible. He had spoken with ordinance control, who indicated the homeowner had been talked to, and had been given a timeline for taking care of the mess.

He thanked the Mayor for his assistance, and the Public Works Director Chuck and Bob, as well as John Bishop and Karen Mowry, who had helped him quite a bit.

Mr. Lawrence summarized Mr. Gray's issues. The main point had to do with the parking in front of his home. About a year ago, it had been restriped for the bike path, but it had only been brought to his attention a few days ago. He had met with Mr. Gray before the meeting, showing him an aerial map of the area, and he would be doing some research on the issue. He suspected his was probably a safety issue because of the curb and the bike lane that was coming around the cars that used to be parked there. He needed to get more information. He would try and have some information for the Council by the next works session.

Mayor Dominick thanked Mr. Gray for taking care of the triangle over the past several years.

NEW BUSINESS

Resolution #2011-121: Support Establishment of Malheur County Agricultural Education Extension Service District

Robert Komota, stated he represented the organization that was concerned about the possible closure of the experiment station. Malheur County's station was on the short list for closure. They wanted to forma district, and needed to be on the May ballot. They were before the Council asking for a resolution in support of the

establishment of the district. It was hoped that if it passed, the amount of funds raised would be sufficient, plus extra to put towards other needs at the station. They were asking for a tax assessment of 23¢ per $1000 assessed valuation.

Joe Dominick moved, seconded by Charlotte Fugate, that the Council adopt Resolution #2011-121, A RESOLUTION SUPPORTING THE ESTABLISHMENT OF A MALHEUR COUNTY AGRICULTURAL EDUCATION SERVICE DISTRICT. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

PUBLIC HEARING

Ordinance #2660-2011: Annexation/Rezone UGA-Commercial to C-2H General Heavy Commercial (920 SE 5th Avenue – Petry/Poltash/Maeda) 1st and 2nd Reading by Emergency

It being the date advertised for public hearing on the matter of Ordinance #2660-2011, the Mayor declared the hearing open. There were no objections to the city's jurisdiction to hear the action, no abstentions, ex-parte contact, and no declarations of conflict of interest.

David Richey, Planning and Zoning Administrator, stated the applicant, Jeff Petry and property owners Gary Poltash and Akikio Maeda, are requesting annexation of the subject 5 acre parcel to the City of Ontario for purpose of building a mini storage facility.

On June 13, 2011 the Planning Commission recommended annexation and rezone from Urban Growth Area Commercial to City zone classification of C-2H General Heavy contained in Planning File 2011-04-07 AZ, which was applicable to five acres of property generally known as Tax Lot 200 & 605, Assessors Map 18S 47E –10AC, located at 920 SE 5th Avenue, Ontario.

At their June 13, 2011 meeting, the Planning Commission recommended approval of the request.

Mr. Lawrence stated the reason for request of the emergency passage was due to the project was on a course of action; however the Council hadn't met on July 5th. Mr. Petry had been informed by staff that a request would be before Council to conduct the double action at the July 18th meeting.

Larry Sullivan, City Attorney, stated the Council had the right to determine the emergency; however, they needed to have the ability to articulate why, and Mr. Lawrence had just done that.

The Mayor opened the hearing for public testimony.

Opponents:
None.

Proponents:
Dan Cummings, CK3, stated he was representing the applicants on this issue. He agreed that they were asking for the 1st and 2nd readings as there had been no July 5th meeting. The emergency request was based upon the financial issues. The applicant hoped to have the design done, and the ground breaking, but banks would not loan money on land that was not annexed and developable. It was still going to be a tight schedule, but everything was in order, and he had the preliminary layout. The Development Agreement had not been signed yet, as they were waiting for the final design. The Agreement between Ontario and the Developer was for things not going in right now. It would be discussed between the City Manager, Public Works Director, and the Developer, what had to go in now, and what could wait. They would add all improvements except the road widening. That would be done when other properties did it. The Developer would extend utilities now. It was a 523 units development, bringing a $3M investment in the community.

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

Dan Jones moved, seconded by Charlotte Fugate, that the City Council accept the Findings of Fact as presented. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Dan Jones moved, seconded by Ron Verini, that the City Council approve the passage of Ordinance #2660-2011 on Emergency Reading. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Dan Jones moved, seconded by David Sullivan, that the Council adopt Ordinance #2660-2011, AN ORDINANCE PROCLAIMING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF ONTARIO; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3; AND REZONING SAID PROPERTY FROM UGA-COMMERCIAL TO CITY C-2H GENERAL HEAVY COMMERCIAL; AND DECLARING AN EMERGENCY FOR PROPERTY LOCATED AT 920 SE 5TH AVENUE, ONTARIO, TAX LOT 200 & 605, MAP 18S 47E-10AC (First Reading by Title Only). Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Charlotte Fugate moved, seconded by David Sullivan, that the Council adopt Ordinance #2660-2011, AN ORDINANCE PROCLAIMING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF ONTARIO; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3; AND DECLARING AN EMERGENCY. FOR PROPERTY LOCATED AT 920 SE 5TH AVENUE, ONTARIO, TAX LOT 200 & 605, MAP 18S 47E-10AC, on Second and Final Reading. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

NEW BUSINESS

Bid Award: West Idaho/Tapadera Lift Station Upgrade Project

Bob Walker, Deputy Public Works Director, stated in 2009, the City Council adopted the 2009-2011 biennial budget that included projects SEW 14 (West Idaho Avenue Lift Station Relocation), and SEW 15 (Update Tapadera Lift Station). Those two projects were combined into one project due to the similarity of project types. The design for those projects were completed by Keller Associates and then put on hold until the projects could be re-budgeted for construction in the 2011-13 biennial budget.

The Budget amount approved for the projects in 2011-2013 was $290,000. Construction bids were opened on June 29, 2011, for the project, and Triad Mechanical, Inc., of Portland, Oregon, was the apparent lowest responsive and responsible bidder with a total Project Bid of $298,872.00. The budget shortfall was being addressed by a separate authorization.

W. IDAHO/TAPADERA LIFT STATION UPGRADES PROJECT			
Contractor	W.Idaho LS Bid	Tapadera LS Bid	Total Project Bid
Triad Mechanical, Inc., Portland, OR	**$140,916**	**$157,956**	**$298,872**
Warrington Construction, Ontario, OR	$172,000	$168,000	$340,000
RSCI, Meridian, ID	$147,920	$190,361	$338,281

David Sullivan moved, seconded by Norm Crume, that the City Council award the 11SEW-14 West Idaho/Tapadera Lift Station Upgrade Project to Triad Mechanical, Inc., and authorize the City Manager to be signatory to an agreement with Triad Mechanical, Inc. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Authorization Resolution #2011-119: Project 11SEW-14 West Idaho/Tapadera Lift Station Upgrades
Bob Walker, Deputy Public Works Director, stated in 2009 the Council adopted a two-year budget that included project SEW 14 (West Idaho Avenue Lift Station Relocation) and SEW 15 (Update Tapadera Lift Station). Those two projects were combined into one project due to the similarity of project types.

In March of 2010, the Public Works Department sent out a Request for Qualifications for Engineering Services to design engineering firms. After receiving and evaluating the RFQ proposals, city staff hired Keller Associates to perform the design for those two projects. During the design the location of the West Idaho lift station was determined to be of adequate size for the needed improvements, thus the lift station location was not changed as originally anticipated in the 2009-2011 budget approval. The design was completed and the project was re-budgeted for construction for the 2011-13 biennial budget.

The budget amount approved for the projects in 2011-2013 is $290,000. Bids from contractors were received on June 29, 2011. The apparent lowest responsive bidder was Triad Mechanical, Portland, Oregon with a bid amount of $298,872. Engineering services during the construction process with Keller Associates was approximately $22,000. Staff was recommending the use of funds from an already approved project 11SEW-05 in the amount of $50,000 ($9,000 Triad Mechanical; $22,000 Keller Associates; $21,000 for possible change orders). Any unused funds would be returned to the sewer contingency at the end of the biennial budget.

Staff would like to utilize $50,000 from project 11SEW-05 Sanitary Sewer Line Replacements, a project already approved in the 2011-13 budget to cover the additional expenses for the West Idaho/Tapadera Lift Station Upgrades 11SEW-14. Both projects were budgeted in the sewer fund; therefore there would be no need to reallocate funds from sewer contingency. This would allow staff to overspend expense line item 11SEW-14 by $50,000, and underspend expense line item 11SEW-05 by the same amount.

Account Number	Account Name	Adopted 11-13 Budget	Proposed Change	Revised Expenditures
SEWER FUND				
EXPENSES				
110-165-719235	11SEW-14 UPDATE W.Idaho/Tapadera LS	$ 290,000	$ 50,000	$ 340,000
110-165-719210	11SEW-05 Sanitary Sewer Line Replacement	$ 200,000	($ 50,000)	$ 150,000

Councilor Sullivan asked why they were moving $50K, when only $9K was needed.

Mr. Walker stated it was for inspections and contingency.

Councilor Verini asked if anything was being hurt by moving that $50K from another project.

Mr. Walker stated they were anticipating that other projects would come in under what had been budgeted. As of now, they didn't foresee any problems.

Mayor Dominick stated he didn't like mixing funds. That's why they had the contingency. Put money back after the project was completed if there were remaining funds. Now, it was like robbing Peter to pay Paul. He'd rather see it kept cleaner.

Mr. Lawrence stated they were giving the Council options. Using $50K from another project that was later in the year for doing, they could make it up along the way, they could use contingency money now, or they could take contingency money later. It was the Council's decision.

Councilor Jones appreciated being provided with alternatives, especially at beginning of budget year. It was wrong to start of the new fiscal year by pulling $50K out of contingency right off the bat.

Councilor Crume stated the money was going to be spent either way, so it might not make any difference. H did applaud the possibility of finding additional funds from other estimated projects.

Councilor Fugate supported Mayor Dominick's comments. It was cleaner to take money from contingency.

David Sullivan moved, seconded by Norm Crume, that the Council approve the utilization of funds of an already approved project (11SEW-05) to cover the additional expenditures for project 11SEW-14 West Idaho/Tapadera Lift Station Upgrades within the Sewer Fund. Roll call vote: Crume-yes; Fox-out; Fugate-no; Jones-yes; Sullivan-yes; Verini-yes; Dominick-no. Motion carried 4/2/1.

Resolution #2011-118: LID #47

Bob Walker, Deputy Public Works Director, stated The City of Ontario adopted the current 2011-2013 Biennial Budget based upon known or anticipated revenues and expenditures. Local Improvement District #47 was not finalized at the time the City's biennial budget was adopted, and until bids were received and found to be within estimates, it was unclear whether the project would proceed to construction. Bids have since been received, were found to be within estimates, and a contract was awarded for construction of the project. The cost of construction plus the estimated costs of interest and fees the total Proposed Assessment for LID #47 totals $241,293.

Staff recommends establishing an expense budget of $250,000 for this project within the Capital Projects Fund, and creating a like revenue budget for loan proceeds and/or assessment payments received upon project completion.

In August, 2010, at the City Council work session - staff recommended City Council adopt Resolution #2010-138 with the intent to create a local improvement district and extend sewers to the area; Council remanded the action to hold an additional meeting with the property owners. In September 2010, at a neighborhood meeting, the Council directed staff to do an additional survey to determine the interest in forming a LID for sewer only, for sewer and water and those opposed to any LID. In October, 2010, the City Council directed staff to prepare a resolution declaring the intent to create a LID. In November, 2010, Council adopted Resolution #2010-152: a resolution for the Declaration of Intent to create LID #47, to construct water and sewer for the construction of sanitary sewer mains and water mains on Alameda Drive from SW 16th Avenue and on Nadine Drive, and also directed the Public Works Director to prepare a Director's Report in accordance with the Ontario City Code. In January, 2011, the Council adopted Resolution #2011-101: a resolution adopting the Public Works Director's report for Local Improvement District #47 and setting a Public Hearing, February 7, 2011. In February, 2011, the Council adopted Resolution #2011-102: a Resolution to proceed with construction improvements in connection with Local Improvement District #47. In June, 2011, Council approved the passage of Ordinance #2655-2011: Annexation/Rezone UGA-Residential to City RS-50 Single Family Residential (Nadine Drive Neighborhood); also approved the Bid Award: LID #47 – Nadine Drive/Alameda Drive Sanitary Sewer, Water, and Street Improvements 2011 to Eastern Oregon Construction, LLC.

The creation of a Local Improvement District provides for the completion of a project according to City standard and utilizing City resources to front the cost of construction. This process allows the property owner to pay their assessed share of cost either in full at the time the project is completed, or over time utilizing conduit debt through the City.

The creation of the project budget at this time will allow for the construction project to continue utilizing existing cash balances and provide for the repayment of those funds by property owners who pay their assessments in full at project completion, or by loan proceeds once it is known which assessments will be paid over time.
The City's cash resources will be repaid, together with market interest earnings, at the completion of the project through property owner payments and loan proceeds. The resulting debt will be moved to the Debt Service Fund within the budget so that future debt service payments on the loan can be made using property owner repayments billed and collected on a monthly basis by the City's Finance Department. The City does anticipate full reimbursement for this project.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council approve Resolution #2011-118, A RESOLUTION AUTHORIZING AN INCREASE IN REVENUES AND EXPENDITURES WITHIN THE PROJECTS DEPARTMENT OF THE CAPITAL PROJECTS FUND TO COMPLETE LOCAL IMPROVEMENT DISTRICT #47. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Resolution #2011-120: Support Creation of Small City/County Insurance Coalition

Henry Lawrence, City Manager, stated Waldo Insurance was currently the City of Ontario's insurance agent of record and represented the city's interest with City County Insurance Services (CIS). At the April 28, 2011, Council study session Waldo Insurance proposed the formation of a coalition comprised of smaller CIS member cities/counties for the purpose of leveraging their collective size to better manage health care costs in ways that were not possible for smaller cities and counties. A May 10, 2011 memorandum from Tony Kahmann outlined the benefits of developing such a coalition.

At the April 28 Council study session many Councilors were supportive of the concept and indicated a willingness to consider passing a resolution supporting such action. There would be no additional cost to the city, as this service was provided to the city by Waldo Insurance as the city's insurance agent of record.

Ron Verini moved, seconded by Norm Crume, that the City Council approve Resolution 2011-120, A RESOLUTION IN SUPPORT OF FORMATION OF A CIS COALITION COMPRISED OF SMALLER CIS MEMBER CITIES AND COUNTIES FOR THE PURPOSE OF LEVERAGING THEIR COLLECTIVE SIZE TO BETTER MANAGE THE COALITION'S COLLECTIVE HEALTH PLAN CARE COSTS. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Ordinance #2659-2011: Amend OMC 8-2-2 Verbiage Correction (1st Reading)

Tori Barnett, City Recorder, stated in an effort to maintain a current and error-free Municipal Code, when a word or section of information was found to be out-of-date, or incorrect, staff would make the appropriate corrections and provide the updated ordinance to Council for adoption. Chuck Mickelson, Public Works Director, found an incorrect word in Section 8-2-2 of the Code pertaining to the report from the Public Works Director under Chapter 2, Public Improvements, Assessment Procedure. The incorrect word had been lined out, and the correct word inserted in bold, underlined, Italics.

Charlotte Fugate moved, seconded by Ron Verini, that the Council adopt Ordinance #2659-2011, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 8, CHAPTER 2, SECTION 2, on First Reading by Title Only. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Ordinance #2661-2011: Amend OMC 6-1-19, 20, 24 Police Regulations (1st Reading)

Mark Alexander, Police Chief, stated the Police Department wanted to amend Municipal Code Title 6, Chapter 1, Sections 19, 20 and 24, to be parallel with Oregon state law. Under Oregon Revised Statutes, the penalties for theft offenses were primarily based on the dollar amount of property taken during the commission of the theft. In Oregon, there were three degrees of theft, which ranged from misdemeanor to felony offenses.

Many offenses in the Ontario Municipal Code mirrored low-level Oregon Revised Statute misdemeanors, including theft related offenses. It had been the desire of the police department to do so in order to simplify and streamline the work police officers do. The Oregon Legislature recently adjusted the dollar value as they related to theft offenses in the Oregon Revised Statutes, which meant the theft offenses in Ontario Municipal Code where no longer the same.

The Police Department wanted to amend language in three of the theft related offenses in the Municipal Code, which were Theft, Shoplifting and Theft of Services. The proposed changes streamlined current language in the Oregon Revised Statutes and would accommodate any further changes.

Norm Crume moved, seconded by David Sullivan, that the Council adopt Ordinance #2661-2011, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 6, CHAPTER 1, SECTIONS 19, 20 AND 24, on first reading by title only. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Ordinance #2662-2011: Amend OMC 3-8-2 Yard Sale Permit Process (1st Reading)

Mark Alexander, Police Chief stated the Police Department wanted to amend Municipal Code Title 3, Chapter 8, Section 2, by adding language for a police department designee to issue garage sale permits. City ordinance regulated yard sales and required a permit to have yard sales. The ordinance currently stated those permits would be issued by the Police Department. There could be other city departments or private entities, that could effectively issue the permits as well. The Police Department would like to add language in City Code to do so. The city could realize a loss of revenue if a private entity were to completely take over the permit process.

Norm Crume moved, seconded by David Sullivan, that the Council adopt Ordinance #2662-2011, AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 3, CHAPTER 8, SECTION 2, ADDING NEW LANGUAGE, on first reading by title only. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

2011-2013 Intergovernmental Agreement – HazMat Services

Al Higinbotham, Fire Chief, stated The City of Ontario and the Office of State Fire Marshal had been working together by Intergovernmental Agreement for the Regional Hazardous Materials Emergency Response Team Services. The current contract was set to expire on June 30, 2011. In August, 2009, the Council approved the 2009-2011 Intergovernmental Agreement.

The City of Ontario and the Office of State Fire Marshal had been in a partnership since 1992 of continued services with the Regional Hazardous Material Emergency Response Team Services. The City possessed approximately $750,000 in equipment belonging to the State of Oregon for departmental use.

Should Council elect to not renew the proposed contract, the existing contract between the City of Ontario and the Office of State Fire Marshal would terminate immediately and all equipment and inventory would be returned to the Office of State Fire Marshal in Salem. The city expended approximately $2,400 per year for maintenance and insurance of the vehicles; otherwise, the State Fire Marshal's Office reimbursed all expenses.

David Sullivan moved, seconded by Charlotte Fugate, that the Council authorize the Mayor and City Manager to sign the biennial 2011-2013 Intergovernmental Agreement between the City of Ontario and the Office of State Fire Marshal. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Amendment #1 to ODOT Agreement #27027: NW Washington Avenue Realignment

Bob Walker, Deputy Public Works Director, stated this amendment clarified the roles of ODOT and how the costs would be paid for the right of way acquisition (appraisals, negotiations and property purchase) for the NW Washington and North Park Boulevard project. Funds were 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 were estimated at $1.6 million.

In 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. In 2006-2007, Council approved a project to realign NW Washington to North Oregon. Also in 2007, the 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. In October 2009 the 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. In July 2010, the Council approved 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 House Bill 2001. In November 2010 the 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). Finally, in February 2011, the Council approved Agreement 27027 which authorized ODOT to conduct appraisals, negotiations and purchase property for the realignment of NW Washington and Park Boulevard extension.

Since the early 1990's ODOT and Ontario had been discussing various transportation related issues within and adjacent to the city. During this period of time, ODOT had 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 included $4.5 million authorized by HB 2001 and $375,200 cash paid to the city for the project. Right of way services would be paid directly from the $4.5 million available for this project. This amendment clarified the roles of the parties, and would authorize up to $1.6 million for right of way acquisition for the project.

Norm Crume moved, seconded by Charlotte Fugate, that the City Council approve Amendment Number 1 to 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 and authorize the City Manager to sign the agreement on behalf of the City of Ontario. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

Revised Cooperative Improvement Agreement ODOT Agreement #27785

Bob Walker, Deputy Public Works Director, stated this agreement replaced Agreement Number 26638 which was previously approved by the City Council in November 2010. The city signed one version and ODOT signed a different version. Rather than amending 26638, it was requested that a new draft be prepared that satisfied both parties. This Agreement allowed the city to partner with ODOT in combining funding to allow for the rehabilitation of East Idaho (ODOT responsibility) along with improvements to the East Lane intersection (city responsibility).

In 2003-2004, the city hired the firm of Meyer Mohaddes Associates to prepare a traffic study for the "East Ontario Commercial Area." This study resulted in the recommendations for improvements to the roadway and intersections as well as establishing fees per vehicle trip. The city then passed an ordinance requiring the payment of traffic impact fees from the various developers in the area. In 2008-2009, ODOT requested that the city take responsibility for maintenance of East Idaho Avenue from the Snake River to NE 4th Street. The city rejected this proposal and ODOT remained responsible for the structural integrity of this section of State Highway 30. In 2009, the Council adopted a two-year budget that included upgrades to East Idaho intersections in the amount of $750,000. Finally, on November 15, 2010, the Council approved Resolutions 2010-153 and 154 which reallocated funding and modified the project budget from $750,000 to $800,000; the also approved Agreement Number 26638 with ODOT for this project.

The Oregon Jobs and Transportation Act of 2009 (HB 2001) provided funding for preservation and modernization projects chosen by the Oregon Transportation Commission. East Idaho Avenue between the Snake River and NE 4th Street had experienced significant rutting. The Oregon legislature allocated $1.2 million to ODOT for resurfacing this state highway.

The City commissioned a traffic study in 2003 to identify improvements necessary to meet the increasing demand on East Idaho from the river to the freeway. Improvements recommended included adding turning lanes at East Lane and Goodfellow, adding an additional lane to East Idaho and modifying the signals. During peak traffic periods the eastbound traffic wishing to turn left onto East Lane into the Walmart and Home Depot area backed up to and through the Goodfellow intersection. The overall improvements had an estimated current cost of $2.2 million which was significantly more than the city had collected.

City and ODOT staffs had been working collaboratively to identify a single project that would combine funding for construction. This project will allow the construction which will include the resurfacing of East Idaho as noted above as well as the modification of signals at the intersection of East Lane and East Idaho along with lane and striping modifications. This would improve the traffic flow into the Walmart and Home Depot area and would be

compatible with future upgrades of East Idaho when additional funding became available. There was a limited amount of right of way that must be acquired as well. ODOT staff was taking the lead in design of the project.

The agreement also provided for the transfer of right of way from ODOT to the city for a portion of East Lane, Goodfellow and Tapadera. This transfer had been contemplated by both agencies for many years and this concludes that issue.

The project design is well underway and scheduled to go to bid in September 2011.

This agreement requires the city to contribute the necessary funding to ODOT for the city's share of design and construction. The project would be designed to limit the cost to the city based on available funds.

Charlotte Fugate moved, seconded by Ron Verini, that the City Council approve cooperative improvement agreement #27785 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 House Bill 2001 for signal upgrades and lane modifications at East Idaho and East Lane and resurfacing of East Idaho Avenue (Highway 30) between the Snake River and NE 4th Street and authorized the Mayor to sign this agreement on behalf of the City. Agreement #27785 supersedes and replaces Agreement #26638. Roll call vote: Crume-yes; Fox-out; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 6/0/1.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Henry Lawrence reminded everyone of the Golf Course Committee meeting tomorrow at 5:30 pm. Also, the runway was back open.

EXECUTIVE SESSION(S)

Executive Session: ORS 192.660(2)(e)
An executive session was called at 8:26 pm under provisions of ORS 192.660(2)(e) to discuss real property. The Council convened into a second executive session at 8:55 pm.

Executive Session: ORS 192.660(2)(d)
An executive session was called at 8:55 pm under provisions of ORS 192.660(2)(d) to discuss labor issues. The Council concluded the session at 9:48 p.m.

ADJOURN

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

_____
Joe Dominick, Mayor

ATTEST:

_____
Tori Barnett, MMC, City Recorder

CONSENT AGENDA REPORT
August 1, 2011

TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

Through: Henry Lawrence, City Manager

SUBJECT: **ORDINANCE #2659-2011: AMENDING ONTARIO MUNICIPAL CODE TITLE 8, CHAPTER 2, SECTION 2, "DECLARATION OF INTENT, REPORT FROM PUBLIC WORKS DIRECOR" (Final Reading)**

DATE: July 25, 2011

SUMMARY:
Attached is the following document:

- Ordinance #2659-2011

In an effort to maintain a current and error-free Municipal Code, when a word or section of information is found to be out-of-date, or incorrect, staff will make the appropriate corrections and provide the updated ordinance to Council for adoption.

PREVIOUS COUNCIL ACTION:
July 18, 2011 Council adopted Ordinance #2659-2011 on First Reading.

BACKGROUND:
Chuck Mickelson, Public Works Director, found an incorrect word in Section 8-2-2 of the Code pertaining to the report from the Public Works Director under Chapter 2, Public Improvements, Assessment Procedure. The incorrect word has been lined out, and the correct word inserted in bold, underlined, Italics.

RECOMMENDATION:
Staff recommends the City Council adopt Ordinance #2659-2011.

ORDINANCE NO. 2659-2011

AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 8, CHAPTER 2, SECTION 2: DECLARATION OF INTENT, REPORT FROM PUBLIC WORKS DIRECTOR (REPLACE ERRONEOUS WORD)

WHEREAS, in review of the exiting ordinance relating to Ontario Municipal Code 8-2-2, a typo was noted in the body of the opening paragraph; and,

WHEREAS, in a continuing effort to find and correct any errors in the existing Code, the proposed ordinance would remove the erroneous work and replace it with the correct one.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Ontario, Oregon, as follows:

Section 8-2-2- of the Ontario City Code is hereby amended to read in its entirety:

8-2-2 Declaration of intention, report from Public Works Director.
Whenever the Council shall decide to make street, sewer, sidewalk or other public improvements to be paid for in whole or in part by special assessments according to benefits, it shall ~~be~~ ***by*** resolution declare its intention to initiate such improvements and direct the Public Works Director to make a survey and plat of such project and to submit a written report. The Public Works Director shall make such survey, plat and report and file the same with the City Recorder within the time set forth by the Council in the resolution. Such report shall contain:

(A) A plat or map showing the general nature, location and extent of the proposed improvements and the land to be assessed to pay all or any part of the costs thereof.
(B) Plans, specifications and estimates of the work to be done.
(C) An estimate of the probable cost of the improvement including legal, administrative and engineering costs attributable thereto.
(D) A recommendation as to the method of assessments to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the property specially benefited, which recommendation shall be in accordance with the provisions of Section 8-2-9 below.
(E) A description of the location of each lot, tract or parcel of land, or portion thereof, to be specially benefited by the improvement, with the name of the owner or owners thereof.
(F) A statement showing outstanding public indebtedness and assessments which is a lien against said property.
(G) Any other information required by the Council.

APPROVED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2011, by the following vote.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED by the Mayor this _____ day of _____, 2011.

ATTEST:

_____
Joe Dominick, Mayor

_____
Tori Barnett, MMC, City Recorder

Consent AGENDA REPORT
August 1, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Chief of Police

Through: Henry Lawrence, City Manager

SUBJECT: ORDINANCE #2661-2011: AMENDING ONTARIO MUNICIPAL CODE TITLE 6, CHAPTER 1, SECTIONS 19, 20 AND 24, OF POLICE REGULATIONS (Final Reading)

DATE: July 25, 2011

SUMMARY:
Attached is the following document:

- Ordinance #2661-2011

The Police Department would like to amend Municipal Code Title 6, Chapter 1, Sections 19, 20 and 24, to be parallel with Oregon state law.

PREVIOUS COUNCIL ACTION:
July 18, 2011, Council passed Ordinance #2661-2011 on first reading.

BACKGROUND:
Many offenses in the Ontario Municipal Code mirror low-level Oregon Revised Statute misdemeanors, including the theft related offenses. It has been the desire of the police department to do so in order to simplify and streamline the work police officers do.

The Oregon Legislature recently changed theft offenses, so Ontario Municipal Code is no longer consistent with Oregon Revised Statutes.

The Police Department would like to amend language in three of the theft related offenses in Ontario Municipal Code, which are Theft, Shoplifting and Theft of Services. The proposed changes streamline current language in Oregon Revised Statutes and will accommodate any further changes.

RECOMMENDATION:
Staff recommends the City Council adopt Ordinance #2661-2011.

After recording, return to:
City Recorder
City of Ontario
444 SW 4th Street
Ontario, OR 97914

ORDINANCE NO. 2661-2011

AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 6, CHAPTER 1, SECTIONS 19, 20 AND 24

WHEREAS, the City Council of Ontario is authorized through its legislative authority to regulate police regulations within the City of Ontario; and,

WHEREAS, violations relating to theft are based on the dollar amount of the property or services taken; and,

WHEREAS, on occasion those dollar amounts are changed under state law by the legislature; and

WHEREAS, the City desires to have ordinances relating to theft parallel state law; and

WHEREAS, the descriptions of theft in City Code Sections 6-1-19, 20 and 24 need to be changed in order to do so.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Ontario, Oregon, as follows:

Section 6-1-19 of the Ontario City Code is hereby amended by adding those portions which are underlined and eliminating those portions which are stricken:

6-1-19 Theft.
~~(A)~~ A person commits ~~the crime of~~ theft ~~in the third degree~~ if, by other than extortion, a person:
1. Commits theft as defined in ORS 164.015; and
2. The total value of the property in a single or aggregate transaction is ~~under fifty dollars ($50.00).~~ as defined in ORS 164.043.
3. Theft ~~in the third degree~~ is a Class C violation.
~~(B) Theft in the Second Degree. A person commits the crime of theft in the second degree if, by other than extortion, the person:~~
~~1. Commits theft as defined in ORS 164.015; and~~
~~2. The total value of the property in a single or aggregate transaction is fifty dollars ($50.00) or more but is under two hundred dollars ($200.00) in the case of theft by receiving and under five hundred dollars ($500.00) in any other case.~~
~~Theft in the second degree is a Class A violation.~~

Section 6-1-20 of the Ontario City Code is hereby amended by adding those portions which are underlined and eliminating those portions which are stricken:

6-1-20 Shoplifting.

(A) No person shall willfully conceal or take possession of goods offered for sale by a retail or wholesale store or other mercantile establishment with the intent to convert the goods to his own use without paying the purchase price thereof. It shall be prima facie evidence of an intent to convert the goods to his own use if such goods are taken from the premises of such retail or wholesale store or other mercantile establishment without having paid for the same or without having made arrangements with the owner, manager or one of his agents for said payment.

(B) Notwithstanding any other provision of law, a peace officer, merchant or merchant's employee who has probable cause for believing that a person has committed theft of property of a store or other mercantile establishment may detain and interrogate the person in regard thereto in a reasonable manner and for a reasonable time.

(C) If a peace officer, merchant or merchant's employee, with probable cause for believing that a person has committed theft of property of a store or other mercantile establishment, detains and interrogates the person in regard thereto, and the person thereafter brings against the peace officer, merchant or merchant's employee any civil or criminal action based upon the detention and interrogation, such probable cause shall be a defense to the action, if the detention and interrogation were done in a reasonable manner and for a reasonable time.

(D) Any person convicted of a violation of this Section shall be punished by a fine pursuant to the following schedule:

~~1.~~ A Class ~~B~~ C civil violation where the total value of the property in a single or aggregate transaction is ~~under fifty dollars ($50.00); or~~ as defined in ORS 164.043.

~~2. A Class A civil violation where the total value of the property in a single or aggregate transaction is fifty dollars ($50.00) or more and under two hundred dollars ($200.00).~~

Section 6-1-24 of the Ontario City Code is hereby amended by adding those portions which are underlined and eliminating those portions which are sticken:

6-1-24 Theft of services.

It shall be unlawful for any person to:

(A) With intent to avoid payment thereof, obtain services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services; or

(B) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, use or divert the use of himself or a third person such labor, equipment or facilities with intent to derive a commercial benefit for himself or a third person not entitled thereto.

As used in this Section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, telephone or other communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. "Communication service" includes, but is not limited to, use of telephone, computer and cable television systems.

Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is a prima facie evidence that the services were obtained by deception. Obtaining the use of any communication system, the use of which is available only for compensation, including but not limited to telephone, computer and cable

television-systems, or obtaining the use of any services of a public utility nature, without payment or offer to pay for such use is prima facie evidence that the obtaining of the use of such system or the use of such services was gained with the intent to avoid payment therefor.

(C) Theft of services is~~:~~

~~1. A~~ a Class C civil violation if the aggregate total value of services that are the subject of the theft ~~is under fifty dollars ($50.00);~~ is as defined in ORS 164.043.

~~2. A Class B civil violation if the aggregate total value of services that are the subject of the theft is fifty dollars ($50.00) or more but is under five hundred dollars ($500.00); or~~

~~3. A Class A civil violation if the aggregate total value of services that are subject of the theft is five hundred dollars ($500.00) or more.~~

~~4. If a person has gained services through the commission of a violation of this Section, the court, instead of imposing the fine authorized for the offense under subsections (C)1, 2 or 3 of this Section, may require the defendant to pay a fine in an amount fixed by the court not exceeding double the amount of the person's gain from the commission of the offense. "Gain" means the amount of money or the value of services derived from the commission of the violation of this Section. "Value" shall mean the market value of the services at the time and place of the violation~~

APPROVED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2011, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED by the Mayor this _____ day of _____, 2011.

ATTEST:

_____
Joe Dominick, Mayor

_____
Tori Barnett, MMC, City Recorder

CONSENT AGENDA REPORT
August 1, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Chief of Police

Through: Henry Lawrence, City Manager

SUBJECT: **ORDINANCE #2662-2011: AMENDING ONTARIO MUNICIPAL CODE TITLE 3, CHAPTER 8, SECTION 2, OF THE YARD SALE PERMIT PROCESS, ADDING NEW LANGUAGE (Final Reading)**

DATE: July 25, 2011

SUMMARY:
Attached is the following document:

- Ordinance #2662-2011

The Police Department would like to amend Municipal Code Title 3, Chapter 8, Section 2, by adding language for a police department designee to issue garage sale permits.

PREVIOUS COUNCIL ACTION:
July 18, 2011, Council passed Ordinance #2662-2011 on first reading.

BACKGROUND:
City Ordinance regulates yard sales and requires a permit to have yard sales. City Ordinance currently states those permits will be issued by the Police Department. There might be other City departments or private entities that could effectively issue the permits as well. The Police Department would like to add language in City Code to do so.

FINANCIAL IMPLICATIONS:
The City could realize a loss of revenue if a private entity were to completely take over the permit process.

RECOMMENDATION:

Staff recommends the City Council adopt Ordinance #2662-2011.

After recording, return to:
City Recorder
City of Ontario
444 SW 4th Street
Ontario, OR 97914

ORDINANCE NO. 2662-2011

AN ORDINANCE AMENDING ONTARIO MUNICIPAL CODE TITLE 3, CHAPTER 8, SECTION 2

WHEREAS, the City Council of Ontario is authorized through its legislative authority to regulate yard sales within the City of Ontario; and,

WHEREAS, those desiring to hold such sales must obtain a permit from the police department; and,

WHEREAS, there are other City Departments and possibly private entities who could also issue such permits; and

WHEREAS, the procedure to obtain permits in City Code Sections 3-8-2.1 and 3-8-2.2 needs to be changed in order to do so.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Ontario, Oregon, as follows:

Section 3-8-2.1 of the Ontario City Code is hereby amended by adding those portions, which are underlined:

3-8-2.1 Permits required.

No garage sale, flea market, or sale by a transient merchant shall be conducted unless and until the individuals desiring to conduct said sale shall obtain a permit therefor from the City police or designee. In the case of garage sales, members of more than one residence may join in obtaining a permit for a garage sale to be conducted at the residence of one of them.

Section 3-8-2.2 of the Ontario City Code is hereby amended by adding those portions, which are underlined:

3-8-2.2 Written statement required.

Prior to the issuance of any garage sale, flea market, or transient merchant permits, the individuals conducting such sale shall file a written statement with the City Police Chief, or designee at least five (5) days in advance of the proposed sale (mailed applications must be postmarked at least seven (7) days in advance of the sale), setting forth the following information:

(A) Full name and address of applicant.

(B) The location at which the proposed garage sale, flea market, or transient merchant sale, is to be held.

(C) The date, or dates, upon which the sale shall be held.

(D) The date, or dates, of any other garage sale, flea market, or transient merchant sale held by the applicant within the current calendar year.

(E) In the case of a garage sale, an affirmative statement that the property to be sold was owned by the applicant, was owned as his own personal property and was neither acquired or consigned for the purposes of resale.

(F) In case of a flea market or transient merchant sale, a statement by the applicant of the nature of the goods to be sold.

(G) All other information specified on the application form provided by the Police Department.

APPROVED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2011, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED by the Mayor this _____ day of _____, 2011.

ATTEST:

_____
Joe Dominick, Mayor

_____
Tori Barnett, MMC, City Recorder

AGENDA REPORT
August 1, 2011

TO: Mayor and City Council

FROM: Henry Lawrence, City Manager

SUBJECT: **CHANGE ORDER #2 CONTRACT AWARD FOR CONNECT OREGON 3/FAA PROJECT #3-41-0044-008/009/010 RUNWAY, TAXIWAY AND APRON REHABILIATATION AND RUNWAY LIGHTING AT THE ONTARIO MUNICIPAL AIRPORT**

DATE: July 27, 2011

SUMMARY:
Attached is the following document:

- Contract Change Order #2 – Valley Paving and Asphalt, Inc.
- Ontario Airport Project Funding Summary

The contract was awarded as bid. This proposed change order is required to fully utilize the grant. Due to efficiencies within the project, there are additional funds available within the approved grant. Therefore, it is proposed that a Phase 4 be added to the project. Phases 1 (runway) and 2 (taxiways) have been complete. Phase 3 (north terminal apron) was initiated on July 25, with completion scheduled for mid-September. Proposed Phase 4 includes additional North Terminal Apron, shown as a shaded area on the attached 11" x 17" site plan.

This change order # 2 for Phase 4 totals $235,683.54, for a revised contract total of $3,832,375.30 with Valley Paving and Asphalt, Inc. Change Order #2 costs are itemized by line item in the attached request. Associated additional engineering and inspection costs with Kimley-Horn are included in a separate request to this Council.

PREVIOUS COUNCIL ACTION:

April 4, 2011	Council approved the Contract Award to Valley Paving & Asphalt.
May 2, 2011	Council approved the Change Order # 1 to Valley Paving & Asphalt.

RECOMMENDATION:
Staff recommends approval of Change Order #2.

PROPOSED MOTION:
I move that the City Council authorize the City Manager to be signatory on change order #2 to the contract with Valley Paving & Asphalt for the Airport Improvement Project FAA #3-41-0044-008/009/010.

Kimley-Horn and Associates, Inc.

CONTRACT CHANGE ORDER
City of Ontario, Oregon
ONTARIO MUNICIPAL AIRPORT

AIRPORT IMPROVEMENTS FY 2011
FAA AIP PROJECT NO. 3-41-0044-008/009/010 & Connect Oregon III Project

NUMBER: 2
DATE: 7-19-2011
AIRPORT: Ontario Municipal Airport
LOCATION: Ontario, Oregon
AIP PROJECT NO: 3-41-0044-008/009/010
CONTRACTOR: Valley Paving and Asphalt, Inc.

You are requested to perform the following described work upon receipt of an approved copy of this document, or as directed by the Engineer.

Schedule-Item No.	Description	CHANGE IN Unit	Unit Price	Quantity	Amount
C-1	Contractor Quality Control	LS	$15,756	+0.28	$4,411.68
C-2	Pavement Saw Cutting	LF	$1.76	+710	$1,249.60
C-4	Removal of Existing Asphalt by Milling	SY	$1.55	+6,065	$9,400.75
C-5	Removal of Existing Tie Down Anchors	EA	$50.00	+10	$500.00
C-6	Removal of Existing Storm Drain Structure	EA	$155.00	+8	$1,240.00
C-7	Removal of Existing Storm Drain Pipe	LF	$3.50	+637	$2,229.50
C-8	Mobilization/Demobilization	LS	$16,720	+0.28	$4,681.60
C-9	Airport Safety and Security	LS	$5,000	+0.28	$1,400.00
C-10	Unclassified Excavation Place Storage Area	CY	$2.98	+3,029	$9,026.42
C-12	Subbase Coarse	CY	$17.70	+1,406	$24,886.20
C-13	Crushed Aggregate Base Course	CY	$20.13	+937	$18,861.81
C-14	Shoulder Crushed Aggregate Base Course	CY	$19.56	+58	$1,134.48
C-15	Bituminous Surface Course	Ton	$65.50	+970	$63,535.00
C-16	Install 4-Inch PVC Underdrain Outlet Pipe	LF	$9.00	+136	$1,224.00
C-17	Install 12-Inch C-900 PVC Storm Drain Pipe	LF	$33.00	+1,466	$48,378.00
N/A	Install 18-Inch C-905 PVC Storm Drain Pipe	LF	$34.00	+207	$7,038.00
C-19	Install Pavement Edge Underdrain	LF	$7.00	+946	$6,622.00
C-20	Install Storm Drain Inlet	EA	$2,655.00	+5	$13,275.00
C-21	Install Storm Drain Manhole	EA	$2,477.00	+1	$2,477.00
C-23	Yellow Temporary Paint without Glass Beads	SF	$0.52	+784	$407.68
C-24	Yellow Paint with Glass Beads	SF	$0.48	+784	$376.32
C-25	Install Tie-Down Anchor	EA	$346.50	+21	$7,276.50
D-6	Removal of Existing Storm Drain Pipe	LF	$6.50	+166	$1,079.00
D-15	Install 4-Inch PVC Underdrain Outlet Pipe	LF	$9.00	+57	$513.00
D-16	Install 12-Inch C-900 PVC Storm Drain Pipe	LF	$25.00	+82	$2,050.00
D-19	Install Storm Drain Inlet	EA	$3,000.00	+1	$3,000.00
D-21	Modify Existing Storm Drain Manhole	EA	$590.00	-1	-$590.00
				This Change Order Total:	$235,683.54
				Previous Contract Total:	$3,596,691.76
				Revised Contract Total:	$3,832,375.30

Kimley-Horn and Associates, Inc.

AIP PROJECT NO: 3-41-0044-008/009/010
AIRPORT: Ontario Municipal Airport

CHANGE ORDER NO: 2
LOCATION: Ontario, OR

Additional work in Schedule C and Schedule D has been added to be completed in a Phase 4 after the completion of Phase 3 as shown on the attached Operation & Safety Plan Phase 4. The time provided for completion of Phase 4 is to be listed in Contract Documents-Special Provisions Section 50 to be 21 Calendar Days. The Liquidated Damages per Calendar Day will be $1,500 a day. Phase 4 shall run from September 13th thru October 3rd. This document shall become an amendment to the Contract and all provisions of the Contract will apply.

Recommended by: _____ _____
Kimley-Horn and Associates — DATE

Approved by: _____ _____
City of Ontario — DATE

Accepted by: _____ _____
Valley Paving and Asphalt, Inc. — DATE

Approved by: _____ _____
Federal Aviation Administration — DATE

Kimley-Horn and Associates, Inc.

AIP PROJECT NO: 3-41-0044-008/009/010
AIRPORT: Ontario Municipal Airport

CHANGE ORDER NO: 2
LOCATION: Ontario, OR

JUSTIFICATION FOR CHANGE

1. Brief description of the proposed contract change(s) and location(s).

   Increase the amount of North Terminal Apron Reconstruction and Apron Taxiway Reconstruction by approximately 6,200 S.Y. The construction will include upgrading existing stormdrain system, installation of pavement underdrains, full depth construction of the pavement section, and pavement marking.

2. Reason(s) for the change(s).

   According to the Pavement Maintenance Report the PCI of this area ranges from 0-24. The area is close to the point of unusable due to the poor conditions of the asphalt. The stormdrain system is undersized and in poor condition.

3. Justifications for unit prices or total cost.

   Bid Unit Costs.
   See attached Updated Quantity and Cost Breakdowns for Schedule C & D.

4. The sponsor's share of this cost is available from:

   State of Oregon and FAA

5. If this is a supplemental agreement involving more than $2,000; is the cost estimate based on the latest wage rate decision?

   Yes _X_ No ___ Not Applicable

6. Has consent of surety been obtained?

   Yes ___ _X_ Not Necessary

7. Will this change affect the insurance coverage?

   Yes ___ No _X_

8. If yes, will the policies be extended?

   Yes ___ Not Applicable _X_

9. Has this Change Order been discussed with FAA Officials?

   Yes _X_ No ___

BID SCHEDULE "C" RECONSTRUCT NORTH TERMINAL APRON

City of Ontario, Oregon
ONTARIO MUNICIPAL AIRPORT
AIRPORT IMPROVEMENTS FY 2011
FAA AIP PROJECT NO. 3-41-0044-008/009/010 & Connect Oregon III Project

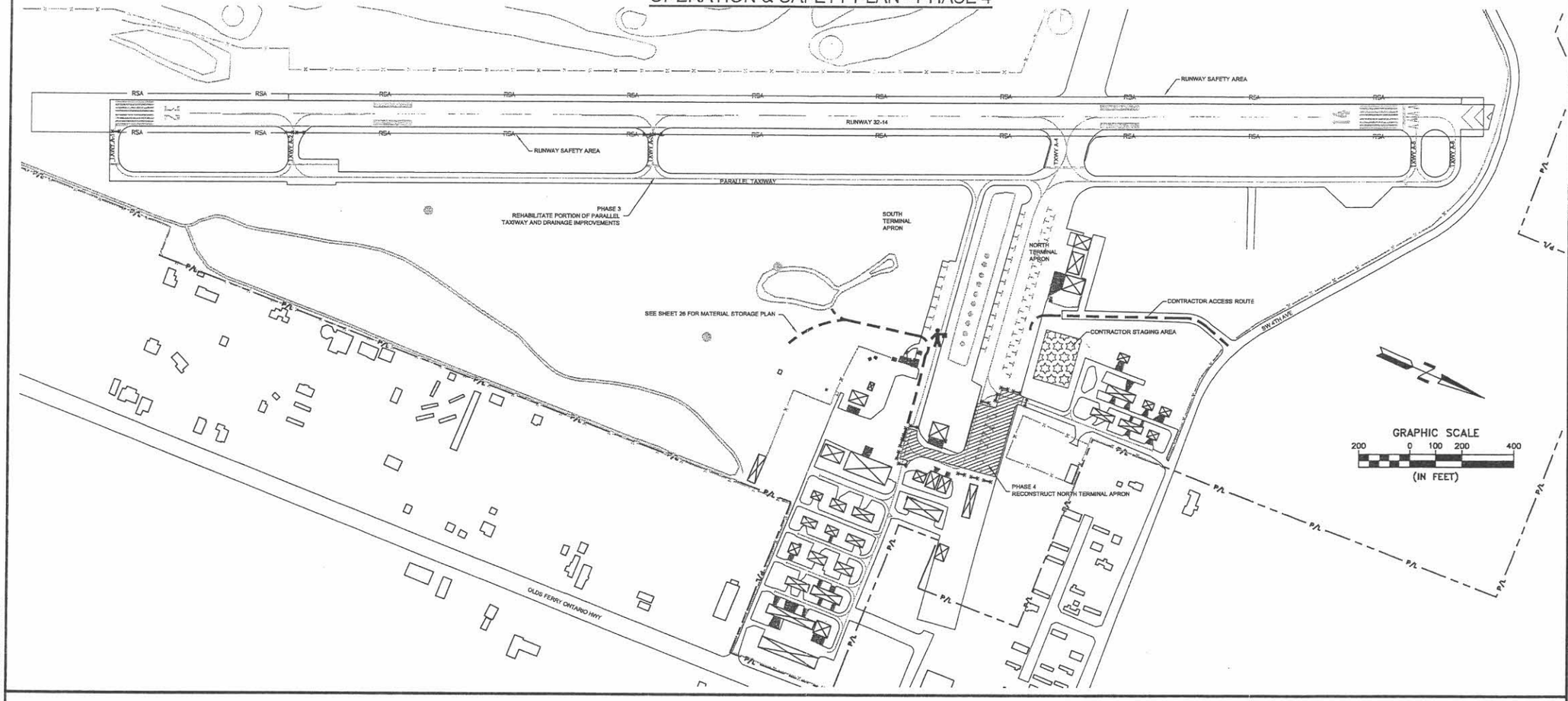
Item No.	Spec. No.	Description	Bid Quantity	Unit Measure	Unit Price	C.O. #2 Quantity	Field Variance	Updated Quantity	Bid Price	Updated Price
1	P-100-5.1	Contractor Quality Control	1	L.S.	$15,756	0.28		1.28	$15,756.00	$20,167.68
2	P-101-5.1	Pavement Saw Cutting	539	L.F.	$1.76	710		1,249	$948.64	$2,198.24
3	P-101-5.2	Removal of Existing Concrete Pavement by Chunk	174	S.Y.	$21.11			174	$3,673.14	$3,673.14
4	P-101-5.3	Removal of Existing Asphalt Pavement by Milling	19,110	S.Y.	$1.55	6,065		25,175	$29,620.50	$39,021.25
5	P-101-5.7	Removal of Existing Tie Down Anchors	71	EA.	$50.00	10		81	$3,550.00	$4,050.00
6	P-101-5.8	Removal of Existing Storm Drain Structure	16	EA.	$155.00	8		24	$2,480.00	$3,720.00
7	P-101-5.9	Removal of Existing Storm Drain Pipe	1,144	L.F.	$3.50	637		1,781	$4,004.00	$6,233.50
8	P-102-3.1	Mobilization/Demobilization	1	L.S.	$16,720	0.28		1.28	$16,720.00	$21,401.60
9	P-103-5.1	Airport Safety and Security	1	L.S.	$5,000	0.28		1.28	$5,000.00	$6,400.00
10	P-152-4.2	Unclassified Excavation Place in Storage Area	9,851	C.Y.	$2.98	3,029		12,880	$29,355.98	$38,382.40
11	P-152-4.3	Unsuitable Overdepth Excavation	250	C.Y.	$18.31			250	$4,577.50	$4,577.50
12	P-154-5.1	Subbase Coarse	5,458	C.Y.	$17.70	1,406		6,864	$96,606.60	$121,492.80
13	P-208-5.1	Crushed Aggregate Base Course	3,689	C.Y.	$20.13	937		4,626	$74,259.57	$93,121.38
14	P-208-5.2	Shoulder Crushed Aggregate Base Course	169	C.Y.	$19.56	58		227	$3,305.64	$4,440.12
15	P-401-8.1a	Bituminous Surface Course	3,776	Ton	$65.50	970		4,746	$247,328.00	$310,863.00
16	D-701-5.1	Install 4-Inch PVC Underdrain Outlet Pipe	84	L.F.	$9.00	136		220	$756.00	$1,980.00
17	D-701-5.2	Install 12-Inch C-900 PVC Storm Drain Pipe	174	L.F.	$33.00	1,466		1,640	$5,742.00	$54,120.00
N/A	D-701-5.3	Install 18-Inch C-905 PVC Storm Drain Pipe	0	L.F.	$34.00	207		207	$0.00	$7,038.00
18	D-702-5.1	Install Slotted Drain	951	L.F.	$140.00			951	$133,140.00	$133,140.00
19	D-705-5.1	Install Pavement Edge Underdrain	1,785	L.F.	$7.00	946		2,731	$12,495.00	$19,117.00
20	D-751-5.1	Install Storm Drain Inlet	6	EA.	$2,655.00	5		11	$15,930.00	$29,205.00
21	D-751-5.2	Install Storm Drain Manhole	1	EA.	$2,477.00	1		2	$2,477.00	$4,954.00
22	D-751-5.3	Modify Existing Storm Drain Manhole	2	EA.	$590.00			2	$1,180.00	$1,180.00
23	P-620-5.1	Yellow Temporary Paint without Glass Beads	1,922	S.F.	$0.52	784		2,706	$999.44	$1,407.12
24	P-620-5.2	Yellow Paint with Glass Beads	1,922	S.F.	$0.48	784		2,706	$922.56	$1,298.88
25	M-101.5.1	Install Tie-Down Anchor	81	EA.	$346.50	21		102	$28,066.50	$35,343.00
26	N/A	Force Account Allowance	1	L.S.	$15,000			1	$15,000.00	$15,000.00
		BID SCHEDULE "C" TOTAL							**$753,894.07**	**$983,525.61**

BID SCHEDULE "D" EXPAND SOUTH TERMINAL APRON

City of Ontario, Oregon
ONTARIO MUNICIPAL AIRPORT
AIRPORT IMPROVEMENTS FY 2011
FAA AIP PROJECT NO. 3-41-0044-008/009/010 & Connect Oregon III Project

Item No.	Spec. No.	Description	Bid Quantity	Unit Measure	Unit Price	C.O. #2 Quantity	Field Variance	Updated Quantity	Bid Price	Updated Price
1	P-100-5.1	Contractor Quality Control	1	L.S.	$6,500.00			1	$6,500.00	$6,500.00
2	P-101-5.1	Pavement Saw Cutting	950	L.F.	$1.76			950	$1,672.00	$1,672.00
3	P-101-5.3	Removal of Existing Asphalt Pavement by Milling	1,378	S.Y.	$1.55			1,378	$2,135.90	$2,135.90
4	P-101-5.7	Removal of Existing Tie Down Anchors	37	EA.	$50.00			37	$1,850.00	$1,850.00
5	P-101-5.8	Removal of Existing Storm Drain Structure	1	EA.	$150.00			1	$150.00	$150.00
6	P-101-5.9	Removal of Existing Storm Drain Pipe	248	L.F.	$6.50	166		414	$1,612.00	$2,691.00
7	P-102-3.1	Mobilization/Demobilization	1	L.S.	$8,420.00			1	$8,420.00	$8,420.00
8	P-103-5.1	Airport Safety and Security	1	L.S.	$4,000.00			1	$4,000.00	$4,000.00
9	P-152-4.2	Unclassified Excavation Place in Storage Area	4,897	C.Y.	$3.30			4,897	$16,160.10	$16,160.10
10	P-152-4.3	Unsuitable Overdepth Excavation	150	C.Y.	$17.21			150	$2,581.50	$2,581.50
11	P-154-5.1	Subbase Coarse	1,967	C.Y.	$17.50			1,967	$34,422.50	$34,422.50
12	P-208-5.1	Crushed Aggregate Base Course	1,311	C.Y.	$19.94			1,311	$26,141.34	$26,141.34
13	P-208-5.2	Shoulder Crushed Aggregate Base Course	45	C.Y.	$19.38			45	$872.10	$872.10
14	P-401-8.1a	Bituminous Surface Course	1,346	Ton	$65.50			1,346	$88,163.00	$88,163.00
15	D-701-5.1	Install 4-Inch PVC Underdrain Outlet Pipe	93	L.F.	$9.00	57		150	$837.00	$1,350.00
16	D-701-5.2	Install 12-Inch C-900 PVC Storm Drain Pipe	306	L.F.	$25.00	82		388	$7,650.00	$9,700.00
17	D-702-5.1	Install Slotted Drain	223	L.F.	$211.00			223	$47,053.00	$47,053.00
18	D-705-5.1	Install Pavement Edge Underdrain	516	L.F.	$9.00			516	$4,644.00	$4,644.00
19	D-751-5.1	Install Storm Drain Inlet	3	EA.	$3,000.00	1		4	$9,000.00	$12,000.00
20	D-751-5.2	Install Storm Drain Manhole	1	EA.	$2,485.00			1	$2,485.00	$2,485.00
21	D-751-5.3	Modify Existing Storm Drain Manhole	1	EA.	$590.00	-1		0	$590.00	$0.00
22	P-620-5.1	Yellow Temporary Paint without Glass Beads	666	S.F.	$0.68			666	$452.88	$452.88
23	P-620-5.2	Yellow Paint with Glass Beads	666	S.F.	$0.49			666	$326.34	$326.34
24	N/A	Force Account Allowance	1	L.S.	$10,000			1	$10,000.00	$10,000.00
		BID SCHEDULE "D" TOTAL							**$277,718.66**	**$283,770.66**

OPERATION & SAFETY PLAN - PHASE 4



GENERAL NOTES

1. THE RUNWAY WILL BE CLOSED TO AIRCRAFT OPERATIONS DURING PHASE 1. A PORTION OF THE PARALLEL TAXIWAY WILL BE USED AS A RUNWAY DURING PHASE 1. FOLLOWING THE OPENING OF PARALLEL TAXIWAY AS RUNWAY, THE CONTRACTOR SHALL NOT BE ALLOWED TO ENTER THE TEMPORARY RUNWAY SAFETY AREA DURING PHASE 1. THE RUNWAY WILL BE OPEN TO AIRCRAFT OPERATIONS DURING PHASES 2 & 3. AND THE CONTRACTOR WILL NOT BE ALLOWED TO ENTER THE RUNWAY SAFETY AREA. THE CONTRACTOR SHALL MAINTAIN CONTINUOUS COORDINATION WITH THE AIRPORT MANAGER/SAFETY OFFICER AND ENGINEER TO AVOID DISTURBANCE TO AIRCRAFT OPERATIONS OR TO THE AIRCRAFT OPERATIONS AREAS.
2. VEHICLE MARKING, TEMPORARY MARKINGS, FLAGGERS, AND OTHER SAFETY REQUIREMENTS SHALL BE IN CONFORMANCE WITH THE REQUIREMENTS OF GENERAL PROVISIONS, SPECIFICATION P-103, AND AC 150/5370-2E OF THE CONTRACT SPECIFICTIONS, AND PLAN SHEETS 3, 4, & 5 AND SHALL BE PAID FOR UNDER SPECIFICATION P-103.
3. THE OWNER'S PROJECT SAFETY OFFICER IS AIRPORT MANAGER ALAN DANIELS (541) 212-1676. NOTAMS WILL BE FILED BY THE SAFETY OFFICER AS REQUIRED DURING CONSTRUCTION.
4. THE CONTRACTOR SHALL SUBMIT A CONSTRUCTION SCHEDULE WHICH CORRESPONDS WITH THE PHASES SHOWN ON THIS SHEET. THE SCHEDULE SHALL BE PROVIDED 10 DAYS PRIOR TO THE PRE-CONSTRUCTION CONFERENCE.
5. CONTRACTOR SHALL NOTIFY ENGINEER AND SAFETY OFFICER A MINIMUM OF TWO WEEKS PRIOR TO EACH PHASE OF CONSTRUCTION OR ACTIVITIES WHICH MAY ADVERSELY IMPACT AIRCRAFT OPERATIONS. CONFIRMATION OF INTENT TO START A PHASE OF CONSTRUCTION IS REQUIRED 48 HOURS PRIOR TO COMMENCEMENT OF CONSTRUCTION.
6. THE EXISTING UNDERGROUND UTILITIES ARE SHOWN IN APPROXIMATE LOCATIONS ONLY. CONTRACTOR SHALL VERIFY EXACT LOCATION OF ALL UNDERGROUND UTILITIES PRIOR TO COMMENCING WORK IN ANY AREA.
7. MAINTENANCE AND SECURING OF ACCESS GATES SHALL BE REQUIRED AT ALL TIMES AND PAYMENT FOR THIS WORK IS INCIDENTAL TO OTHER ITEMS. UNLESS OTHERWISE NOTED, ALL FENCES SHALL BE PROTECTED AND MAINTAINED AT ALL TIMES SO THAT AIRPORT SECURITY IS NOT COMPROMISED.
8. THE CONTRACTOR SHALL LIMIT HIS OPERATIONS TO THE CONSTRUCTION AREAS IDENTIFIED ON THIS PLAN. ALL OTHER AREAS OF THE AIRPORT ARE RESTRICTED. THE CONTRACTOR SHALL RECEIVE PERMISSION FROM THE AIRPORT MANAGER/ SAFETY OFFICER PRIOR TO WORKING OR MOVING EQUIPMENT TO OTHER AREAS OF THE AIRPORT.
9. CLOSURE BARRICADES SHALL BE PLACED ON AREAS IN THE LOCATIONS SHOWN. BARRICADES SHALL BE A MAXIMUM OF 18 INCHES HIGH AND SPACED NO MORE THAN 25 FEET APART.
10. THE CONTRACTOR SHALL INCUR ANY AND ALL COSTS AND OBTAIN ANY REQUIRED PERMITS ASSOCIATED WITH CONSTRUCTING AND MAINTAINING THE CONTRACTOR ACCESS ROAD AND CONTRACTOR STAGING AREA.
11. FLAGGER IS REQUIRED AT AREAS IN THE LOCATIONS SHOWN WHILE EQUIPMENT IS BEING OPERATED ON AIRFIELD PAVEMENT.

CONSTRUCTION PHASE 4 (21 CALENDAR DAYS)

1. PLACE CLOSURE BARRICADES
2. STORMDRAIN DEMOLITION
3. PAVEMENT DEMOLITION
4. EXCAVATION
5. INSTALL NEW STORMDRAIN & PAVEMENT UNDERDRAIN
6. PLACE SUBBASE & BASE
7. ASPHALT PAVEMENT
8. TEMPORARY PAVEMENT MARKING
9. REMOVE CLOSURE BARRICADES
10. AFTER 30 DAYS- PLACE CLOSURE BARRICADES
11. FINAL PAVEMENT MARKING
12. REMOVE CLOSURE BARRICADES

LEGEND

- PHASE 4 WORK AREA
- CONTRACTOR STAGING AREA
- CONTRACTOR ACCESS ROUTE
- CLOSURE BARRICADE (SEE DETAIL, SHEET 3)
- FLAGGER LOCTION (SEE NOTE 11 THIS SHEET)
- RSA — RUNWAY SAFETY AREA
- EXISTING PERIMETER FENCE
- P/L — EXISTING AIRPORT PROPERTY LINE

NO.	REVISION	BY	DATE	APPR.
1.	REVISED TO INCLUDE CHANGE ORDER #2	TJE	1-12-11	TWL

Kimley-Horn and Associates, Inc.

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3023 E. Copper Point Dr., Suite 201
Meridian, Idaho 83642 (208) 350-7260
Engineering, Planning, and Environmental Consultants

SCALE (H):1"=200'
SCALE (V):N/A
DESIGNED BY: TJE
DRAWN BY: TJE
CHECKED BY: TWL
DATE:MAY 2011

ONTARIO MUNICIPAL AIRPORT
ONTARIO, OREGON
OPERATION & SAFETY PLAN
PHASE 4

REGISTERED PROFESSIONAL ENGINEER 71182 OREGON — RENEWAL DATE: 12/31/2012

PROJECT NO.
191548000

DRAWING NAME
5A-SAFETY.DWG

5A OF 62

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be at reuser's sole risk and without liability to Kimley-Horn and Associates, Inc.

Kimley-Horn and Associates, Inc.

ONTARIO AIRPORT PROJECT FUNDING SUMMARY

As of July 21, 2011, Compiled by: Toby J. Epler P.E., Project Engineer, Kimley-Horn

PROJECT COSTS

*Anticipated Construction Costs = (Includes C.O. #1 & C.O. #2) (Includes Field Variance)	Schedule A =	$1,467,014.36
	Schedule B =	$995,026.56
	Schedule C =	$983,525.61
	Schedule D =	$283,770.66
Construction Total =		$3,729,337.19
Administration =		$7,500.00
Engineering Design =		$223,752.00
Engineering Bidding & Inspection =		$401,320.00
Project Estimated Total =		**$4,361,909.19**

FUNDING

Connect Oregon Grant =	$3,566,376.00
FAA Grant (008,009, 010) =	$847,014.00
Project Funding Total =	**$4,413,390.00**
Project Funding Excess =	**$51,480.81**

*Costs are estimates as of July 21, 2011. Final costs may vary depending on remaining actual construction conditions.

AGENDA REPORT

August 1, 2011

TO: Mayor and City Council

FROM: Henry Lawrence, City Manager

SUBJECT: CONTRACT ADDENDUM WITH KIMLEY-HORN FOR ADDITIONAL ENGINEERING SERVICES FOR THE AIRPORT IMPROVEMENT PROJECT

DATE: July 27, 2011

SUMMARY:

Attached is the following document:

- Amendment #2 to the Agreement between the City of Ontario and Kimley-Horn and Associates, Inc., based on time and material charges, not-to-exceed $62,200.
- Ontario Airport Project Funding Summary (see engineering fee summary)

This contract is an addendum to our existing contract with Kimley-Horn to authorize payment for additional services related to Change Order # 1 and #2 to the Valley Paving and Asphalt, Inc. agreement for work at the Ontario Airport. See the attached Exhibit "A" to the proposed Kimley-Horn Amendment #2 for a detailed itemization of extra engineering and construction inspection services.

FINANCIAL IMPLICATIONS:

This contract addendum is proposed to be paid out of the Connect Oregon Project budget.

RECOMMENDATION:

Staff recommends the Council authorize the City Manager to enter into the contract addendum #2 with Kimley-Horn.

PROPOSED MOTION:

I move that the City Council authorize the City Manager to enter into contract addendum #2 with Kimley-Horn for a not-to-exceed amount of $62,200, based on time and material charges, for additional engineering work for the Ontario Airport Improvement Project as funded by the Connect Oregon Grant.

AMENDMENT NUMBER TWO TO THE AGREEMENT BETWEEN THE CITY OF ONTARIO, OREGON AND KIMLEY-HORN AND ASSOCIATES, INC.

AMENDMENT NUMBER TWO DATED _____, 2011 to the agreement between City of Ontario, Oregon, ("Client") and Kimley-Horn and Associates, Inc., ("Consultant") dated February 1, 2010 ("the Agreement") concerning Rehabilitate Runway 14-32, Rehabilitate Parallel Taxiway, Install New Runway Edge Lighting & Shouldering, Rehabilitate and Expand Existing Apron - AIP 3-41-0044-008 (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

Therefore, it is mutually agreed that the Agreement is amended to include Additional Services to be performed by Consultant and provisions for additional compensation by the Client to the Consultant, all as set forth in Exhibit A hereto. The parties ratify the terms and conditions of the Agreement not inconsistent with this Amendment, all of which are incorporated by reference.

CLIENT:	CONSULTANT:
_____	KIMLEY-HORN AND ASSOCIATES, INC.
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

The City of Ontario requested that Kimley-Horn pursue the incorporation of additional construction work following the March 10, 2011 Project Bid Opening. Competitive bids received by the City of Ontario were significantly lower than those estimated. In an attempt to utilize all of the Connect Oregon funds the Owner decided to incorporate additional work tasks into the existing Construction Contract. The intent of this Amendment is to document and request payment for additional services needed to perform this work including supplemental design services, surveying, acceptance testing, negotiation with the prime contractor and construction administration services.

DESCRIPTION OF ADDITIONAL WORK

Proposed added construction items include the following generally described physical improvements to Airport Facilities:

1. **Increase the nominal thickness of asphalt on Runway 14-32 from two to three inches.**

2. **Expand the amount of existing runway and parallel taxiway large crack patching from 7,600 linear feet to 25,000 linear feet.**

3. **Expand the apron reconstruction 6,200 square yards.**

In the performance of completing the additional work the Consultant shall perform the following Additional Services:

PHASE 8 - ADDITIONAL SERVICES:

The following services will be provided by Consultant as "Additional Services" to basic services required under Phases 1 through 4:

- Provide additional design for Work Item 3. Includes drainage and paving design and the drafting of the added area on the existing plan sheets. Four new plan sheets were added and fourteen plan sheets were revised. *(Estimated Cost-$16,680)*

- Provide or obtain additional field surveys, consisting of detailed topographic and cross section information of improvement areas for design purposes:

  The 33,121 square yard terminal apron area south and east of the existing Bureau of Land Management facility including all ground features shall be surveyed at a minimum of 50-foot by 50-foot grid. All topographical features within this area shall be surveyed including but not limited to: grade brakes, pavement markings, tie-downs, building corners, fence, drainage structures (invert elevations, pipes sizes, & rim elevations), utility markers, edge of pavements, and electrical

components. At a minimum the area shall be surveyed on a 50-foot by 50-foot grid. *(Estimated Cost- $1,750)*

- Monitor and coordinate for additional testing required for Contractor Quality Control Testing Program pursuant to current FAA specifications for Quality Control and Quality Assurance for the added 6,200 square yard terminal airport area and added asphalt testing for the runway overlay.

  Note: It is anticipated that Consultant will monitor and test for Quality Assurance compaction testing on bituminous concrete placement only. It is anticipated that the Contractor shall be responsible for all source approval testing, aggregate materials production, bituminous mix design and Quality Control Testing of bituminous concrete production and placement and Quality Assurance Testing for subgrade, subbase and base course. The Consultant will provide supplemental Quality Control testing only during aggregate production operations. The Consultant shall review and accept the mix design(s) submitted by the Contractor and coordinate with and review test results performed by Contractor as required. *(Estimated Cost- $7,500)*

- Negotiating with Prime Contractor on scope of work expansion, including establishment of unit costs, and required days for additional construction to establish Change Order documentation for additional work. Meet with Owner for approval of Scope of Work desired and negotiated unit costs. *(Estimated Cost- $960)*

- Complete two Change Orders and associated documentation and distribute Change Orders to the various agencies for approval. One Change Order is associated with Work Items 1 and 2 and another Change Order will be issued for Work Item 3. *(Estimated Cost- $1,500)*

- Calculate available funds based on bid amounts and negotiated costs versus those available from FAA and Connect Oregon. Recalculate as necessary as costs are negotiated with Contractor prior to following negotiations. Meet with Owner to discuss funding and unit costs as negotiations take place for their Owners ideas, review and approval. *(Estimated Cost- $960)*

- Provide project representatives to monitor and document additional construction activities as appropriate. Duties for the resident personnel will include conformance with schedules, plans and specifications; review and document construction quantities; document significant conversations, situations, events or changed conditions; document input or visits from local authorities and officials; prepare and submit routine inspection reports; maintain a project diary, and attend weekly safety meetings. It is anticipated that the Consultant will provide a Resident Engineer for an additional 10 working days for Work Items 1 and 2 and an additional 15 working days for Work Item 3. Per diem and overnight or transportation costs are included in this item. *(Estimated Cost- $32,250)*

- Provide revised plan sheets to the Contractor. Due to the significance of the alterations to the project construction complete plan sets will need to be reissued

to the prime Contractor. It is assumed eight sets each with 62 plan sheets will be issued. *(Estimated Cost- $600)*

The services currently authorized to be performed by Consultant in accordance with the Agreement and previous amendments, if any, shall be modified as followed:

Not Applicable

Consultant and Client agree to the following general schedule in connection with the Additional Services set forth above:

Completed negotiations and associated plan sheets will be available to Contractors prior to the initiation of construction on May 16, 2011. Negotiations with Contractor for Work Item 3 is expected to continue until the start of the construction of Schedules C and D anticipated to be August/September of 2011.

Services Not Included

Any other services, including but not limited to the following, are not included in this Agreement but will included prior to establishment of the Standard Contract for this project that will be forthcoming. These tasks include:

Not Applicable

Fee and Billing

Kimley-Horn will perform a portion of the Additional Services-Phase 8 as stated in the method of Compensation Section of Exhibit A for an additional Prevailing Rates Basis Fee of $62,200.00. The Client shall pay the Consultant an amount based upon the Consultant's then current hourly rates plus an amount to cover certain direct expenses including in-house duplicating, local mileage, telephone calls, facsimiles, word processing, and postage. Other direct expenses will be billed at 1.15 times cost. Technical use of computers for design, analysis, GIS, and graphics, etc., will be billed at $5.00 per hour. Fees will be invoiced monthly based on the actual amount of service performed and expenses incurred.

Kimley-Horn and Associates, Inc.

ONTARIO AIRPORT PROJECT FUNDING SUMMARY

As of July 21, 2011, Compiled by: Toby J. Epler P.E., Project Engineer, Kimley-Horn

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