

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

**AGENDA  
CITY COUNCIL - CITY OF ONTARIO, OREGON  
MONDAY, AUGUST 1, 2016, 7:00 P.M., M.T.**

- 1) **CALL TO ORDER**  
Roll Call: Norm Crume \_\_\_\_\_ Tessa Winebarger \_\_\_\_\_ Charlotte Fugate \_\_\_\_\_ Marty Justus \_\_\_\_\_  
Larry Tuttle \_\_\_\_\_ Betty Carter \_\_\_\_\_ Mayor Ron Verini \_\_\_\_\_

2) **PLEDGE OF ALLEGIANCE**

This Agenda was posted on Wednesday, August 10, 2016. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at [www.ontariooregon.org](http://www.ontariooregon.org).

3) **MOTION TO ADOPT THE AGENDA**

- 4) **PUBLIC COMMENTS:** Citizens may address the Council; however, Council may not be able to provide an immediate answer or response. 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.

5) **CONSENT AGENDA: MOTION ACTION APPROVING CONSENT AGENDA ITEMS**

- A) Minutes of Regular Meeting of 08/01/2016 ..... 1-6  
B) Approval of the Bills

6) **DEPARTMENT HEAD UPDATE:**

- A) Community Development Department: Dan Cummings, Director *(w/handout)*

7) **PRESENTATIONS:**

- A) Snake River Transit Budget - Loni Debban, Executive Director, Malheur Council on Aging ..... 7-9  
B) Utility Rate Study - Dennis Jackson *(w/handout)*  
C) Financial History of Expenses - Kari Ott, CPA, Oster Professional Group *(w/handout)*

8) **NEW BUSINESS**

- A) Bid Award: Beck-Kiwanis Park Underground Irrigation System Installation ..... 10-14  
B) Proposed Amendment #3 to CH2M Contract ..... 15-17  
C) Request by Malheur County to Share Pavement Overlay Costs on SE 5<sup>th</sup> Avenue *(w/map)* ..... 18-19  
D) Resolution #2016-127: Limited English Proficiency Plan; and Resolution #2016-128: Community Development Block Grant Section 3 Plan ..... 20-40  
E) Ordinance #2717-2016: Cable One Franchise Agreement (1<sup>st</sup> Reading) ..... 41-51

9) **HAND-OUTS/DISCUSSION ITEMS**

- A) Bank Owned Foreclosures & Property Maintenance - *Marty Justus*  
B) Department Stats: Fire Department [July]; Police Department [June]  
C) Minutes: County Court [07-27-2016]  
D) Checks by Date: July, 2016 - Aug 9, 2016

10) **CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS**

11) **EXECUTIVE SESSION: ORS 192.660(2)(e)**

12) **ADJOURN**



**ONTARIO CITY COUNCIL MEETING MINUTES**  
**August 1, 2016**

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Monday, August 1, 2016, in the Council Chambers of City Hall. Council members present were Ronald Verini, Norm Crume, Tessa Winebarger, Betty Carter, Marty Justus, Larry Tuttle, and Charlotte Fugate.

Members of staff present were Adam Brown, Tori Barnett, Cal Kunz, Kari Ott, Larry Sullivan, Can Cummings, and Cliff Leeper.

The meeting was recorded and copies are available at City Hall.

Marty Justus led everyone in the Pledge of Allegiance.

**AGENDA**

Following the work session of July 29<sup>th</sup>, the Agenda was modified:

- 5) Consent Agenda:
  - 5(A) Misnamed individuals corrected in Minutes of 07/18/2016
  - 5(D) Pulled up Item 8A from New Business;
  - 5(D) became 5(E) Approval of the Bills
- 6) Presentation:
  - Snake River Transit Update - Removed/Completed at w/s
- 7) Department Head Updates:
  - (A), (B), (C), (D) - Removed/Completed at w/s
- 8) New Business:
  - (B) became (A)
- 9) Hand Outs/Discussion Items:
  - (A), (B), (C) - Removed/Completed at w/s
- 11) Executive Session:
  - Removed/Completed at w/s

Agenda order renumbered to reflect changes.

Norm Crume moved, seconded by Tessa Winebarger, to adopt the Agenda as amended. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

**CONSENT AGENDA**

Norm Crume moved, seconded by Betty Carter, to adopt Consent Agenda items A) Minutes of Regular Meeting of July 18, 2016; B) Work Session Action Excerpt of July 14, 2016 (re: ICM Evaluation); C) Approval of Bad Debt Write Offs; D) Resolution #2016-125: Update to City's Fair Housing Act [CDBG] and Resolution #2016-126: Designating City Manager as Certifying Officer for Ontario as Required for the CDBG Process; and E) Approval of the Bills. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

**NEW BUSINESS****City Manager Evaluation Criteria**

Mayor Verini stated everyone should have looked over the hand-out provided by the City Manager at the work session last Thursday. He, himself, had some questions about the grant writing. He believed it should be a priority of each department, the City Manager should encourage staff, and also search for grants for the city overall. Under the heading, maybe include training for *both* the City Manager and staff. He didn't think they should depend on past or current practices. They needed to actively look for grants. Some departments that were strong with that could teach others.

Councilor Crume stated on his suggestion for the December evaluation, he was thinking of it more along the lines of the City Manager setting up a grant writing program with the City Manager at the helm. Did that correlate with the Mayor's comments, or fit with his thoughts?

Adam Brown, City Manager, stated he was a little confused on what a grant writing program was, with the City Manager leading it. He had spoken with Cliff [Leeper] who let him know that CH2M had professional grant writers that the city could use. He had written grants before, and that fit in with the budget strategy, but they couldn't live off grants.

Mayor Verini stated maybe not the word "program". He was just trying to emphasize encouraging the Department Heads and the City Manager to look for grants specific for each department, and for the City Manager to look for grants suitable for the overall city. Maybe they could give a certificate to someone who found a grant that would benefit the city.

Mr. Brown stated there were several subscriptions to get grants that came directly to staff, that were geared towards governmental funds and foundations. That helped in the search. He was also notified through professional organizations.

Councilor Fugate stated that police and fire received a lot of notifications, as did Revitalize Ontario! She also forwarded grant information on to Four Rivers Cultural Center. Was the Mayor asking the City Manager to do research, or write the grants?

Mayor Verini stated yes, to both. Treasure Valley Community College, for example, did grant writing, and offered a program there. He just wanted the City Manager to be aware, and watch for grant opportunities.

Councilor Justus stated they needed to use grants more. Maybe put something in the evaluation that he, or the Departments, should write six grants per year, or more. If they wanted it in there, then say so. But, they needed to say what the program would look like, such as six grants a year for Recreation, or Fire, or Police, etc.

Mayor Verini stated they didn't know what was available to them, or what Mr. Brown's capabilities were, or even grant opportunities for the other departments. He wanted the City Manager to be more aware, to work with Department Heads, to encourage them to go for those grants. He didn't think they should stipulate a specific number.

Councilor Justus stated for the City Manager's evaluation, they needed to be able to grade it. One grant, five grants, what? The City Manager should put a policy in place, that said the city would write grants, and the Council wanted it there, too. The City Manager should be able to give a report on grants, like five applications went out, three had come back in, on the waiting list for two others. They needed to be specific, and to set parameters.

Councilor Carter stated at the City Manager level, that was not a responsibility for him. If they were going to ask him to seek out grants, well, it was very time consuming and required a lot of research. Also, the person responsible for maintenance should not be something the City Manager should be handling. They needed to speak with Mr. Leeper about their grant writer, and how they could possibly assist the city on grants.

Mayor Verini agreed, and that's why he disagreed with giving a specific number. He reiterated that it was merely to ensure that Department Heads were aware, that he was working with CH2 in arriving at a good solution for grant writing, and that a good program was being established and used. It would be nice to have someone at the helm encouraging the departments to continue the search for grants, and to encourage other departments to seek them out. Also, that the City Manager continued to look into what was available. He certainly didn't want to discourage him from seeking or writing grants. He didn't want to get specific.

Councilor Carter stated if that was the case, that section needed to be rewritten.

Mayor Verini stated it didn't even have to be in there for the December evaluation. This list was based on comments from the whole group, in anticipation for what Mr. Brown was bringing to the table. He believed it was valuable to seek grants, and to encourage departments to do the same.

Councilor Carter stated they needed to encourage him to have Department Heads look into grant writing classes that were offered at TVCC. There were certain people who enjoyed writing grants.

Councilor Fugate stated that Tori had sent someone [Corinna Hysell] to one.

Mr. Brown stated on #9, it read in part to take advantage of grant opportunities during the budget process, and to promote grant funding. Many of the grants had administrative fees to help cover the cost of writing the grant, and were also available for professional grant writers. He did see the value of grants.

Mayor Verini stated that was his only question that needed clarification for the December review.

Councilor Fugate asked about the section on building public relations.

Mr. Brown stated he didn't know the intent there, but if it fit into this template under professional, setting an example by handling issues, he'd be willing to be accountable for that.

Councilor Fugate questioned the merit versus cost of living CPI. Hadn't they approved a 1% CPI in the current budget?

Kari Ott, Finance, stated yes, it had been in the approved budget.

Councilor Fugate stated last year, they ended up with the majority of staff receiving a 5% merit pay, and the 2.5% COLA, so they received a 7.5% raise for the year. This year was only 1%, but was the merit pay going to be 5% again, or was he more selective.

Mr. Brown stated that was a Council decision. He only presented options. It had to fit into a larger compensation plan, which was covered in Section 7.4, in terms of where they were, what needed to be done to keep people, was the city in the ballpark, etc. He didn't want to prejudge. There would be no more contracts. Some had it better than others, like unions vs. non-represented employees.

Councilor Fugate stated Department Heads didn't have contracts.

Mr. Brown stated the compensation related to the evaluation, as it was written in the policy. It didn't have to be a 5% perfect score. It could be different. That was a policy decision. What he could tell them was that he would conduct and promote honest evaluations, not perfunctory exercises.

Larry Sullivan, City Attorney, stated there was a resolution on the books that prohibited Departments Heads from having a contract. If they wanted to offer that, they'd need to rescind the resolution.

Councilor Justus stated on this raises vs. COLA issue - just because COLA was there, didn't mean it has to be used, right? It was money in the budget, if needed.

Mr. Brown stated the 1% was the COLA adjustment for non-represented employees, as an adjustment to their base compensation. The Council approved that via resolution. But, that didn't mean they had to do that next year.

Councilor Justus stated he was not averse to giving employee raises. But, it was his understanding that no one received a raise, but they got a bonus; a one-time 5% bonus check.

Councilor Carter stated no, that was the merit increase. For example, in her employment, they had COLA, which was normal, but a person could also receive a meritorious raise. If a person went above, and exceeded expectations or requirements, then yes, employees received a raise in pay. That's why it could get confusing – COLA, CPI, raises, merit pay, etc.

Councilor Justus stated that no one got a raise, everyone got the merit bonus.

Ms. Ott stated everyone received the 2.5% COLA – the bonus was the merit.

Councilor Justus stated he had issues was that, and it was done only in government. He didn't reserve a COLA. His point was that he was fine with giving raises for doing exemplary work. What he didn't want to see was the 5% bonus. He wanted that gone. He'd prefer that be taken out. Everyone got a yearly evaluation, and the COLA should be a separate item, based on the economy. This CPI was based on Portland, not Malheur County. Why? The cost of living here was not even close to Portland's amount.

Mr. Sullivan stated this subject was not really relevant to the City Manager evaluation criteria; it had become a debate.

Councilor Justus stated then they needed to address it as a policy decision. That was all part of rewriting the Employee Manual.

Mr. Sullivan stated the merit increase issue was a question of if that should be in the Personnel Policy Manual, and that was a Council decision. That Manual, which every employee was supposed to receive, became part of their "contract" with the city. It wouldn't be the City Manager's decision to determine if someone got that or not. The Council would have to remove that section of the Policy Manual.

Councilor Crume stated they needed to match the economy, but it also needed to coincide with the employee Manual.

Councilor Carter asked what the Manual stated for the CPI in this area.

Councilor Crume stated they had always used the Portland CPI because there wasn't a CPI for this area.

Mr. Sullivan stated that was true; they'd always used Portland, but he didn't know the reason behind it.

Councilor Tuttle stated there were two options – Portland or national.

Mr. Sullivan stated the term used in the Manual for merit pay referred to it as a "merit increase". It was ambiguous, at best.

Councilor Crume stated the word "raise" meant *on top of the wage*, and therein laid the problem. It was actually a one-time bonus.

Mr. Brown agreed, and it was a bit confusing.

Councilor Crume stated he liked everything that Mr. Brown had written up.

Councilor Fugate stated on the section for developing a plan for the budget – if they did that in December, they they'd only have six months before they needed that \$2M. Was he going to start now?

Mr. Brown stated they had already started the process. The Council had already seen the historical forecast and the next meeting would be the expense side, followed by a projection of revenues and opportunities, and the water/sewer rate study. He wanted to get that accomplished by December. He and Kari would be working together on that. By December, he'd have a methodical and thorough budget process.

Councilor Fugate stated they had that ICMA study, which the city had paid over \$50K for. Please review that.

Councilor Carter stated she'd like to see the Police and Fire budgets separated out.

Mr. Brown stated those were already separated out, and in their own sections.

Councilor Fugate asked about Mr. Brown's open door policy for the community, and suggested once a month from around 3-6pm. Would that be of any benefit?

Mr. Brown stated that was a possible solution. He wouldn't object to that. Coffee with the City Manager type of thing, even though he didn't drink coffee. His current policy was that whoever wanted to meet with him, could. People were currently meeting in his office, but staff was in the process of clearing out a space to create a small conference room.

Councilor Crume stated there might be a hot topic a citizen wanted to speak with him about, but waiting three weeks to meet up could prove more upsetting. He believed it was best to meet when needed, and to just get it done.

Mr. Brown stated he had a lot of walk-ins, but most called. He enjoyed meeting with most people.

Councilor Tuttle stated the honeymoon was about to be over. Rather than an open discussion, he suggested setting an appointment as needed. That would provide time to prepare. As time continued, he needed to control the environment, and it needed to be handled in a formal fashion.

Councilor Fugate stated there were a lot of problems surrounding the Public Safety Fund. There was money sitting in the budget for Public Safety, but none of the departments budgeted to use it. Department Heads were always asking the Council for money, and it should have been in the budget to begin with. She was concerned it would turn into a slush fund for everyone who wanted money, when it wasn't a part of their budget. The need was probably there, but the departments should be thinking with more detail.

Mr. Brown stated his intention was to present a five-year capital budget, with all departments. There would be things that came out of nowhere, but most should be in the budget. Planning was key to a budget. Resilient communities would have a plan. Having no plan was a weakness. He was already in talks about beginning that process.

Councilor Fugate stated with regard to citizen relations – how would the Council know what the relationship was with the citizens? They couldn't score it before, so how could they evaluate that?

Councilor Winebarger stated they could see how he engaged at community events, if he even attended any, how was walk in traffic, that type of thing. They could certainly ask around and get feedback.

Mayor Verini stated citizen relationships could also be when he attended the Chamber of Commerce meeting, or other group meetings.

Councilor Carter stated with regard to the set-up of budget – the timing of reports. Had that been done before, that informal meeting? What were the budget guidelines? Where there any even in place?

Mr. Brown stated Oregon state law set the budget guidelines, and the Budget Committee was established by law.

Ms. Ott stated the Oregon Department of Revenue outlined the budget process.

Councilor Carter asked if the Budget Committee had a copy of that outline.

Ms. Ott stated she didn't know, but would make sure they received one.

Norm Crume moved, seconded by Charlotte Fugate, to adopt the information within the packet the City Manager provided and the Council amended for the City Manager evaluation for December and the complete year. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

Councilor Winebarger stated she had walked around downtown and it looked very nice. She thanked Charlotte and Marty for all their work. She believed things were constantly getting better.

Councilor Justus asked about the email Tori sent out about the downtown revitalization.

Councilor Fugate stated she had sent it out, too, asking for review. They were setting up the process for grants for the upcoming year, and asked that the local directors give input.

Councilor Carter gave kudos to Mr. Brown for the weekly updates he was providing to the Council. They were great, and very informative.

Mr. Brown reminded everyone that the Malheur County Fair would kick off tomorrow, and that they'd be holding the Chamber Board meeting at the fairgrounds.

Reminder: SREDA meeting on Wednesday, 10:00 a.m., and there would be donuts!

ADJOURN

Charlotte Fugate moved, seconded by Marty Justus, that the meeting be adjourned. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-Yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

APPROVED:

ATTEST:

\_\_\_\_\_  
Ronald Verini, Mayor

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

**AGENDA REPORT - PRESENTATION**

August 15, 2016



TO: Mayor and City Council

FROM: Tori Barnett, MMC, City Recorder

THROUGH: Adam Brown, City Manager

SUBJECT: **PRESENTATION - SNAKE RIVER TRANSIT 2016-17 BUDGET: LONI DEBBAN**

DATE: August 8, 2016

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**SUMMARY:**

Attached is the following document:

- FY2016-17 Snake River Transit Budget

**PREVIOUS COUNCIL ACTION:**

07/28/2016 Loni Debban, Executive Director, Malheur Council on Aging and Community Services, presented an oral review of the status of the Snake River Transit system, including stop locations, bench placement, routes, and fares. Councilor Tuttle stated he would like to see budgetary numbers for SRT.

**CURRENT SITUATION:**

Ms. Debban contacted the City Recorder and requested to appear before the Council to review the 2016-2017 budget for Snake River Transit. Ms. Debban provided a copy of the budget for inclusion in the packet.

SRT-Malheur Express, City of Ontario 2016-2017 Budget

Ridership Data		
City of Ontario Route One-Way Rides		45,573
Revenue Service Miles:		35,638
2015-2016 Fares:		\$ 7,452
<b>Revenues</b>	<b>City of Ontario Fixed Route</b>	
<b>Federal Grants</b>		
5311-Rural General Public/Small City Form.Ops Grant \$235,530 Adm.Facility Occupancy (\$29,457) & PM \$19,500 15/17-5311 Operations, Admin,PM \$375,002 -		\$ 161,746
<b>State Grants</b>		
STF Formula Operation		\$ 11,735
<b>Fares:</b>		
Passenger Fares (SRT-City of Ontario Routed Service)		\$ 7,500
		Not eligible for Match
<b>Other Income</b>		
SRT-Malheur Express Contract Income (Obligated For Match)		\$ 13,563
Service Contract Income: BLM		\$ 1,801
Malheur County - Match		\$ 12,940
City of Vale		Match
City of Nyssa		Match
City of Ontario - Match		\$ 15,000
SRT Bus Advertising Program Income (MFCU)		\$ 15,000
MCOA&CS Vehicle Advertising		Match
Bus Bench Advertising		\$ 1,000
		Match
<b>Grand Total Revenue:</b>		\$ 240,285
<b>Expenditures</b>		
Advertising Notices		\$ 2,139
Audit		\$ 2,223
Background Checks - Fingerprints		\$ 135
Bus Barn Maintenance (New Gate)		\$ 1,842
Communication System (Gem State)		\$ 1,951
Communication Systems (Mobilitat)		\$ 1,733
Directors & Officers Insurance (Bond,D&O,Umb.)		\$ 518
Drug test		\$ 855
Dues & Subscriptions (Argus, Kiwanis, 4 River's Healthy Community, Chambers)		\$ 218
Employee Health - Employee Morale Building Activities:		\$ 137
Employee Benefits - Life Insurance		\$ 95
Equipment Lease		\$ 823
Facilities Occupancy Lease		\$ 8,902
Fees & Licenses		\$ 980
Fuel		\$ 19,928
Fund Accounting Software(Annual Expense)		\$ 705
WC & Liability Insurance		\$ 2,841
Marketing/Outreach/Advertising/PublicRel/Uniforms		\$ 2,197
Meeting Expense		\$ 658
Mileage Reimbursement		\$ 131
Office Supplies, Postage, Shipping, Sales tax, Printing		\$ 1,752
Physicals		\$ 698
Postage		\$ 167
Payroll (Hourly, & Salaried)		\$ 92,211
Ex.Director		\$ 26,911
Payroll Taxes		\$ 9,434
Professional Accounting - Bookkeeping Contract		\$ 6,384
Pro IT Services & Computer		\$ 1,492
Professional Legal Fees		\$ 431

Program Supplies & (Vehicle Safety)	\$	1,351	
Bus Bench Maintenance Waste Containers for SRT City of Ontario			
Route	\$	1,615	
Telephone & Internet	\$	2,426	
Travel, Training and Tech	\$	3,798	
Abila Administrative Training	\$	2,588	
Uniforms	\$	625	
Vehicle Insurance	\$	6,021	
Vehicle Maintenance (Repairs)	\$	12,206	
Vehicle Maintenance (Preventative)	\$	5,158	
Vehicle - Bus Purchase - Match	\$	10,352	
Volunteer & Liability Insurance	\$	5,526	
Volunteer Appreciation	\$	129	
<b>Total Operational Expenses</b>	<b>\$</b>	<b>240,285</b>	

## AGENDA REPORT

August 15, 2016



To: Mayor and City Council

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FROM: Cliff Leeper, Public Works Director  
Betsy Roberts, City Engineer  
Jay Hysell, Parks Manager

THROUGH: Adam Brown, City Manager

**SUBJECT: BID AWARD: BECK-KIWANIS PARK IRRIGATION SYSTEM INSTALLATION**

DATE: August 8, 2016

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### SUMMARY:

Attached are the following documents:

- Quote Tracking Form
- Bid from Benny's Landscaping
- Bid from Green Giant Lawn Care, Inc.

### CURRENT SITUATION:

Staff would like to award a contract to the low bidder for the installation of an underground irrigation system at Beck-Kiwanis Park, as the current system of above ground hand lines is labor intensive and carries a number of risks.

### PREVIOUS COUNCIL ACTION:

2016-17 Budget Council approved a budget of \$55,000 for Fiscal Year 2016-17 for installation of an underground irrigation system at Beck-Kiwanis Park.

### BACKGROUND:

The park is located on NW 8<sup>th</sup> Avenue, and is currently irrigated by above ground hand lines. The lines have been vandalized many times and could pose a safety issue if vandals were to remove the lines and cross them with nearby overhead power lines.

Staff contacted three local vendors, with two responses being received. A summary of the bids are as follows:

<b>Bidder</b>	<b>Bid Amount</b>
Benny's Landscaping	\$69,260.00
Green Giant Lawn Care, Inc.	\$49,035.37

**FINANCIAL IMPLICATIONS:**

The City Council approved a budget of \$55,000 for this fiscal year to for the installation of an underground irrigation system at Beck-Kiwanis Park. The lowest responsive bid came in at 49,035.37, allowing for a 10% contingency within the budgeted amount.

**RECOMMENDATION:**

Staff recommends awarding the irrigation instillation project to Green Giant Lawn Care, Inc.

**PROPOSED MOTION:**

I move that the City Council award the installation of the underground irrigation system for Beck-Kiwanis Park to Green Giant Lawn Care, Inc., the lowest responsive bidder, for the bid amount of \$49,035.37.



Purchase Bid or Quote Tracking Form

Item: Beck pack Item On State Bid List? Yes  No   
 City Representative: \_\_\_\_\_ Budgeted Amount: \_\_\_\_\_  
 Date: 7-12-2016 Line Item: \_\_\_\_\_

Vendor #1 Name: Turf Master

Contact Person: BOB Phone # 208-739-1988

First Attempt: Contact Date: 7-12-16 Contact Time: 10:30 AM Response? Yes  No

Second Attempt: Contact Date: 8-2-16 Contact Time: 9:30 AM Response? Yes  No

Bid Attached? Yes  No  Verbal Quote?  Written Quote?  Amount: X

Notes:

Vendor #2 Name: BENNY'S LANDSCAPING

Contact Person: BENNY Phone # 208-452-4068

First Attempt: Contact Date: 7-12-16 Contact Time: 10:35 AM Response? Yes  No

Second Attempt: Contact Date: 7-29-16 Contact Time: 11:30 AM Response? Yes  No

Bid Attached? Yes  No  Verbal Quote?  Written Quote?  Amount: \$69,260.00

Notes:

Vendor #3 Name: GREEN GIANT LAWN CARE

Contact Person: GARRY Phone # 208-230-0183

First Attempt: Contact Date: 7-12-16 Contact Time: 11:00 AM Response? Yes  No

Second Attempt: Contact Date: 7-19-16 Contact Time: 3:00 PM Response? Yes  No

Bid Attached? Yes  No  Verbal Quote?  Written Quote?  Amount: \$49,035.37

Notes:

Bid Track Form



Acorns To Oaks

6370 HIGHWAY 95  
FRUITLAND, ID 83619

Date	Estimate #
7/26/2016	89

Name / Address
City of Ontario, Beck Park

Description	Rate	Total
<p>Install automated sprinkler system to cover lawn area that is currently water by hand line in plans drawn up by PipeCo. This includes locked controller in box. It does not include double check and main valve as these exist already. We will tie in to existing riser using 14 gauge control wire, and the 8005 sprinkler heads as requested by the City of Ontario in large areas and in the small areas using the 5004 low angle heads along tennis court low areas. Project will not begin until funding is secured later in October. (It was not indicated that this project was under Davis Bacon Act so wages were not figured accordingly)</p> <p>All work will be completed in a workmanlike manner according to standard practices. Workmanship is guaranteed for one year from installation, excluding acts of vandalism, or acts of nature. Any alterations from above will be executed only upon written orders, and will be charged extra. Benny's Landscaping carries liability and workers compensation as required by law.</p>	69,260.00	69,260.00
<b>Total</b>		<b>\$69,260.00</b>

Benny Seiders is a licensed landscaper in the State of Oregon #11317.  
 Benny's Landscaping #9112, Oregon Landscape Contractors Board, 2111 Front St NE  
 Suite 2-101 Salem, OR 97301 (503) 378-5909. Idaho License # RCE-23409



## AGENDA REPORT

August 15, 2016



To: Mayor and City Council

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FROM: Larry Sullivan, City Attorney  
Cliff Leeper, Public Works Director

THROUGH: Adam Brown, City Manager

SUBJECT: **PROPOSED AMENDMENT #3 TO CH2M CONTRACT**

DATE: August 8, 2016

### SUMMARY:

Attached is the following document:

- CH2M Contract Amendment #3

### CURRENT SITUATION:

The City of Ontario's 2014 Contract with CH2M did not specify the procedure for the City and CH2M to follow if tort (property damage or personal injury) claims were made by third persons in which both parties might be liable.

### BACKGROUND:

On August 2, 2016, Adam Brown, Larry Sullivan and John Forsyth, the City's local insurance agent, participated in a teleconference with CH2M personnel discussing the processing of claims arising from injuries caused to third persons from defective sidewalks, curbs or gutters. Proposed CH2M Contract Amendment #3 creates a procedure for dealing with such claims, based upon City Code Section 8-3-6.

City Code Section 8-3-6(B) reads as follows:

#### Notice of Defective Sidewalks, Curbing and Gutters.

*If the owner of any lot or part thereof or parcel of land within the City shall suffer any sidewalk, curbing or gutter along the same to become out of repair such property owner shall be fully liable in damages to any person for an injury to person or property caused by a defect or dangerous place in such sidewalk, curbing or gutter. In no event shall the City be liable in damages to any person or such injury to person or property except as provided in*

*Section 42 of the City Charter. In the event the City has had actual notice prior to the injury that the defect or dangerous place existed then it shall by certified or registered mail advise the owner or occupant of said lot or premises and direct him to immediately repair the sidewalk, curbing or gutter in a good and substantial manner. The said City shall have the power to prescribe the material to be used in such repair. If the said owner or occupant shall fail to make such repairs then the Council shall have the power and authority to assess the property therefor, and for the cost of the same, collectible in the manner provided in subsection (A) hereof.*

The City Attorney is researching the language in City Code Section 8-3-6(B) to see whether it should be revised, and may recommend that the Council revise that Code Section at some point in the future. In the meantime, under CH2M Contract Amendment #3, if CH2M or City staff become aware of a defect or dangerous place in a sidewalk, curbing, or gutter, CH2M will be responsible for providing the written notice to property owners required by City Code Section 8-3-6(B). CH2M will also monitor the defect to determine whether it has been corrected.

**RECOMMENDATION:**

Staff recommends that City Council approve CH2M Contract Amendment #3.

**PROPOSED MOTION:**

I move that the Mayor and City Council approve CH2M Contract Amendment #3.

AMENDMENT NO. 3  
to the  
AGREEMENT FOR OPERATIONS  
MAINTENANCE, AND MANAGEMENT SERVICES  
for  
THE CITY OF ONTARIO, OREGON

This Amendment No. 3 (the "Amendment") to the Agreement for Operations, Maintenance and Management Services for the City of Ontario, Oregon dated June 4, 2014 (the "Agreement") is made and entered into this \_\_\_\_\_ date of \_\_\_\_\_, 2016 by and between the City of Ontario (hereinafter "City") and Operations Management International, Inc. (hereinafter "CH2M HILL").

NOW THEREFORE, City and CH2M HILL agree to amend the Agreement as follows:

1. Appendix B, Section 9 is amended to add the foregoing section:

B.9.7 Upon receiving notice either by City or by members of the public, CH2M HILL, on behalf of the City, will prepare and deliver notification letters to property owners for any sidewalk, curbing or gutter repairs required. The notification form letter utilized by CH2M HILL to notify property owners will be preapproved by City prior to use. CH2M HILL will also follow up the notification letters to determine whether the property owners have made the required repairs and report to the City if repairs have not been completed by the date set in the notice.

This Amendment together with any previous Amendments and the Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of this Amendment by their signatures below.

**Operations Management International, Inc.,**

**The City of Ontario, Oregon**

\_\_\_\_\_  
Name:  
Title:  
Date:

\_\_\_\_\_  
Name:  
Title:  
Date:



## AGENDA REPORT

August 15, 2016

TO: Mayor and City Council

FROM: Cliff Leeper, Public Works Director  
Betsy Roberts, City Engineer  
Casey Mordhorst, Field Superintendent

THROUGH: Adam Brown, City Manager

SUBJECT: **REQUEST BY MALHEUR COUNTY TO SHARE PAVEMENT OVERLAY COST ON SE 5<sup>TH</sup> AVENUE**

DATE: August 8, 2016

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### SUMMARY:

Attached is the following document:

- Map of area

County staff has approached Public Works staff about sharing the cost to construct a 2" pavement overlay on SE 5<sup>th</sup> Avenue from SE 5<sup>th</sup> Street to SE East Lane.

### CURRENT SITUATION:

SE 5<sup>th</sup> Avenue is partially in the County and partially in the City. The County recently patched potholes on this section of street and would now like to construct a 2" pavement overlay over the prepared surface. They have asked that the City participate in a 50-50 share. The County would administer the contract with the paving contractor and would provide the construction inspection services.

### FINANCIAL IMPLICATIONS:

The proposed split would result in an estimated cost of \$24,664 to the City. With a 10% contingency, staff would suggest allowing for a budget of \$27,000.

The funding has not been allocated for this work in the current FY 2016-17. However, by withholding the chip seal effort, the City has \$61,670 remaining in the Capital Improvement Projects portion of the Streets Fund. Of this budget amount, approximately \$22,000 is needed for crack seal (while chip seal was withheld, crack sealing is still being conducted). The sum of these two costs would leave the fund with approximately \$12,000. Public Works staff does not foresee any other costs to be attributed to the Streets Fund.

**RECOMMENDATION:**

Staff recommends sharing the cost of the 2" overlay on SE 5<sup>th</sup> Avenue with the County and making a total amount of \$27,000 available to cover the cost.

**PROPOSED MOTION:**

I move that the City Council create a budget of \$27,000 for the SE 5<sup>th</sup> Avenue overlay and partner with the County to complete the project by providing \$24,664 to the County to perform and monitor the work.



## AGENDA REPORT

August 15, 2016



To: Mayor and City Council

FROM: Adam J. Brown, City Manager

SUBJECT: **RESOLUTION #2016-127 AND RESOLUTION #2016-128: COMMUNITY DEVELOPMENT BLOCK GRANT – SECTION 3 PLAN AND LIMITED ENGLISH PROFICIENCY PLAN**

DATE: August 8, 2016

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### SUMMARY:

Attached are the following documents:

- Resolution #2016-127
- Resolution #2016-128

Action is needed to initiate the city's Community Development Block Grant Funding (CDBG).

### PREVIOUS COUNCIL ACTION:

The Ontario City Council made a joint application for community development block grant (CDBG) funds with Malheur County, Nyssa, and Vale.

At their August 1<sup>st</sup> meeting, the Ontario City Council approved an updated Fair Housing Resolution and authorized the City Manager to have signatory authority for the CDBG program.

### BACKGROUND:

A multi-year grant was awarded to the Ontario, Malheur, Nyssa, and Vale application. Our partner grantee's received funding before us, but this year's funding is targeted to the City of Ontario. Approximately \$300,000 is available for housing rehabilitation projects within Ontario, which will be administered through the County's third party administrator Community in Action.

### CURRENT SITUATION:

A Limited English Proficiency (LEP) plan and a Section 3 plan are required for any entity to administer a CDBG. The Section 3 plan stipulates federally required contractor hiring practices for those who are awarded bids to work on the rehabilitation projects.

The LEP plan addresses how the city will accommodate individuals with limited English speaking capability.

**ALTERNATIVE:**

Taking no action will delay implementation of the grant program.

**FINANCIAL IMPLICATIONS:**

Grant funds cannot be administered until the Section 3 plan, and the LEP plan are approved by the City Council.

**RECOMMENDATION:**

The City Manager recommends that the City Council approve the Limited English Proficiency Plan and the Section 3 Plan for the City of Ontario's CDBG funding.

**PROPOSED MOTION:**

I move that the Council recommend approval of the Limited English Proficiency Plan and Section 3 Plan for the City's CDBG program.

RESOLUTION #2016-127

**A RESOLUTION AUTHORIZING THE ADOPTION  
OF A LIMITED ENGLISH PROFICIENCY (LEP) PLAN**

**WHEREAS,** the City of Ontario, Malheur County, a political subdivision of the State of Oregon, is required to adopt a Limited English Proficiency (LEP) Plan for its CDBG for ReHome Oregon; and

**WHEREAS,** the LEP Plan has been reviewed by the City Council and City staff members and their comments incorporated into the Plan; and

**WHEREAS,** the infrastructure Finance Department has reviewed and approved the LEP Plan.

**NOW THEREFORE, BE IT HEREBY RESOLVED** by the Ontario City Council, that the City of Ontario, Malheur County, Oregon, adopts and implements the attached Limited English Proficiency (LEP) Plan, which is incorporated by reference.

**EFFECTIVE DATE:** Effective immediately upon passage.

**PASSED AND ADOPTED** by the City Council of the City of Ontario this \_\_\_\_ day of \_\_\_\_\_, 2016, by the following vote:

AYES:

NAYES:

ABSENT:

**APPROVED** by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Ronald Verini, Mayor

ATTEST:

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

Approved as to Form:

\_\_\_\_\_  
Larry Sullivan, City Attorney

**CITY OF ONTARIO LIMITED ENGLISH PROFICIENCY LANGUAGE ACCESS PLAN (LAP)**  
**Attached to Resolution #2016-127**

Language for Limited English Proficiency (LEP) persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally assisted programs. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from these programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporated the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

The City of Ontario will take affirmative steps to communicate with people within a targeted area who need services or information in a language other than English, and require its agents to do the same, when facilitating federally-assisted programs. These persons will be referred to as Persons with Limited English Proficiency.

- A. **Definition:** LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. For the purposes of this policy, LEP persons are applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the City of Ontario and its agents will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program in a targeted area; (2) the frequency with which LEP persons come into contact with the program in a targeted area; (3) the nature and importance of the program, activity, or service provided by the program to people's lives in a targeted area; and (4) the resources available to the program and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the program.

- B. **Oral Interpretation:** The City of Ontario and its agents will analyze the various kinds of contacts it has with the public, to assess language needs, and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

When feasible, the City of Ontario and its agents will have bilingual staff available to act as interpreters and translators.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the City of Ontario and its agents. The interpreter may be a family member or friend.

C. **Written Translation:** In order to comply with written translation obligations, the City of Ontario and its agents will take the following steps:

1. The City of Ontario and its agents will provide written translation of vital documents for each eligible LEP language group that constitutes 5 percent (5%) or 1,000 persons in a targeted area, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally, or
2. If there are fewer than 50 persons in a language group that reaches the 5 percent (5%) trigger in a targeted area, the City of Ontario and its agents do not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of charge.

**EFFECTIVE DATE** of this Policy shall be August 15, 2016.

**RESOLUTION #2016-128**

**ADOPTING THE SECTION 3 PLAN TO COMPLY WITH 24 DFR, PART 135  
OF THE UNITED STATES DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT SECTION 3**

- WHEREAS,** the United States Congress passed Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) to further the goal of ensuring that federal funds benefit the residents of projects funded wholly or in part by those funds; and
- WHEREAS,** Part 135 of Section 3 is to establish the standards and procedures to be followed to ensure that the objectives of Section 3 are met; and
- WHEREAS,** City of Ontario staff have developed a Section 3 Plan in adherence to 24 CFR, Part 135 that more comprehensively addresses the standards and procedures prescribed in the Act; and
- WHEREAS,** the Section 3 Plan has been reviewed by City of Ontario staff members and their comments incorporated into the Plan.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council authorizes City of Ontario to adopt and implement the Section 3 Plan to ensure compliance with Federal Law and to designate Adam Brown as the Section 3 Coordinator for the City.

**EFFECTIVE DATE:** Effective immediately upon passage.

**PASSED AND ADOPTED** by the City Council for the City of Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the following vote:

AYES:

NAYS:

ABSENT:

**APPROVED** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**ATTEST:**

\_\_\_\_\_  
Ronald Verini, Mayor

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

## SECTION 3 PLAN

### General Policy Statement

It is the policy of City of Ontario to require its contractors to make a good faith effort to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status.

City of Ontario implements this policy through the awarding of contracts to contractors, vendors, professional service providers/consultants and suppliers, to create employment and business opportunities for residents of City of Ontario and other qualified low- and very low-income persons.

The policy will ensure that in good faith City of Ontario will have a reasonable level of success in the recruitment, employment, and utilization of Section 3 residents and other eligible persons and Section 3 business concerns working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. City of Ontario shall examine and consider a contractor's, professional service provider/consultant or vendor's potential for success by providing employment and business opportunities to Section 3 residents and business concerns prior to acting on any proposed contract award.

### Good Faith Effort

At a minimum, the following tasks must be completed to demonstrate a good faith effort with the requirements of Section 3. City of Ontario and each contractor, subcontractor, professional services provider, vendor or supplier seeking to establish a good faith effort as required should be filling all training positions with persons residing in the target area.

1. Send notices of job availability subcontracting opportunities subject to these requirements to recruitment sources, organizations and other community groups capable of referring eligible Section 3 applicants, including Works Source Oregon.
2. Include in all solicitations and advertisements for contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies, a statement to encourage eligible Section 3 residents to apply.

Any construction contractor, professional services provider, vendor or supplier, to the greatest extent feasible, must certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed were not filled to circumvent the contractor's obligation under 24 CFR Part 135.

### **WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS?**

The City will, to the greatest extent feasible, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the City satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all business must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause [Construction Contracts] and Section 3 Clause [Non-Construction Contracts]).

This will include:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent possible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order to priority.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

### **Section 3 Purpose**

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires that City of Ontario ensures that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low- and very-low income persons.

### **Section 3 Contracting Policy and Procedure**

***Section 3 residents must meet the minimum qualifications of the position to be filled and a Section 3 business concern must have the ability and capability to perform successfully under the terms and conditions of the proposed contract.***

All contractors/businesses seeking Section 3 preference, before submitting bids/proposals to City of Ontario, will be required to complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required by this section. Such certifications shall be adequately supported with appropriate documentation as referenced in the form. Refer to Exhibit 4.

To promote good faith effort to enhance Section 3 compliance all **procurement documents must meet the following:**

1. Each bidder/proposer must include a Section 3 Opportunities Plan and Certification (Exhibit 5) or a separate schedule which indicates its commitment to meet the Section 3 resident hiring requirements.
2. If a bidder/proposer fails to submit a Section 3 Opportunities Plan and Certification or a separate schedule and the related data along with the bid/proposal, such bid/proposal will be declared as "non-responsive".
3. For invitations for Bids ("IFB") where awards are made to the lowest, responsive and responsible bidder, the bidder's commitment to satisfy Section 3 resident hiring requirements will be a factor used in determining whether the bidder is "responsive".
4. For QBS's RFQ's, RFP's and IFB's, contractors shall be required to detail the cost of the bid or proposal by separately categorizing contract cost by labor (person hours and dollar amounts).

City of Ontario and their covered contractors, subcontractors, professional service providers/consultants or subrecipients) will in good faith comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities resulting from the expenditure of HUD funding. The City responsibility includes:

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Documenting actions taken to comply with Section 3; and
5. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.
6. Informing any subrecipient/sub-grantee of City CDBG funds that they must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients/sub-grantees that receive covered funding. The information and assistance that will be provided includes but is not limited to the following:
  - a. Inform subrecipients/sub-grantees about the requirements of Section 3;
  - b. Assist subrecipients/sub-grantees and their contractors with achieving compliance;
  - c. Monitor subrecipient/sub-grantee performance with respect to meeting the Section 3 requirements; and,
  - d. Report to HUD on the cumulative Section 3 activities taking place within their jurisdiction on an annual basis.

### **Section 3 Clause**

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Clause must be included in all Section 3 covered projects. The Section 3 Contract Clause (Exhibit 1.)

### **Numeric Goals for Section 3 Employment & Training**

It is the policy of City of Ontario to utilize residents and other Section 3 eligible persons and business concerns in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). City of Ontario has established employment and training goals that contractors and subcontractors should, to the greatest extent feasible, meet in order to comply with Section 3 requirements. Goal is:

- Thirty percent (30%) of the aggregate number of new hires in any fiscal year.

It is the responsibility of contractors, professional service providers/consultants, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. Any firm that does not meet the Section 3 numerical goals must demonstrate why meeting the goals were not feasible. All firms submitting bids or proposals are required to certify that they will, to the greatest extent feasible, comply with the requirements of Section 3.

### **Numeric Goals for Contracting Activities**

Absent evidence to the contrary, City Vale contractors, professional service providers/consultants, vendors and suppliers of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30 to the greatest extent feasible. Specifically:

1. 30 percent of the aggregate number of new hires shall be City of Ontario Section 3 residents;
2. 10 percent of the total dollar amount of all covered construction contracts shall be awarded to City of Ontario Section 3 business concerns; and
3. 3 percent [3%] of the total dollar amount of all covered non-construction contracts shall be awarded to City of Ontario Section 3 business concerns.

Businesses that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the state to make a compliance determination.

**Section 3 Program Resident/Participant Certification Procedure**

Section 3 Residents Are:

1. Residents of Public and Indian Housing residing in City of Ontario; or
2. Individuals that reside in the metropolitan area or nonmetropolitan City in which the Section 3 covered assistance is expended and whose income does not exceed the local HUD income limits set forth for low- or very low-income households.

City of Ontario will certify Section 3 program participants who reside in City of Ontario and who are seeking preference in training and employment by completing and attaching adequate proof of Section 3 eligibility, as required (see Exhibit 3 – Section 3 Participant Eligibility for Preference form).

**Resident Hiring Requirements**

City of Ontario has adopted the following scale for resident hiring that is to be used, to the greatest extent possible, on all construction contracts, service contracts and professional service contracts that contain a labor component for partially funded or fully-funded HUD projects. It is expected that an appropriate number of residents with particular qualifications or a willingness to begin unskilled labor will be able to participate in contracted labor efforts.

TOTAL LABOR DOLLARS USE TOTAL CONTRACT AMOUNT FOR SERVICE CONTRACTS	RESIDENT AS A % OF TOTAL LABOR DOLLARS
Labor dollars \$25,000 but less than \$100,000	10% of the labor dollars
\$100,000, but less than \$200,000	9% of the labor dollars
At least \$200,000, but less than \$300,000	8% of the labor dollars
At least \$300,000, but less than \$400,000	7% of the labor dollars
At least \$400,000, but less than \$500,000	6% of the labor dollars
At least \$500,000, but less than \$1 million	5% of the labor dollars
At least \$1 million, but less than \$2 million	4% of the labor dollars
At least \$2 million, but less than \$4 million	3% of the labor dollars
At least \$4 million, but less than \$7 million	2% of the labor dollars
\$7 million or more	1 – ½% of the labor dollars

With this sliding formula, it is expected that an appropriate number of public housing residents and neighborhood residents with particular qualifications or willingness to begin unskilled labor will be able to participate in contracted labor efforts. A prime contractor, through its subcontractor(s), may satisfy the Section 3 resident hiring requirement set forth above.

**Preference for Contracting with Section 3 Business Concerns**

A Section 3 Business Concern is one of the following:

1. Businesses that are 51 percent [51%] or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent [30%] of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or

3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent [25%] of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

City of Ontario, in compliance with Section 3 regulations, will require contractors and subcontractors (including professional service contractors) to direct their efforts towards contracts to Section 3 business concerns in the following order to priority:

1. Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area or neighborhood in which the Section covered project is located.

Contractors and subcontractors are expected to extend, to the greatest extent feasible, efforts to achieve the numerical goals established by City of Ontario.

#### **Evidence of Section 3 Certification**

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with City of Ontario shall complete the Certification For Business Concerns Seeking Section 3 Preference In Contracting and Demonstration of Capability form, which can be obtained from the Section 3 Coordinator. The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 Program. The certification form is Exhibit 4 to this plan.

Certifications for Section 3 preference for business concerns must be submitted to the Section 3 Coordinator of City of Ontario prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid.

#### **Contractor's Requirements in Employing Section 3 Residents/Participants:**

Under City of Ontario Section 3 Program, contractors, subcontractors, professional service providers/consultants, vendors and supplies are required to submit a Section 3 Opportunities Plan and Certification and to:

1. Provide employment opportunities to Section 3 residents/participants, to the greatest extent feasible, in the priority order listed below:
  - a. Category 1 – Section 3 Residents from the service area or neighborhood in which the Section 3 covered project is located,
  - b. Category 2 – Section 3 Residents of Section 8 of the local Housing Authority as well as all other residents residing in the service area or neighborhood in which the Section 3 covered project is located. Section 3 residents must meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).
2. After the award of contracts, the contractor must, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:
  - a. Names of the Section 3 business concerns to be utilized,
  - b. Estimates of the number of employees to be utilized for contract,
3. Contractors must notify the Section 3 Coordinator of their interests regarding employment of Section 3 participants prior to hiring. Additionally, the legal department will be contacted to ensure that the individuals are not involved in any legal proceedings against/with City of Vale.

4. Submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contract award. Document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc., and provide this information to the Section 3 Coordinator.
5. Immediately notify the Section 3 Coordinator of any problems experienced due to the employment of Section 3 participants.
6. Immediately notify the Section 3 Coordinator if a participant quits, walks off, or is terminated for any reason. The contractor must provide written documentation of all such incidents to support such decisions to the Section 3 Coordinator to determine if an investigation is warranted.
7. Businesses can use Work Source Oregon – First Source Hiring Agreement in complying with the Section 3 requirements.

#### **Internal Section 3 Complaint Procedure**

In an effort to resolve complaints generated due to non-compliance through an internal process, City of Ontario encourages submittal of such complaints to its Section 3 Coordinator as follows:

1. Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.
2. Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
3. An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
4. The Section 3 Coordinator will provide written documentation detailing the findings of the investigation and will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than thirty (30) days after the filing of complaint.

If complainants wish to have their concerns considered outside of City of Ontario, a complaint may be filed with:

Assistant Secretary for Fair Housing and Equal Opportunity  
United States Department of Housing and Urban Development  
451 Seventh Street, SW  
Washington, DC 20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

#### **Monitoring and Enforcement Authority and Responsibility**

The function of monitoring and enforcing resident hiring will be carried out by the City of Ontario Section 3 Coordinator, including all field activities.

## DEFINITIONS

**Assistant** – the Assistant Secretary for Fair Housing and Equal Opportunity.

**Business Concern** – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

**Contractor** - any entity which contracts to perform work generating the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Employment Opportunities Generated by Section 3 Covered Assistance** – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a) (2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**Housing Authority** (HA) – Public Housing Agency.

**Housing Development** – low-income housing owned, developed, or operated by public housing agencies in accordance with HUD's public housing program regulations codified in 24 CFR Chapter IX.

**JTPA** – The Job Training Partnership Act (29 U.S.C. 1579 (a)).

**Low-income person** – families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

**Metropolitan Area** – a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

**New Hires** – full-time employees for permanent, temporary or seasonal employment opportunities.

**Recipient** – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Section 3** – Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

**Section 3 Business Concern** – a business concern,

1. – That is 51 percent or more owned by Section 3 resident: or
2. Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

**Section 3 Covered Assistance** –

1. public housing development assistance provided pursuant to Section 5 of the 1937 Act;
2. public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
3. public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
4. assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

**Section 3 Clause** – the contract provisions set forth in Section 135.38.

**Section 3 Covered Contracts** – a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

**Section 3 Covered Project** - the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**Section 3 Resident** – a public housing resident or an individual who resides in the metropolitan area or nonmetropolitan City in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

**Subcontractor** – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

**Very low-income person** – families (including single persons) whose income do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

**SECTION 3 CLAUSE**

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. Contractor shall complete THE REQUIRED Section 3 report form 60002 and submit it to the City with the final construction pay estimate for the project.

**CITY OF ONTARIO**  
**RESIDENT EMPLOYMENT OPPORTUNITY DATA**  
**ELIGIBILITY FOR PREFERENCE**  
**CERTIFICATION FORM**

***Eligibility for Preference***

A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

***Certification for Resident Seeking Section 3 Preference in Training and Employment***

I, \_\_\_\_\_, am a legal resident of City of Ontario and certify that I meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse. My permanent address is: \_\_\_\_\_

- a. I have attached the following documentation as evidence of my status:
- b. Copy of lease demonstrating proof of residency in a public housing development
- c. Copy of receipt of public assistance such as a Section 8 certificate or voucher
- d. Copy of evidence of participation in a public assistance program such as JTPA, Job Corps etc.
- e. Income tax records
- f. Other

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

### SECTION 3 INCOME LIMITS

All residents of public housing developments qualify as Section 3 residents. Additionally, individuals residing in City of Ontario, who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

Number in Household	Very Low Income	Low Income
1 individual	\$18,200	\$29,050
2 individual	\$20,800	\$33,200
3 individual	\$23,400	\$37,350
4 individual	\$25,950	\$41,500
5 individual	\$28,050	\$44,850
6 individual	\$30,150	\$48,150
7 individual	\$32,200	\$51,500
8 individual	\$34,300	\$54,800

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Type of Business:       Corporation                       Partnership  
                                   Sole Proprietorship       Joint Venture

Attached is the following documentation as evidence of status:

\_\_\_\_ For Business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease
- Copy of receipt of public assistance
- Copy of evidence of participation in public assistance program
- Other evidence

\_\_\_\_ For business entity as applicable:

- Copy of Articles of Incorporation
- Certificate of Good Standing
- Assumed Business Name Certificate
- Partnership Agreement
- List of owners/stockholders and % ownership of each
- Corporation Annual Report
- Latest Board minutes appointing officers
- Organization chart with names and titles and brief function statement
- Additional documentation

\_\_\_\_ For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:

- List of subcontracted Section 3 business(es) and subcontract amount

\_\_\_\_ For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- List of all current full-time employees
- List of employees claiming Section 3 status
- PHA/IHA Residential lease less than 3 years from day of employment
- Other evidence of Section 3 status less than 3 years from date of employment

\_\_\_\_ Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

(Corporate Seal)

\_\_\_\_\_  
 Authorizing Name and Signature

Attested by: \_\_\_\_\_

**INSTRUCTIONS FOR COMPLETING THE SECTION 3 OPPORTUNITIES PLAN**  
**(SERVICE & PROFESSIONAL CONTRACTS)**

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs shall be directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons.

**Section I**

The Section 3 Opportunities Plan is to be completed for construction and professional service contracts. There are several ways in which Section 3 can be fulfilled. They are listed in order of preference:

1. Subcontract or joint venture with a Section 3 resident owned business. The business must be 51% or more owned by Section 3 residents or Subcontractor/joint venture with a business whose permanent full-time employees include persons at least 30% of whom are currently Section 3 residents or within 3 three years of the date of first employment with the business concern were Section 3 residents, or
2. Direct hiring Section 3 residents of the service area or the neighborhood in which the covered project is located.

If a prime contractor is unable to satisfy the Section 3 resident hiring requirements per the above, the requirements may be satisfied through any subcontractors that may be involved in the project:

1. If the (sub)contractor has identified a resident owned business or a business which employs 30% or more Public Housing or Neighborhood residents, this paragraph is to be completed by indicating the number of resident owned businesses that will be used on the contract/spec number shown at the end of the paragraph.
2. If the (sub)contractor plans to hire Public Housing or Neighborhood residents to work for its company, paragraph two (2) must be completed with the contract/spec number and the percentage of compliance in hiring the resident(s).

**Section II**

The second portion of the Section 3 Opportunities Plan begins with the specification or request for proposal title and number.

**Section III**

The third section is to be completed by listing current staff to be used to complete the work bid upon.

1. List the job titles,
2. Complete the Needed column if additional staff will be required to fulfill the classification,
3. In the Total column, list the total number of staff plus the number needed,
4. In the low and very low income area residents columns, list the number of current staff who are residents of public housing, or who are low or very low income neighborhood residents,
5. In the To Be Filled column, list the number of positions that fit into the low and very low-income public housing residents and low and very low income residents who will be hired.
6. In the Hiring Goal column, list the number of Public Housing residents or Low and Very Low Income Residents you intend to hire.

**Section IV**

The final section is to be completed after the contract has been awarded, interviews have taken place and residents have been hired. The completed Section 3 Opportunities Plan must be submitted to the City of Vale Section 3 Coordinator.

**SECTION 3 OPPORTUNITIES PLAN**

***Business Opportunities and Employment Training of City of Ontario Public Housing Residents and Low and Very Low Income Neighborhood Residents***

**Section I. Opportunities Plan**

The Contractor has identified \_\_\_\_\_ Section 3 resident owned business(es) or \_\_\_\_\_ business(es) which employ 30% or more Section 3 residents to comply with \_\_\_\_\_% of its Section 3 requirements covered under Contract# \_\_\_\_\_. (Option 1)

Alternately, the Contractor hereby agrees to comply, to the greatest extent feasible, with all the provisions of Section 3 as set forth in 24 CFR 135.1 and this City of Vale Section 3 plan implemented through Resolution No R-2-2012. The Contractor hereby submits this document to identify employment opportunities for Section 3 public housing residents and low and very low-income area residents, during the term of the contract between the Contractor and City of Vale. The Contractor affirms that the jobs identified shall be for meaningful employment that may or may not be related to the scope of services covered under Contract # \_\_\_\_\_. The Contractor has committed to employ the following in order to comply with \_\_\_\_\_% of its Section 3 requirements. (Option 2)

Additionally, The Contractor can participate in training programs that advance low to very low income residents and qualified businesses in gainful employment and business opportunities. (Option 3)

**Section II. Labor Survey**

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

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

Local Contract/Agreement Number: \_\_\_\_\_

Job Title (1)	Needed (2)	Number of Positions			Hiring Goal		
		Filled (3)		To be Filled (4)	Very Low and Low Income Residents		
		Very Low and Low Income Residents					

**Section III. Resident List**

Section 3 resident employee information (jobs to be filled)

Job Title	Name	Address	Social Security Number

Please check the Option(s) that describe your contracting efforts:

- Option 1: Subcontract with Section 3 Business(es)
- Option 2: Hire Section 3 residents/participants
- Option 3: I have a training program in place and am willing to train \_\_\_\_\_ residents and/or participate in training programs.

\_\_\_\_\_  
Contractor's Signature and Title

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

**SECTION 3 OPPORTUNITIES PLAN CERTIFICATION**

NAME OF PRIME CONTRACTOR/ PROFESSIONAL SERVICES PROVIDER: \_\_\_\_\_

Local contract/.Agreement #: \_\_\_\_\_

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

**WARNING: THIS DOCUMENT IS REQUIRED FOR ALL CONSTRUCTION OR LABOR RELATED PROCUREMENTS AND PROFESSIONAL SERVICE AGREEMENTS.** The Contractor hereby agrees to comply, to the greatest extent feasible, with all the provisions of Section 3 as set forth in 24 CFR 135.38 implementing Section 3 requirements. The contractor hereby submits this Section 3 Opportunities Plan.

The Contractor shall provide a status report identifying its progress in meeting the Section 3 goals established in this Section 3 Opportunities Plan on a yearly basis.

Each Bidder/Proposer for a construction or labor related contract and professional services agreement must complete the Section 3 Opportunities Plan and submit all relevant information required herein. A prime contractor, through its' subcontractors may satisfy the Section 3 Resident Hiring Requirements.

Acknowledged by:

\_\_\_\_\_  
(President or Authorized Officer)

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

## AGENDA REPORT

August 15, 2016



To: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Adam Brown, City Manager

**SUBJECT: ORDINANCE NO. 2717-2016, AN ORDINANCE GRANTING TO CABLE ONE, INC. THE RIGHT TO MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF ONTARIO AND TO USE THE RIGHTS OF WAY OF THE CITY OF ONTARIO FOR ITS BUSINESS OPERATIONS, on First Reading**

DATE: August 8, 2016

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### SUMMARY:

Attached are the following documents:

- August 3, 2016, letter from Cable One attorneys explaining revisions to franchise agreement
- Ordinance No. 2717-2016 as revised by Cable One and the City Attorney

### PREVIOUS COUNCIL ACTION:

07/05/2016 The Council approved a new draft of Ordinance No. 2717-2016 for Cable One's review.

### CURRENT SITUATION:

On July 5, 2016, the Council approved a new draft of Ordinance No. 2717-2016 for Cable One's review. On August 3, 2016, Cable One attorneys sent to the City Attorney a letter which rejected the draft because it sought to impose franchise fees based upon Cable One gross income derived from telecommunications and telephony services, in addition to cable television services. The Cable One revision of the agreement removes all references to telecommunications and telephony services.

Section 3.1 of the Cable One revision set the term of the Agreement at 15 years. The City Attorney revised that to five years, consistent with all recent City franchise agreements. Other than that change, Ordinance No. 2717-2016 includes all the revisions requested by Cable One.

The City Attorney will discuss in executive session the City's option for obtaining telecommunications and telephony fees from Cable One through amendments to the Ontario City Code. If the Council decides to pursue that option, it will not prevent the City from approving the current draft of Ordinance No. 2717-2016. Approving Ordinance No. 2717-2016 will allow the City to have a Cable Television Franchise Agreement with Cable One, rather than continuing to operate under the Agreement that expired on December 31, 2014.

**RECOMMENDATION:**

Staff recommends that the City Council approve a first reading of Ordinance No 2717-2016.

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**PROPOSED MOTION:**

I move that the City Council approve a first reading by title only of Ordinance No. 2717-2016, AN ORDINANCE GRANTING TO CABLE ONE, INC. THE RIGHT TO MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF ONTARIO AND TO USE THE RIGHTS OF WAY OF THE CITY OF ONTARIO FOR ITS BUSINESS OPERATIONS.

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\* ADMITTED IN DC ONLY

August 3, 2016

Via electronic mail (sullivan@valelawyers.com)

Larry A. Sullivan  
Counsel to the City of Ontario, Oregon  
Vale Lawyers  
P.O. Box 220  
Vale, Oregon 97918

Re: Cable One, Inc. Cable Communications System Franchise Ordinance for the  
City of Ontario, Oregon

Dear Mr. Sullivan:

Cable One, Inc. ("Cable One") hereby encloses its revisions to the draft Ordinance you provided on June 30, 2016. Cable One's revisions reflect its intent to renew Cable One's existing cable communications system Franchise with the City of Ontario ("Ontario" or the "City"), which was transferred to Cable One by Resolution No. 00-125, dated September 18, 2000 ("Franchise"). Cable One's revisions are consistent with federal law based on its operations as explained below.

Cable One is a cable system operator. As such, federal law gives Cable One the right to occupy the City's rights-of-way subject to the City being "justly compensated" for such access.<sup>1</sup> As the attached revisions reflect, Cable One will continue to pay a five percent (5%) franchise fee on the portion of its gross revenues received from the provision of cable service as it has since 2000. As

<sup>1</sup> 47 U.S.C. § 541(a)(2)(C).

you are aware, Cable One has and currently pays the maximum franchise fee permitted by federal law.

Cable One does not require a telecommunications franchise. Accordingly, Cable One has deleted all references to telecommunications and the Telecommunications Code in the draft Ordinance. Cable One understands the City may view the recent Oregon Supreme Court decision, *City of Eugene v. Comcast of Oregon II, Inc.*, as controlling on this issue, but that decision does not apply to Cable One.

Cable One's provision of cable modem service (also known as broadband Internet access service) does not require it to obtain a telecommunications franchise and pay associated telecommunications franchise fees. It is well-established law that municipalities cannot impose franchise fees on cable modem service.<sup>2</sup> The Federal Communications Commission ("FCC") recently emphasized that its classification of broadband Internet access service for "regulatory purposes" does not "serve as justification for a state or local franchising authority to require a party with a franchise to operate a 'cable system' (as defined in Section 602 of the Act) to obtain an additional or modified franchise in connection with the provision of broadband Internet access service, or to pay any new franchising fees in connection with the provision of such services."<sup>3</sup>

The FCC also reaffirmed its longstanding conclusion that broadband Internet access service is jurisdictionally interstate.<sup>4</sup> The FCC ruled that its classification of broadband Internet access service is not intended to allow states to regulate broadband Internet access providers as utilities or telephone companies (*i.e.*, telecommunications carriers).<sup>5</sup> It further warned that it would preempt any state attempting to impose entry, certification, or rate regulation requirements on broadband Internet access service, such as the registration requirement incorporated in the draft Ordinance.<sup>6</sup> The FCC specifically determined that any regulations that would include requirements that a broadband Internet access service provider register or obtain certification as a telecommunications carrier

<sup>2</sup> *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008) (affirming Federal Communications Commission decision that "a cable operator is not required to pay franchise fees on revenues from non-cable services"); *see also, e.g., Comcast Cable of Plano, Inc. v. City of Plano*, 315 S.W. 3d 673 (Tex. App. 2010); *City of Chicago v. Comcast Cable Holdings, L.L.C.*, 231 Ill. 2d 399 (2008); *Liberty Cablevision of Puerto Rico, Inc. v. Municipality of Caguas*, 417 F.3d 216 (1st Cir. 2005); *City of Chicago v. AT&T Broadband, Inc.*, 2003 WL 22057905 (N.D. Ill. Sept. 4, 2003), *vac'd on jurisdictional grounds sub nom. City of Chicago v. Comcast Cable Holdings, L.L.C.*, 384 F.3d 901 (7th Cir. 2004); *Parish of Jefferson v. Cox Communications Louisiana, LLC*, 2003 WL 21634440 (E.D. La. July 3, 2003).

<sup>3</sup> *Protecting and Promoting the Open Internet*, 30 FCC Rcd 5601, ¶ 431, n.1285 (2015) ("FCC Net Neutrality Order"), *aff'd* by No. 15-1063, *USTA v. FCC* (D.C. Cir. June 14, 2016).

<sup>4</sup> *Net Neutrality Order* ¶ 431.

<sup>5</sup> *Net Neutrality Order* n.1274.

<sup>6</sup> *Net Neutrality Order* ¶¶ 432-33.

conflict with its decision.<sup>7</sup> States are bound by the FCC's forbearance decisions, and may not apply any regulation for which the FCC has granted forbearance.<sup>8</sup>

Therefore, Cable One has revised the draft Ordinance to remove references to telecommunications and the Telecommunications Code, and to reflect Cable One's provision of service consistent with its existing cable communications system Franchise with the City. Cable One looks forward to continuing its long-standing relationship with the City, and would like to schedule a mutually convenient time to discuss any comments you may have on the enclosed revised draft Ordinance.

Sincerely,

*Chérie R. Kiser*

Chérie R. Kiser

Enclosure

cc: Cheryl Goettsche, General Manager, Cable One

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<sup>7</sup> *Net Neutrality Order* ¶ 528, nn.1630-31.

<sup>8</sup> *Net Neutrality Order* ¶ 432.

ORDINANCE NO. 2717-2016

AN ORDINANCE GRANTING TO CABLE ONE, INC.  
THE RIGHT TO MAINTAIN A  
CABLE COMMUNICATIONS SYSTEM IN THE CITY OF ONTARIO AND  
TO USE THE RIGHTS OF WAY  
OF THE CITY OF ONTARIO FOR ITS BUSINESS OPERATIONS

WHEREAS, Cable One, Inc., an Arizona corporation (hereinafter "PROVIDER") desires to renew its cable communications system Franchise, Ordinance No. 2420, within the City of Ontario, Oregon (hereinafter "CITY") (hereafter each a "Party" and collectively the "Parties") in connection with Provider's cable communications system in, under, along, over and across present and future rights-of-way of CITY; and

WHEREAS, PROVIDER is the successor to Chambers Cable of Oregon, Inc., an Oregon corporation whose cable television franchise agreement with CITY was transferred to Cable One, Inc., by Resolution No. 00-125, September 18, 2000, which expired on December 31, 2014; and

WHEREAS, CITY, in exercise of its management of public rights-of-way, believes that it is in the best interest of the public to provide the PROVIDER a nonexclusive Franchise to operate a cable communications system in CITY.

NOW THEREFORE, The Common Council for the City Of Ontario ordains as follows:

SECTION 1. FRANCHISE AGREEMENT AND ORDINANCE.

- 1.1 Agreement. Upon approval by the City Council and execution by the Parties, this Agreement shall be deemed to constitute a contract by and between CITY and PROVIDER.
- 1.2 Franchise Description. The Cable Communications System Franchise hereby granted shall confer upon PROVIDER the nonexclusive right, privilege, and Franchise to install, construct, operate, and maintain a cable communications system in, upon, under, above and across the present and future public Rights-of-Way in CITY. Such poles, wires and other appliances and conductors comprising the cable communications system may be strung upon poles or other fixtures above ground, or at the option of PROVIDER, may be laid underground, and such other apparatus may be used as may be necessary or property to operate and maintain the same.
- 1.3 Cable Communication System or System. "Cable communication system" or "system" means a system of antennas, cable, amplifiers, towers, microwave links, waveguides, laser beams, satellites, earth stations, or any other conductors, converters, equipment, or facilities, designed and constructed for the purpose of producing, receiving, amplifying, storing, processing or distributing audio, video, digital, or other forms of electronic or electrical signals.
- 1.4 Licenses. PROVIDER acknowledges that it has obtained the necessary approvals, licenses or permits required by federal and state law to operate the cable communications system consistent with the provisions of this Agreement.

- 1.5 Relationship. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the Parties, and neither Party is authorized to, nor shall either Party act toward third persons or the public in a manner that would indicate any such relationship with each other.
- 1.6 Adequate Assurance. In the provision of cable television service, PROVIDER shall provide CITY with adequate assurance that PROVIDER will provide adequate public, educational, and governmental access channel capacity, facilities, or financial support, as required by 47 US Code Sec. 541.

SECTION 2. FRANCHISE FEE.

2.1 Franchise Fee.

- (a) For the cable communications system Franchise granted herein, PROVIDER shall pay to CITY a franchise fee of 5% per annum of its Gross Revenues for local cable service rendered to cable television subscribers within CITY limits consistent with 47 US Code Sec. 542(b).
- (b) "Gross Revenues" means all compensation derived from the operation of the cable communications system to provide cable services, except for the standard initial installation charge and all bad debts.
- (c) All payments shall be made to CITY, and sent as follows, unless PROVIDER is otherwise notified of a change in address in writing by CITY:

City of Ontario  
Attn: Finance Department  
444 SW 4<sup>th</sup> Street  
Ontario, Oregon 97914

- (d) The fee required by this section shall be due and payable within 60 days after the end of each applicable financial quarter.

2.2 Equal Treatment. CITY agrees that if any cable service forming part of the base for calculating the Franchise fee under this Agreement is, or becomes, subject to competition from a third party, CITY will work to impose and collect from such third party a fee or tax on Gross Revenues from such competing cable service in the same percentage specified herein, plus the percentage specified as a utility revenue tax or license fee in the then current ordinances of CITY. Any such fee imposition will be subject to local, state, and federal rules and regulations.

2.3 Audit. PROVIDER shall keep accurate books of financial accounts at an office within the State of Oregon throughout the term of this Franchise and for six years after the expiration or termination of this Agreement. Franchisee shall produce all books and records directly concerning its Gross Revenues for purposes of calculation of the Franchise fee for inspection by City, upon 10 business days' written notice, during normal working hours. City shall have the right during the term of this Franchise or within 180 days after expiration or termination of the Franchise to audit PROVIDER's records for the period of three years prior to the audit. If the audit reveals underpayment of 5% or more, the City may expand the audit to cover up to 6 years. The audits shall be undertaken by an independent auditor. The cost of the audit shall be borne by City, unless the results of the audit reveal an underpayment of more than 5% of the Franchise fee for the period audited. In the case of underpayment of 5% or more, the full cost of the audit shall be paid by PROVIDER. PROVIDER shall immediately pay the amount of the underpayment as determined by the audit to City together with 6% annual interest from the date the payment should have been made to the date the payment is actually made. Any audit information obtained by City under these provisions shall be kept confidential to the maximum extent allowed by Oregon law, except that this obligation shall not prevent the City from introducing audit results in any forum where enforcement of the provisions of this Franchise is at issue.

SECTION 3. TERM.

- 3.1 Term. The Franchise granted to PROVIDER shall be for a period of five (5) years commencing on the first day of the month following this Agreement, unless this Franchise be sooner terminated as herein provided.
- 3.2 Rights of PROVIDER Upon Expiration or Revocation. Upon expiration of the Franchise granted herein, whether by lapse of time, by agreement between PROVIDER and CITY, or by revocation or forfeiture, PROVIDER shall have the right to remove from the Rights-of-Way any and all of its System, but in such event, it shall be the duty of PROVIDER, immediately upon such removal, to restore the Rights-of-Way from which such System is removed to as good condition as the same was before the removal was effected subject to reasonable wear and tear.

SECTION 4. POLICE POWERS.

CITY expressly reserves, and PROVIDER expressly recognizes, CITY's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as CITY may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties to the extent consistent with federal and state law.

SECTION 5. CHANGE IN LAW AND SEVERABILITY.

- 5.1 Meet to Confer. PROVIDER and CITY recognize that many aspects of the cable business are subject to examination and inquiry by federal government authorities that may mandate changes in law or regulation that may affect the way PROVIDER conducts its business and the way CITY manages its public Rights-of-Way. PROVIDER and CITY each agree, any rule, regulation, or other change mandated by any federal, state, or local authority that interferes with or adversely affects either Parties' rights, obligations, or intended benefit under the Agreement, Parties shall use good faith commercially reasonable efforts to negotiate appropriate changes to this Agreement so it is no longer unlawful for either Provider or City to perform its obligations under this Agreement.
- 5.2 Severability. If any section, sentence, paragraph, term or provision of this Agreement is for any reason determined to be or rendered illegal, invalid or superseded by other lawful authority, including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or is determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision, all of which shall remain in full force and effect for the term of this Agreement or any renewal or renewals thereof. Provided that if the invalidated portion is considered a material consideration for entering into this Agreement, the Parties will negotiate, in good faith, an amendment to this Agreement. As used herein, "material consideration" for CITY is its ability to collect the Franchise fee during the term of this Agreement and its ability to manage the Rights-of-Way in a manner similar to that provided in this Agreement. For PROVIDER, "material consideration" is its ability to use the Rights-of-Way for cable communications system purposes in a manner similar to that provided in this Agreement.

SECTION 6. EARLY TERMINATION, REVOCATION OF FRANCHISE AND OTHER REMEDIES.

- 6.1 Grounds for Termination. CITY may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:
- (a) PROVIDER fails to make timely payments of the Franchise fee as required under Section 2 of this Agreement and does not correct such failure within sixty (60) calendar days after written notice by CITY of such failure;

- (b) PROVIDER, by act or omission, materially violates a material duty herein set forth in any manner particularly within PROVIDER's control, and with respect to which redress is not otherwise herein provided. In such event, CITY, acting by or through its CITY Council, may determine, after hearing, that such failure is of a material nature, and thereupon, after written notice giving PROVIDER notice of such determination, PROVIDER, within thirty (30) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions. After the expiration of such 90-day period and failure to correct such conditions, CITY may declare the Franchise forfeited and this Agreement terminated, and thereupon, PROVIDER shall have no further rights or authority hereunder; ~~provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the 90-day time period provided above, CITY shall provide additional time for the reasonable correction of such alleged failure if the reason for the noncompliance was not the intentional or negligent act or omission of PROVIDER; or~~
- (d) PROVIDER becomes insolvent, unable or unwilling to pay its debts; is adjudged bankrupt; or all or part of its facilities should be sold under an instrument to secure a debt and is not redeemed by PROVIDER within sixty (60) days.

- 6.2 Reserved Rights. Nothing contained herein shall be deemed to preclude PROVIDER from pursuing any legal or equitable rights or remedies it may have to challenge the action of CITY. By accepting this Agreement, PROVIDER reserves all rights under the law including, but not limited to, those rights arising under section 253 of the federal Communications Act of 1934, as amended and the law of the State of Oregon.
- 6.3 Remedies at Law. In the event PROVIDER or CITY fails to fulfill any of its respective obligations under this Agreement, CITY or PROVIDER, whichever the case may be, shall have a breach of contract claim and remedy against the other, in addition to any other remedy provided herein or by law; provided, however, that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action that would be necessary to formally amend the Agreement.
- 6.4 Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of CITY and PROVIDER. This Agreement shall not be deemed to create any right in any person who is not a Party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a Party hereto).

## SECTION 7. PARTIES' DESIGNEES.

- 7.1 CITY Designee and Address. The City Manager or his/her designee(s) shall serve as CITY's representative regarding administration of this Agreement. Unless otherwise specified herein, all notices from PROVIDER to CITY pursuant to or concerning this Agreement, shall be delivered to CITY's representative at 444 SW 4<sup>th</sup> Street, Ontario, Oregon, 97914, or such other officer and address as CITY may designate by written notice to PROVIDER.
- 7.2 PROVIDER Designee and Address. The Corporate President or his/her designee(s) shall serve as PROVIDER's representative regarding administration of this Agreement. Unless otherwise specified herein, all notices from CITY to PROVIDER pursuant to or concerning this Agreement, shall be delivered to Julia M. Laulis, President, Cable One, Inc., with a copy to Alan Silverman, Senior Vice President, General Counsel and Secretary, 210 E. Earll Drive, Phoenix, Arizona 85012-2626, or such other office as PROVIDER may designate by written notice to CITY.
- 7.3 Failure of Designee. The failure or omission of CITY's or PROVIDER's representative to act shall not constitute any waiver or estoppel by CITY or PROVIDER.

SECTION 8. INSURANCE AND INDEMNIFICATION

- 8.1 Insurance. Prior to commencing operations in CITY pursuant to this Agreement, PROVIDER shall furnish to CITY evidence that it has adequate general liability and property damage insurance, automobile insurance, worker's compensation insurance, and comprehensive hazards insurance. The evidence may consist of a statement that PROVIDER is effectively self-insured if PROVIDER has substantial financial resources, as evidenced by its current certified financial statements and established credit rating, or substantial assets located in the state of Oregon. Any and all insurance, whether purchased by PROVIDER from a commercial carrier, whether provided through a self-insured program, or whether provided in some other form or other program, shall be in a form, in an amount and of a scope of coverage acceptable to CITY.
- 8.2 Indemnification. Both Parties to this Franchise agree to indemnify and hold the other respective Party and its officers, employees, agents and representatives harmless from and against any and all claims, demands, liens, and all liability or damage of whatsoever kind on account of or arising from the indemnifying Party's acts or omissions, actual or alleged, pursuant to or related to this Agreement, and to pay any and all costs, including reasonable attorneys' fees, incurred in defense of such claims. The indemnified Party shall promptly give written notice to the indemnifying Party of any claim, demand, lien, liability, or damage with respect to which the indemnified Party seeks indemnification and, unless in the indemnified Party's judgment a conflict of interest may exist between the Parties with respect to the claim, demand, lien, liability, or damage, the indemnified Party may permit the indemnifying Party to assume the defense of such with counsel of the indemnifying Party's choosing, unless the indemnified Party reasonably objects such counsel. Notwithstanding any provision of this section to the contrary, the indemnifying Party shall not be obligated to indemnify, defend or hold the indemnified Party harmless to the extent any claim, demand, lien, damage, or liability arises solely out of or in connection with negligent acts or omissions of the indemnified Party.

SECTION 9. CONSTRUCTION PROVISIONS

- 9.1 Oregon Utility Notification. CITY agrees to locate underground facilities owned and operated by CITY in accordance with Oregon Administrative Rules, in particular section 952-001-0070, entitled "Operators to Mark Underground Facilities or Notify Excavators that None Exist." Furthermore, it is agreed and understood that there are existing sewer service lines that run from the user to CITY's main line that are defined as un-locatable underground facilities pursuant to paragraph 17 of the "Definitions" section 952-001-0010. In these cases, and in CITY's judgment, CITY has no record of location or practical way of locating these sewer service lines. PROVIDER will assume all responsibility for damages to these lines and all damages to property related to damaging these lines by PROVIDER or its agents.

SECTION 10. GENERAL PROVISIONS.

- 10.1 Binding Agreement. The Parties represent that (a) when executed by their respective Parties, this Agreement shall constitute legal and binding obligations of the Parties; and (b) that each Party has complied with all relevant statutes, ordinances, resolutions, by-laws and other legal requirements applicable to their operation in entering into this Agreement.
- 10.2 Governing Law. This Agreement shall be interpreted pursuant to the provisions of the Constitution and laws of the United States, the State of Oregon, and the ordinances and Charter of the City.
- 10.3 Time of Essence. Time shall be of the essence of this Agreement.
- 10.4 Interpretation of Agreement. The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include any other and all genders. The paragraphs and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

- 10.5 Amendments. This Agreement may be modified or amended by written agreement only. No oral modifications or amendments shall be effective.
- 10.6 Binding on Successors. This Agreement shall be binding upon the heirs, successors, administrators and assigns of each of the parties.
- 10.7 Confidentiality. CITY agrees to use its best efforts to preserve the confidentiality of information as requested by PROVIDER, to the extent permitted by the Oregon Public Records Law.
- 10.8 Transfer of Franchise. PROVIDER shall not, directly or indirectly, transfer, assign, or dispose of by sale, lease, merger, consolidation or other act of PROVIDER, ownership or control of a majority interest in the cable communications system, without the prior consent of CITY, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent.
- 10.9 Acceptance of Franchise. this ordinance shall become effective 30 days after final passage. Within 30 days from the effective date of this ordinance, PROVIDER shall file with the City Recorder a written unconditional acceptance of this Franchise and all of its terms and conditions, and if PROVIDER fails to do so, this ordinance shall be void and of no effect.

PASSED AND ADOPTED by the Common Council of the City of Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF ONTARIO

ATTEST:

\_\_\_\_\_  
Ronald Verini, Mayor

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

ACCEPTANCE BY PROVIDER:

Ordinance No. 2717-2016 is accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CABLE ONE, INC.

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

ATTEST:

\_\_\_\_\_  
Secretary

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# Discussion/Information /Hand-Out Items

City Council Meeting  
August 15, 2016



*July 2016 ACTIVITY REPORT*

## Emergency Medical:

- City -132- 1 – General Alarm for extrication assistance at vehicle crash.**
- Rural -16- 1 – General Alarm for crew to respond for lift assist.**

(Types of medical calls responded to: Falls with injury, fall lift assists, medical emergencies, medical alarms, assaults to name a few).

## Hazmat Team Calls: -1- Harney County district

## Fire Related Emergency Calls:

### Rural Fire -6- RURAL GENERAL ALARMS -0- MUTUAL AID -0-

- 1 – Burning during Burn Ban \* (Duty Crew handled and 100 responded)
- 1 – Smoke Alarm activation – no fire \* (Duty Crew handled)
- 2 – Burning in pit during Burn Ban Same address both times (Issued warning) (Duty Crew handled)
- 1 – Burning during Burn Ban Issued warning (Duty Crew handled)
- 1 – Using burn barrels during burn ban

### City Fire Incidents -23- CITY GENERAL ALARMS = -5- MUTUAL AID -1-

- 1 – General Alarm for car crash extrication **GENERAL Alarm \***
- 1 – Using fire pit in garage
- 1 – Dumpster Fire – fireworks caused (Duty Crew handled)
- 2 – Alarm System Activation / in construction area – no fire (Duty Crew handled)
- 1 – Water heater fire- out upon arrival (Duty Crew handled)
- 4 – Alarm system activation – malfunction (Duty Crew handled)
- 1 – Grass fire / burning during Burn Ban (Duty Crew handled)
- 1 – Grass Fire / fireworks caused / **GENERAL Alarm \***
- 1 – Grass & brush fire **GENERAL Alarm \***
- 2 – Car fire – out on arrival (Duty Crew handled)
- 1 – Corral debris fire \* (Duty Crew handled)
- 1 – Sprinkler water flow alarm – cancelled prior to arrival (Duty Crew handled)
- 1 – Mutual Aid to Nyssa Fire **GENERAL Alarm \***
- 1 – Carbon monoxide detector activation / low battery (Duty Crew handled)
- 1 – Small fuel spill – no hazard, gave instructions for cleanup (Duty Crew handled)
- 1 – Hot fan motor, smoke no fire (Duty Crew handled)
- 1 – Pot on stove **GENERAL Alarm \***
- 1 – Propane explosion in travel trailer \* (Duty Crew handled)

**\*In narrative section**

**7/2/2016 “RURAL” HWY 201 & Chester road Illegal Burning during Burn Ban**

**\* Brush 156 and Command 100 responded.**

Called by resident that can see a fire west of her residence, on scene found landowner was burning weeds in an open field. He stated that he was unaware of the burn ban. He was advised to put the fire out and he stated he will not burn again.

**7/3/2016 “RURAL”575 Stanton BLVD. Smoke alarm activation – no fire (Duty Crew handled)**

Dispatched for a smoke detector, alarm activation, arrived on scene and was met by the owner who stated that smoke from a barbecue came in through an open window and set off the alarm.

**7/3/2016 “CITY” 683 NW 1<sup>st</sup> Street Grass fire caused by fireworks (Duty Crew handled)**

Rescue-1 dispatched to a reported fire in back yard of a residence shortly after fireworks had been set off. Upon arrival R-1 found home owner extinguishing a small fire. R-1 found several illegal fireworks in the back yard of residence. Neighbors to the south were lighting fireworks while R-1 was on scene. R-1 advised the individuals that their fireworks were illegal and to quit lighting them. R-1 cleared call at 20:41.

**7/5/2016 “CITY” 400 BLK SE 9<sup>th</sup> Ave. Grass fire / fireworks caused  
“GENERAL ALARM” Rescue 1, Rural Brush 156, Rural Tender 155 and Command 100 responded.**

Dispatched to a report of a grass fire, on scene of old hay yard full of weeds, railroad ties, and wood actively burning. Fire was started by a Ground Bloom Flowers firework. The fireworks were being lit on the paved road and one of the flower blooms jumped out into the side of the road setting off a grass fire. RP was on scene and admitted what happened. She was also the one who called 911. Approximately 1/2 acre of weeds burned. Also damaged were some railroad ties. A large hay stack was also threatened.

**Fire scene as Rescue 1 arrived, threatened hay stack is at center right of photo.**



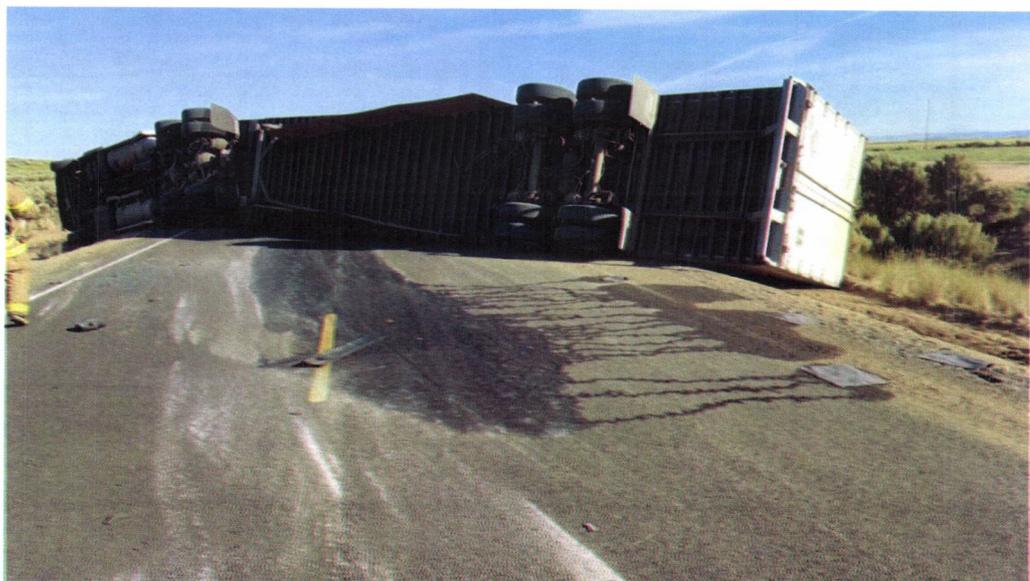


**Scene during day light hours. Fire spread toward hay stack and other buildings.**

**7/5/2016 “HAZMAT CALL” Semi truck wreck** *Hazmat Suburban 14 A and Semi 14B responded with crew of six*

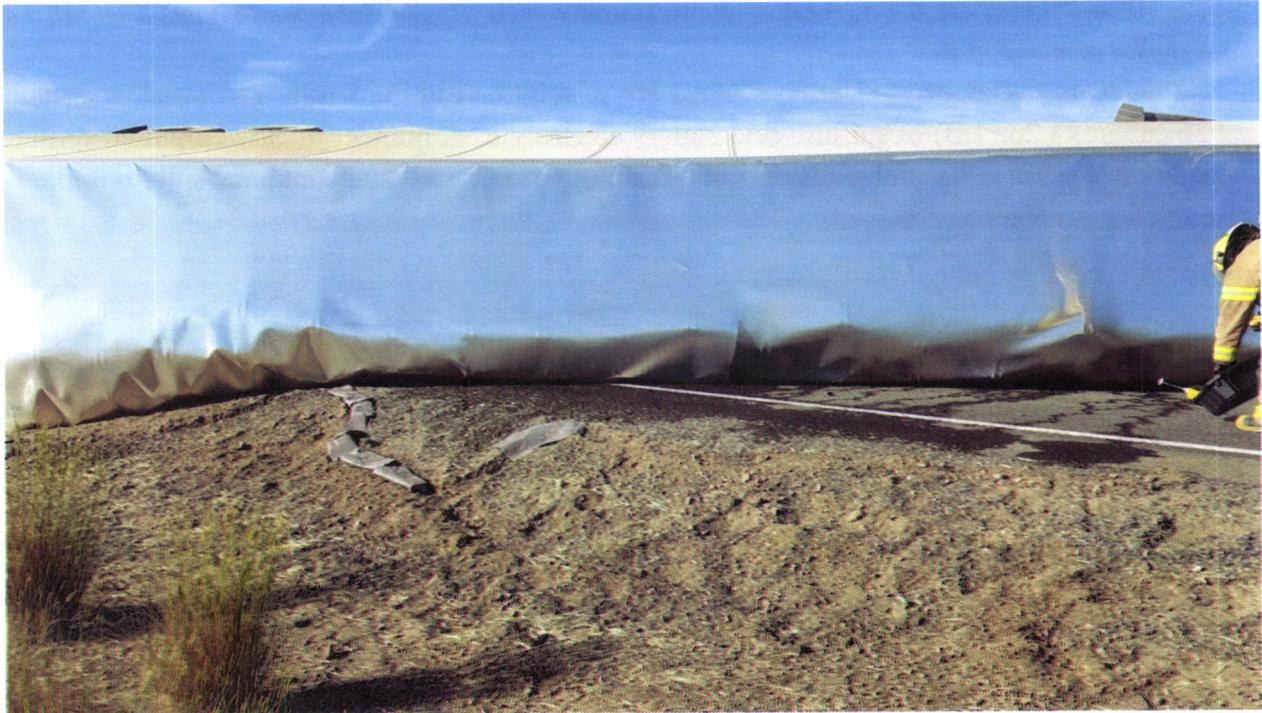
Hazmat team dispatched to Harney County Hwy 78 for a semi truck roll over. Truck was hauling 936 cases (44,262 LB) of sulfuric acid battery electrolyte. A number of cases ruptured spilling acid onto the road way and roadside soil. Team monitored spill and contained spill to trailer until cleanup company arrived.

Truck overturned sliding down roadway spilling battery acid on pavement.





Hazmat crew taking air readings and monitoring the spill.



Crew taking spill readings from the hazardous substance spilled during the roll over.



Crew taking additional chemical readings.



Hazmat response team units on accident scene.

**7/6/2016 “CITY” 795 NW 9<sup>th</sup> Street, Malheur County Fair Grounds Corral debris fire (Duty Crew handled)**

**Rescue 1 was dispatched to the Malheur County fair grounds for a small fire. Upon our arrival we found an area about 20 foot square smoldering inside of one of the corrals. We soaked the area and because of the manure we had staff at the fairgrounds put a sprinkler on the area. Fire cause is unknown.**

**7/9/2016 “MUTUAL AID” 919 Idaho Street, Nyssa “GENERAL ALARM” Crew of 4 responded with City pumper 101**

Fire crews were called for a mutual aid request from Nyssa Fire for assistance with a residential structure fire, arrived on scene to find single story residential structure with a portion of the attic involved, smoke showing. Checked in with fire command and was given our assignment to relieve Nyssa's crew; cutting access holes in the roof and gable end. All occupants were out of the structure and no crews had made entry at the time of our arrival. We assisted with opening accesses in the roof, gable end, and soffit. Our next assignment was to assist pulling ceiling in the laundry room and part of the kitchen. Fire extinguishment improved with access to the fire areas from the interior. After a period rehab our crew was released.



**Photo of Nyssa fire scene upon Ontario Pumper arriving on scene (from dash camera), crew assisted with attic ventilation and interior attack.**

**7/19/2016 “CITY” City Hall, 444 SW 4<sup>th</sup> Street Alarm system activation during police holding cell construction. Duty staff handled – City Hall evacuated!**

Dispatched for a fire alarm activation in City Hall. Arrived on scene, no smoke showing, entered the building with a police sergeant and silenced the alarm at the panel. Contractors were cutting concrete in an area below a smoke detector which activated the alarm. Checked the remaining building and notified occupants that it was safe to reenter the building.

**7/20/2014 “CITY” Alameda & 18<sup>th</sup> Ave. “GENERAL ALARM” 3 vehicle crash requiring extrication. Rescue 1, City Pumper 103 and Command 100 responded (crew of 9).**

Rescue 1 was dispatched to a motor vehicle crash involving three vehicles, on scene requested a General Alarm for a pumper and man power to assist with patient extrication from one vehicle involve. City engine 103 responded with a crew of 5 along with Chief 100. The patient vehicle was pinned between a SUV and a large pickup. Crews cut the top off of the vehicle to reach the trapped patient and assisted Treasure Valley paramedics with patient removal. Patient was transported by ground ambulance to Ontario airport for air ambulance transport to Boise St. Als. Fire crews assisted TVP with patient loading at the airport, cleared and placed equipment back in service at the station.



Crash scene at 18<sup>th</sup> & Alameda. Extrication of one patient required from center car.



EMS crews assist loading patient into Life Flight helicopter for transport to Boise Hospital.

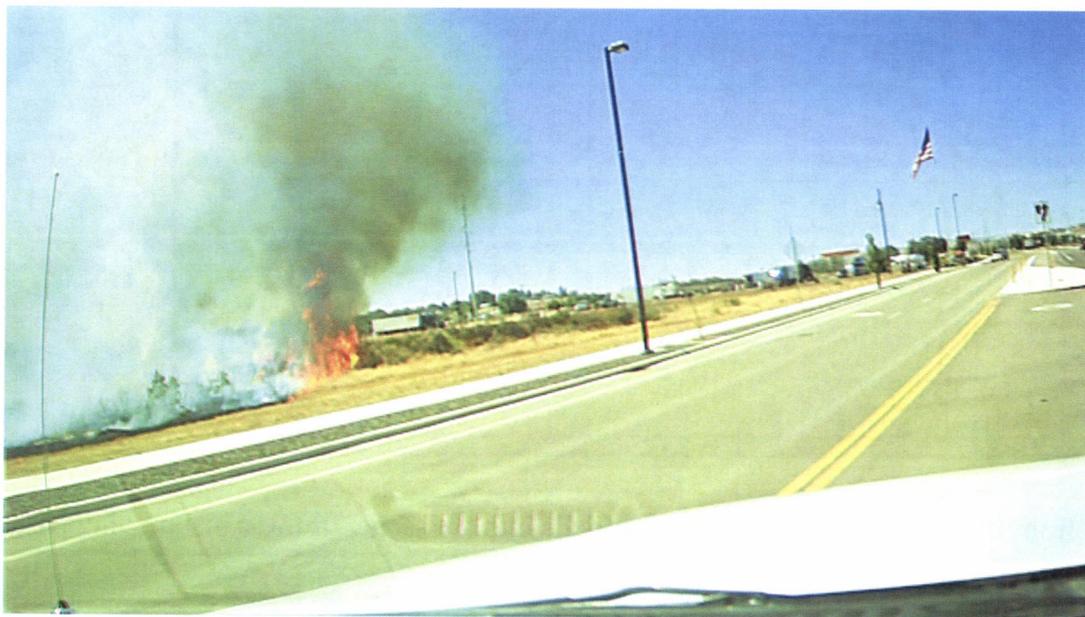
**7/21/2016 “CITY” NW Washington Ave., Grass & brush fire “GENERAL ALARM” City brush 102, Rural brush 156, Rural brush 157, Rural tender 159 and Command 100 responded with a crew of 9 and 3 on standby at Station 1.**

Rescue 1 dispatched to a grass fire near Love’s Truck Stop that was reported spreading rapidly. Duty staff responded with Rural Brush 156 instead of Rescue 1 due to the exact location unknown. Command 100 got on scene and immediately called for a general alarm with initial size up of approximately 1 acre with Radio Towers being threatened, also called for a rural response. Rural Brush 156 arrived on scene and become initial attack on the south west corner off of Park Blvd. Brush 156 continued attacking the fire and extinguishing the south end until they met up with Rural Brush 157 on the east end which made complete containment of the perimeter by 1402. Cascade Natural Gas crew arrived and had a concern about the fire reaching their equipment along Park Blvd and asked that we make every effort to keep the fire away from that area. City Brush 102 arrived and was assigned the northwest section of the fire to cut off the spread toward the gas equipment.. Rural Tender 159 responded and immediately set up a water supply at the hydrant. Units continued shuttling water to mop up hot spots in the interior and

make a solid controlled perimeter fire line. KSRV radio station manager informed command that the radio station was off the air and was concerned about the condition of the radio towers. Units on scene indicated that the fire had not entered into the tower confinements but there was an exposed conduit which the fire had spread over the top of. Due to the type of vegetation in the field (grass and sage brush) considerable heat was being generated by the fire impacting the conduit. It was noted that the conduit was connected to the main building and had wiring feeding the two towers. It was also noted that some damage appeared to occur in the station switch gear due to the short circuits in the conduit. After "all" hot spots were cooled units were released to return to the station and back into service. The fire caused an estimated \$60,000.00 in damages to the radio tower conduit wiring system.



156 approaching scene from Yturri Beltline. Found heavy fire conditions upon arrival.





Flames moved across field in front of Brush 156 / note flame lengths as fire moves toward the cleared area next to the city shop fence.



Photo from Brush 156 dash camera as unit pulls into the scene, fire was just moving past the radio station towers.



Crews found extreme fire behavior with long flame lengths.



City Brush 102 works the west side of the fire toward Washington Street.

**7/24/2016 "CITY" 930 NW 4<sup>th</sup> St., Pot on stove "GENERAL ALARM" Rescue 1 and Command 100 responded – other responding units held at station.**

Dispatched to an Apartment complex where the neighbor stated that her neighbors smoke alarm was going off and she sees smoke inside the apartment. Rescue 1 arrived on scene with individuals had opened the top floor apartment door and smoke was coming out the front door, immediately called for a general alarm. Made entry into the apartment through the front door and found the occupants left a pot of food on the stove, which was smoking. Opened all windows and began to ventilate the apartment with a positive pressure fan. Cancelled the general alarm response and to hold all fire fighters at the station. No damage to the apartment besides the smoke that was created by the pot of food. No one was home at the time of the incident. Left damaged pot on stairway leading up to the apartment. Crew got information from neighbors and cleared the scene.



Photo of stove range top where cooking pot had been in use / left unattended.



Photo of cooking pot after removal to the exterior. Bottom melted out of the pot from the heat exposure.

**7/24/2016 "CITY" 2152 SW 2<sup>nd</sup> Ave., Fire pit used inside structure** (Duty Crew handled)

Dispatched to a report of someone using a fire pit inside of an attached garage with visible flame and smoke. On scene made contact with occupant who was burning cardboard in the portable fire pit inside her garage with the garage door halfway down. Crew advised her of the burn ban and the danger of an open fire inside of her garage and breathing the smoke. Occupant extinguished her fire with water and crew cleared the scene.

**7/27/2016 "CITY" 1047 NW 6<sup>th</sup> Ave., Propane Explosion in travel trailer** (Duty Crew handled)

Rescue 1 paged for a report of a travel trailer that had just blown up, there was no fire but there was debris all over the road. The caller advised that his neighbor's trailer had just blown up. Upon arrival Rescue 1 found a travel trailer with extensive damage sitting on the north side of the road. There were several people rummaging through the debris, picking up and salvaging personal items and material. The owner stated he had previous to Fire Department arrival turned

off his propane tank. Rescue 1 confirmed that all LP tanks were accounted for and turned off. Checked area using a 4 gas monitor and all readings were zero for gases, and 20.9 for O2. There was a faint odor of burnt plastic although no fire or burnt material was found. The passenger side (north) of the trailer was the side that had blown off or ripped open from the force of the explosion. (see pictures) The owner states he had shut off one of his propane bottles during the trip back home from camping and turned on the other bottle to keep the refrigerator cool and running. All other appliances, furnace, and hot water heater were off and knobs were in the off position. (see pictures) The refrigerator was the only thing on using propane. It has not been determined where the leak occurred. The owner stated he had just recently come home, parked and went into the house to sleep. He left the refrigerator on as he was going to unpack in the morning. With all readings on the 4 gas monitor neutral, and no danger of fire, R1 was able to obtain trailer and owner information. The RP was able to continue cleaning up the debris and the trailer contents. OPD officer remained on scene for traffic control, R1 cleared and available.

Trailer Information: 1975 Wild 19'L x 8'W  
Vin# E04632453983



Photo of travel trailer as Rescue 1 arrived on scene. Explosion caused from an LP gas leak.



Side of travel trailer blown out by force of explosion.



Debris field blown onto driveway by force of LP gas explosion.

## **BURN PERMITS ISSUED:**

**City Open Burns    NONE – Burn Ban in effect!**

**City Burn Barrels    NONE – Burn Ban in effect!**

**Rural Open Burns    None issued – open to field burns only!**

**Rural Burn Barrels    NONE – Burn Ban in effect!**

## **FIRE PREVENTION INSPECTIONS:**

**7/12/2016    Oregon Street Gym, 160 N. Oregon Street**

**7/25/2016    Ontario Recreation Center**

**7/29/2016    Fry Foods, Stanton Blvd. / fire pump acceptance test / photos next page.**

## **7/29/2016 Fry Foods, Stanton Blvd., Fire pump startup & test**

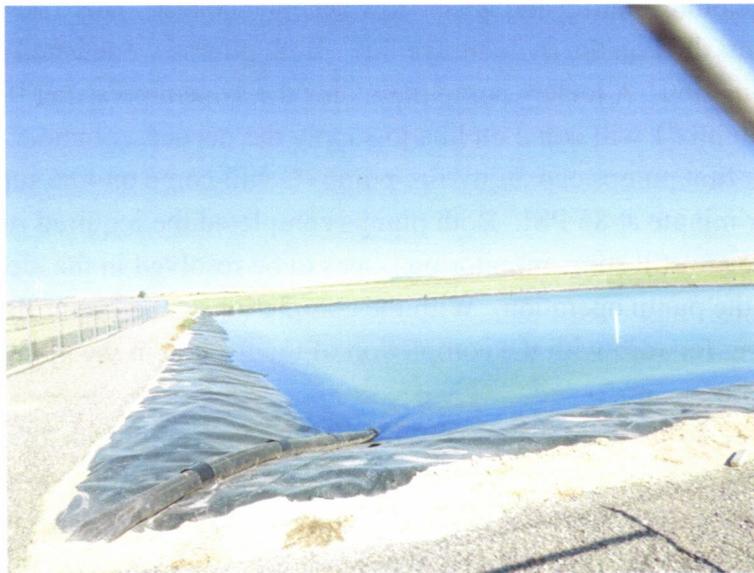
When Select Onion was established a fire hydrant system was installed for the plant buildings with water supplied from the Snake River using the same irrigation pipe intended for the Sky Line Farms. It was found that the hydrant system did not have water pressure year round and over several years the piping supply piping failed and pumps were removed. Several owners later Fry Foods purchased the property and started remodeling the process plant to meet their onion ring food line including frying the raw produce at the Stanton Blvd. plant. Fire and building codes required a fire fighting water supply on site for the processing plant and accompanying storage buildings. The summer of 2015 Fry Foods was granted a conditional use agreement which allowed them to start using the process plant for raw onion production without any fry process until the water supply pond, fire pump and hydrant system was installed and approved. The pond and fire pump installation has been completed.

On the above date Chris Ruddell, City County Inspections, Lonnie Justus, Ontario Fire and Chief Al witnessed the fire pump startup and water flow acceptance test. There are two 2,000 gallon per minute pumps installed on the hydrant fire line. Both pumps were tested individually for required flow and pressure. A jockey pump maintains the system pressure, if there is a pressure drop the main fire pump #1 will come on line to supply the needed volume & pressure. If the demand exceeds the first pumps capability fire pump #2 will come on line supplying an additional 2,000 per minute at 85 PSI. Both pumps completed the required run tests satisfactorily. There are still some monitoring issues to be resolved in the electrical system but this does not affect the pump operation. With the completion of the fire protection system Fry Foods will be moving forward with the completion of the fry line in the plant bringing the complex up to full production.

It was noted however that there were several fire hydrants well outside of an access road with cultivated land up to and around the hydrants making access impossible especially during bad weather. Chris Ruddell and Chief Al met with Hector Herrera, Plant Manager, concerning the Fire Code requirements for an all-weather access road that will support up to a 60,000 lb. load around the hydrant loop. Mr. Herrea indicated that Fry Foods would get their engineer working on the design to bring the system up to code.



Fire suppression water holding pond, photo taken over the chain link fence.



Fire water holding pond, photo taken from the access gate looking west.

Fire pond looking west, water level gauge at center of photo.

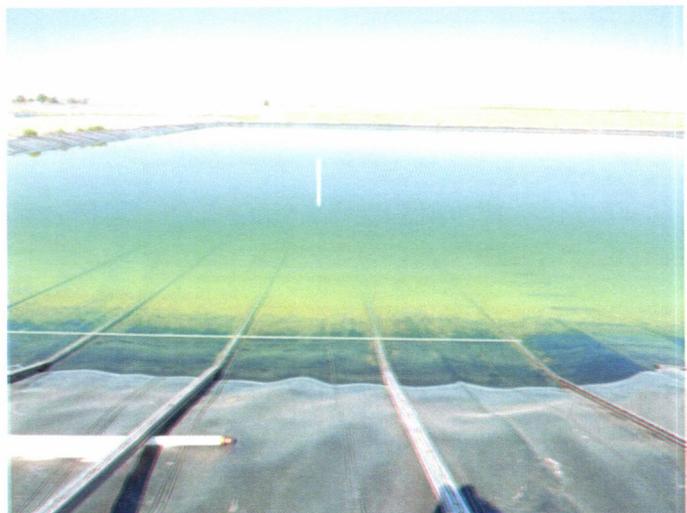
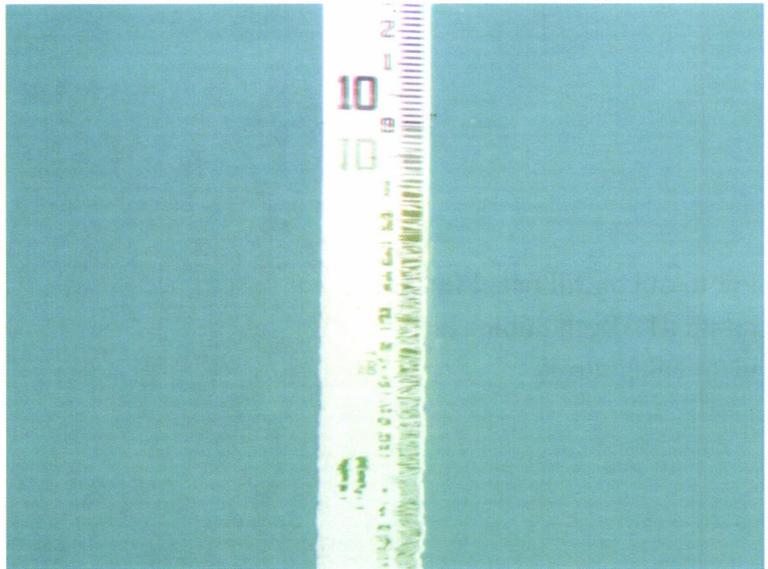


Photo of level gauge after fire pump startup test / approximately 10,000 gal of water was removed from the pond / level dropped two inches.



New fire pump house located on the east side of fire water holding pond.

Photo of piping system connected to the plant water supply line / system keeps the pond at the full level.



Photo of control panel for fire pump #1. Both pumps have identical controls.



Interior of fire pump house. Two 2,000 gpm pumps are connected to the hydrant piping.

Fire pump #2 control being tested.



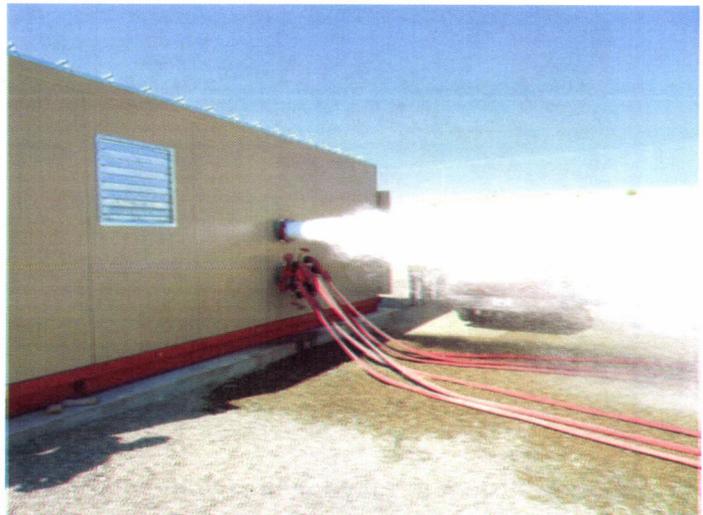


Fire hose layout for pump run test.



Water flow from the pump's being monitored for required flow.

Fire pumps were also discharged through a large diameter pipe with flow readings from a flow meter.





Close up photo of pump discharge at the rated 2,000 gpm.



Fire hydrant system installed in area without access for fire apparatus / not all weather access.



Close up photo of hydrant area which lacks fire apparatus access, especially during wet weather.



**City of Ontario**  
**POLICE DEPARTMENT**

Office of the Chief

444 SW 4<sup>th</sup> Street

Ontario, OR 97914

Voice (541)889-5312 Ext. 2303

Fax (541)889-3026

To: Ontario City Council

Date: July 30, 2016

Re: Department Statistics for **June 2016**

Activity	Month of June	Previous Month	Year to Date	Prior Year to Date
Calls for Service	805	884	5074	4973
Traffic Stops	102	99	645	1011
Cited Traffic Violations	75	71	435	688
Motor Vehicle Crashes	31	27	190	201
Arrests	55	75	451	519
Arrests w/ Use of Force	1	0	8	4
Citizen Complaints	0	0	0	0
Cases to Dist. Attorney	52	70	368	361
Ordinance Cases Total	94	80	745	662
Ordinance-Weeds	21	13	272	262
Ordinance-Garbage	2	0	12	27
Dogs to Ani-Care	12	10	52	49
Junk/Vehicles	8	2	49	64
Death Investigations	1	0	11	9
SRO Cases	0	18	140	131
Gang Related Cases	0	5	29	43
Gang Designations	0	0	0	2
Task Force Cases	5	3	18	31
Graffiti	4	13	47	44
Burglary	14	7	58	36
Robbery	0	0	2	4
Larceny	47	71	339	267
Assault	12	6	46	40
Homicide	0	0	0	0
Sex Crimes	2	0	5	10
Alarms	31	20	119	102
Property Loss/Recover	\$80,891/3970	\$68,784/\$17,461	\$312,935/\$49,197	\$212,550/\$23,397

Commissioner Wilson seconded and the motion passed unanimously. This is a mutual aid agreement that enables public works agencies to support each other during an emergency; provides a mechanism for immediate response to the requesting agency when the responding agency determines it can provide needed resources and expertise; and sets up the documentation needed to seek maximum reimbursement possible from federal agencies. See instrument #2016-2480

Mr. Moulton noted he is currently working on several incidents involving landowners allowing irrigation water to discharge onto County roads.

The Court also briefly discussed the Wilcox gravel pit with Mr. Moulton. Mr. Moulton said the sales price for the pit is \$150,000; Mr. Moulton is gathering additional information on the property and will visit further with the Court at a later date.

### **COURT MINUTES**

Commissioner Wilson moved to approve Court Minutes of July 20, 2016 as written. Commissioner Hodge seconded and the motion passed unanimously.

### **PANIC ALARM SYSTEM QUOTE**

Commissioner Hodge moved to accept the quote from Integrated Security Resources Inc. for the wireless panic alarm system for the County offices within the courthouse (\$9,171.20). Commissioner Wilson seconded and the motion passed unanimously.

### **OLCC LIQUOR LICENSE APPLICATIONS**

Commissioner Hodge moved to approve Oregon Liquor Control Commission (OLCC) Liquor License Application to Black Palomino LLC/R. Heather Holtry for the facility located at 5586 Hwy 95 Spur, Ontario; and OLCC Liquor License Application to C. Stein Inc/CSB Craig Stein Beverage/Scott Norell for the facility located at 492 Columbia Avenue, Nyssa. Commissioner Wilson seconded and the motion passed unanimously.

### **CONTRACT - ANI-CARE**

Commissioner Hodge moved to approve Contract with Ani-Care Animal Shelter Inc. Judge Joyce seconded and the motion passed. Commissioner Wilson abstained. Ani-care will provide facilities for the maintenance, care and disposal according to law of abandoned or stray canines located within the confines of Malheur County. See instrument #2016-2481

## **SUPPLEMENTAL BUDGET**

Commissioner Hodge moved to approve Supplemental Budget Resolution R16-22: In the Matter of Fiscal Year 2016/2017 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Wilson seconded and the motion passed unanimously. The purpose of the supplemental budget is allocate the spending of March of Dimes grant funds, in the amount of \$6,000, which were received but not anticipated when the adopted budget was prepared. See instrument #2016-2482

## **ORDER FOR DE NOVO HEARING - PLANNING COMMISSION MATTER/BENCH-SEUBERT**

County Counsel Stephanie Williams met with the Court and briefed them on an appeal of a Planning Commission's decision that will come before the Court.

Background of the matter is: Planning Department File #2016-05-001. The matter is a lot line adjustment (property/boundary line adjustment) between Kelly Bench and Seubert Excavator. The Bench property has a Goal 5 Inventory Site (approximately 9 acres); the site was added to the County's Goal 5 Inventory several years ago. In 2002, a conditional use permit to mine the site was applied for and it was denied by the Planning Commission and County Court. Mr. Seubert now wants to buy the 9 acre site, plus some additional acreage (total 14) from Mr. Bench via a property line adjustment. The Planning Director approved the property line adjustment in May 2016 as an administrative decision. The decision of the Planning Director was appealed by 20 persons who were represented by attorney Martin Leuenberger at the Planning Commission meeting of June 23, 2016.

Some of the reasons for the appeal of the Planning Commission's decision include: The Planning Commission proceeded without a complete application form as devised and prescribed by the Planning Director. The Planning Commission accepted the proposed lot line adjustment deed from the Applicants/Owners and in turn provided it to the Appellants the day of the Planning Commission hearing; that the deed and other documents was a required part of the Application and it was the responsibility of the Applicants to make certain their application was complete well in advance of the hearing. At the Planning Commission hearing, Appellants requested a continuance to review the deed and any material contained in it. The Planning Commission indicated that as the deed was prepared by an attorney and a surveyor no further review was necessary; and the request for a continuance was denied.

Ms. Williams explained that ORS 197.763 states if a continuance is requested it shall be granted. Ms. Williams had visited with Mr. Leuenberger prior to the Planning Commission meeting and shared the ORS with him, but Mr. Leuenberger expressed his hesitancy to invoke the statute. The statute was not mentioned by Mr. Leuenberger at the Planning Commission hearing as the basis for the continuance. However, the Appellants appeal form cites the ORS.

Ms. Williams explained to the Court that her recommendation is to hold the appeal hearing before the County Court as a *de novo* hearing rather than on the record. A *de novo* hearing

will allow the appellants the opportunity to respond, testify, and present argument and information on the deed and other items referenced in their appeal.

Commissioner Wilson moved to approve Order GO-5-16, In the Matter of: Order for *de novo* Hearing Before the Malheur County Court on Appeal from Decision of Malheur County Planning Commission Granting Lot Line Adjustment between Bench (Assessor's Map 17S47 tax lot 600 ref. #6967) and Seubert (Assessor's Map 17S4719 tax lot 800 ref. #6948), Planning Department Case #2016-05-001; and Setting Date and Time for Appeal Hearing. Commissioner Hodge seconded and the motion passed unanimously. The hearing date is September 7, 2016 at 9:00 a.m. See instrument #2016-2483

### **COURT ADJOURNMENT**

Court was adjourned.

Community Development Annual Report  
Fiscal Year 2015-2016



**COMMUNITY DEVELOPMENT  
ANNUAL REPORT  
FISCAL YEAR 2015-2016**

# Community Development Annual Report Fiscal Year 2015-2016



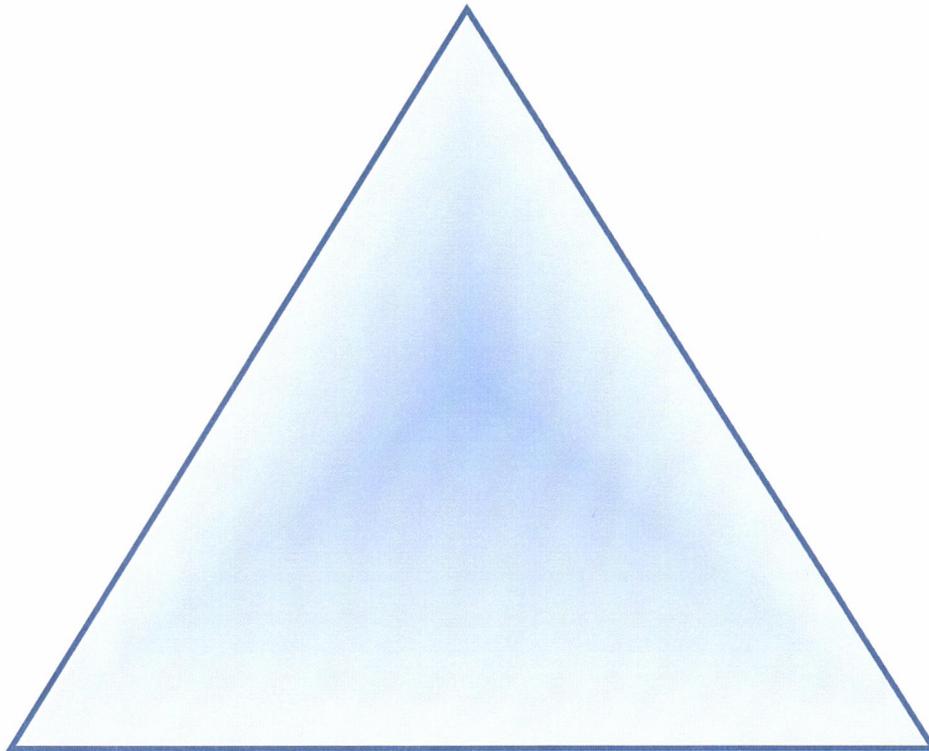
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# What is Community Development ?

**Economic Development**



**Building**

**Planning & Zoning**



## PLANNING & ZONING DEPARTMENT

### I. Forward

The Planning and Zoning Department is the City of Ontario administrative office for Oregon's Land Use Program. The City's program is the State of Oregon's program in that the City is required by State Law to conduct planning and zoning; however, this State program is implemented in the City through a set of documents and regulation formulated and adopted by the City, for the City, under Title 10 of the Ontario Municipal Code.

The Planning and Zoning Staff have two functions, both of which are key to economic development within the City. In a nutshell, Staff are responsible for maintaining and updating the City's Comprehensive Plan, Plan Map, Zoning Regulations and Zoning Map, which is called "long-range planning"; and, to use these regulations to assist developers within the City, including within the Urban Growth Area, which is called "current planning".

This report includes statistics and text on the type and numbers of current planning activities, and the type of long range planning activities, the office is engaged in. Staff consists of the Community Development Director (who is also the Planning and Zoning Administrator) and the Planning Technician. The Planning and Zoning Administrator is Dan Cummings and the Planning Technician is Marcy Siriwardene.



The Economic, Planning, & Zoning Administrator is Dan Cummings and the Planning & Zoning Technician is Marcy Siriwardene.



## II. City of Ontario Land Use Action Permits

**Site Development:** This action is used when a development or redevelopment of a property is taking place and a building permit is not required or the development or redevelopment is in a Flood Hazard Zone.

**Annexation/Rezone:** This action is two-in-one; annexation into the City requires assignment of a City Zone. This City Zone can be the same, or different, than the Urban Growth Area Zone that exists on the property prior to annexation; if the proposed zone is different, an amendment to the Comprehensive Plan is necessary at the same time.

**Rezone (Zone Change):** This action is simply a change from an existing zone, City or UGA, to a different Zone. A UGA Zone cannot be applied to City property, and vice versa. A rezone requires a comprehensive plan amendment.

**Comprehensive Plan Amendment:** This action is an amendment in the text or map of the Comprehensive Plan; amendments can involve changes, deletions, or additions to the plan, map, or supporting documents.

**Zoning Regulation Amendment:** This action is an amendment in the text or map of the zoning regulations; amendments can involve changes, deletions, or additions to the text or zoning map.

**Partition:** This action is a land division of one or more existing parcels or lots into no more than three new existing parcels or lots, including the “remainder” lot. This action requires a public hearing before both the Planning Commission and City Council.

**Subdivision:** This action is a land division of one or more existing parcels or lots into four or more existing parcels or lots; this action also requires a public hearing before the Planning Commission and the City Council.

**Property Line Adjustment:** This action is as the name states; an adjustment of a common boundary between no more than two contiguous properties.

**Variance:** This action is a request for approval to not comply with one or more specific regulations; it may not be requested for use regulations or to accomplish a rezone, or for a regulation that is mirrored in State Law.

**Conditional Use:** This action is a request for establishment of a use, specifically listed in a zone, that may or may not be compatible with the surrounding uses in the zone. Generally, the requested use must be able to be made compatible through conditions of approval which restrict the use in certain specific ways.

**Temporary Use:** This action is undertaken to allow, on a temporary basis, certain activities which are necessary for the establishment of conduct of a use that is allowed in a zone. Generally, the requested use could not be otherwise allowed.

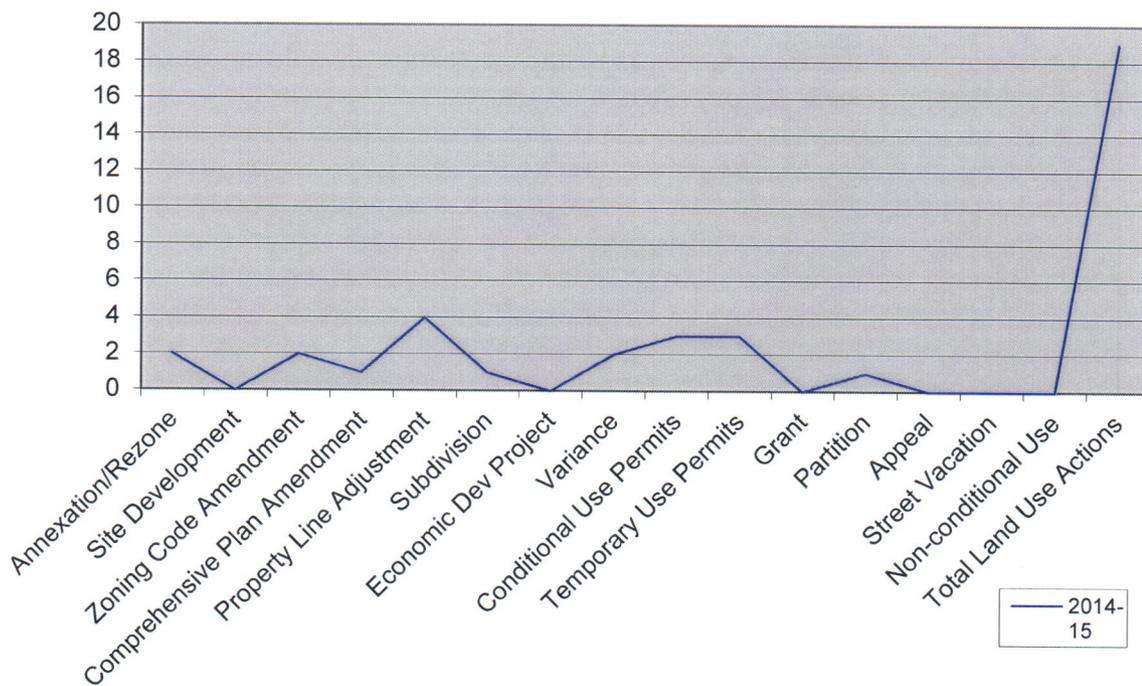


## Community Development Annual Report Fiscal Year 2015-2016

### III. 2014-15 Land Use Action Permits By Type

Annexation/Rezone:	2
Zoning Code Amendment:	2
Comprehensive Plan Amendment:	1
Partition:	1
Subdivision:	1
Property Line Adjustment:	4
Variance:	2
Conditional Use Permit:	3
Temporary Use Permit:	3
<u>Total Land Use Permits for FY 2014-15:</u>	<u>19</u>

**2014-15 Land Use Permits**



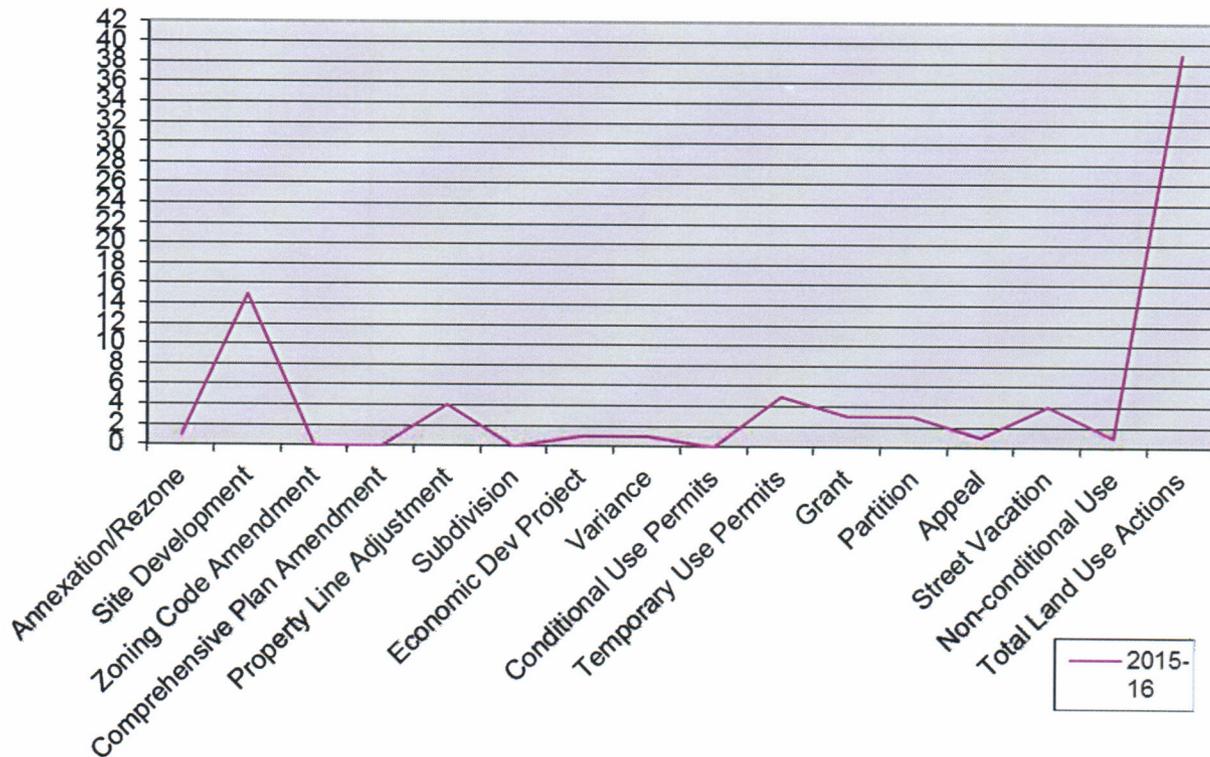


## Community Development Annual Report Fiscal Year 2015-2016

### IV. 2015-16 Land Use Actions By Type

Annexation/Rezone:	1
Site Development:	15
Partition:	3
Property Line Adjustment:	4
Variance:	1
Temporary Use Permit:	5
Grants:	3
Econ Dev Project:	1
Appeal:	1
Street Vacation:	4
Non-conditional Use:	1
<b>Total Land Use Permits for FY 2015-2016</b>	<b>39</b>

**2015-16 Land Use Permits**

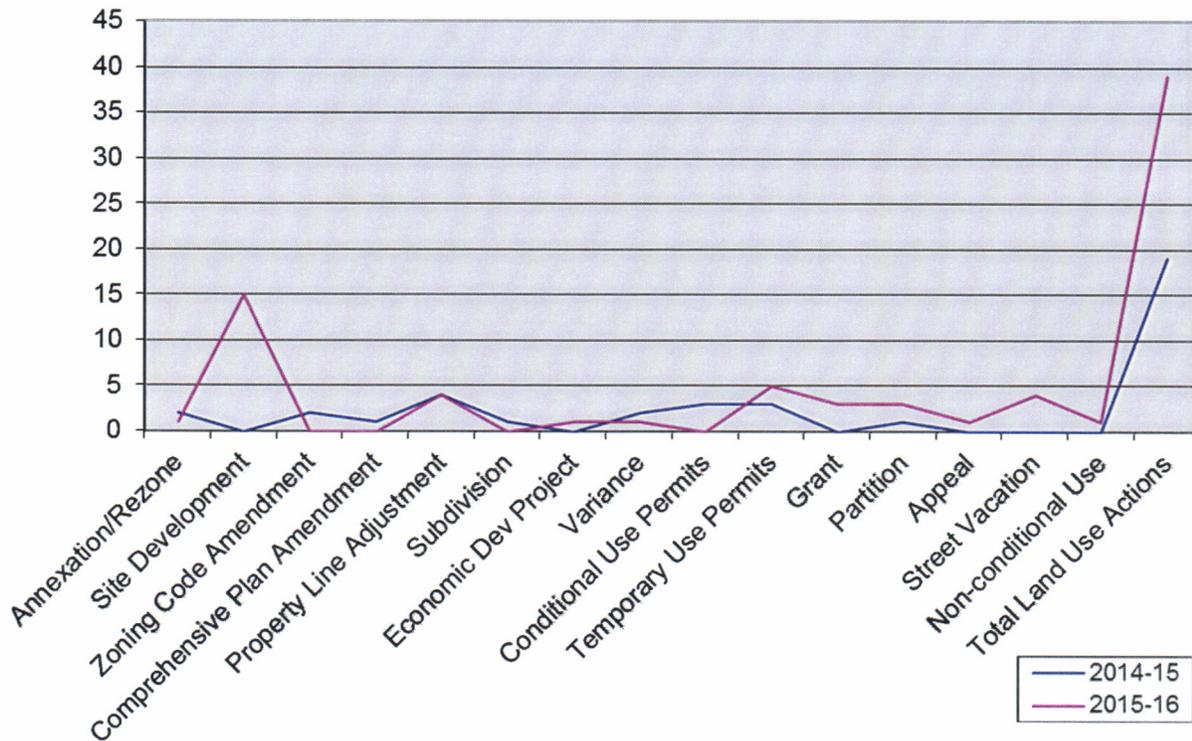


# Community Development Annual Report Fiscal Year 2015-2016



## V. Comparison of Last Fiscal Year to This Fiscal Year

**Land Use Permits 2014-15 & 2015-16 Comparison**



## VI. Other Current Planning

Planning Staff are responsible for maintaining and updating the City’s Comprehensive Plan, Plan Map, Zoning Regulations and Zoning Map, which is called “long-range planning”; and, to use these regulations to assist developers within the City, including within the Urban Growth Area, which is called “current planning”. Preceding pages of this report have given an explanation of the type of current planning permit types and provided statistics on the numbers of actual land use actions for which applications have been received, processed and a written decision issued.

For every land use action application received, there is a significant amount of time spent by staff in research and coordination with other City Departments and State Agencies, and with Special Districts. Roughly the same amount of time is spent doing the same tasks for questions that never result in an application, or that result in a building, public works, or other permit which is not shown in this report. Staff estimates that the ratio of contacts that result in no permit, or other permit applications, to the contacts that do result in land use permits is in the neighborhood of 20 to 1; this time must be included in the accounting for Current Planning.

## **ECONOMIC DEVELOPMENT DEPARTMENT**

Dan Cummings is the Economic Development Director. He is responsible for the economic development of the city through the promotion of desirable business growth with expansion, retention, and attraction. The Director serves as a conduit between the commercial economic interest in Ontario and the municipal government, by encouraging economic well-being and expansion of existing businesses, responsibly assisting in developing new properties and businesses, all while maintaining the quality of life within the City of Ontario.

### **I. Economic Development Statement**

The City of Ontario's Economic Development Department is here to assist with:

- Supporting a diverse economy to provide family jobs, employment from youth, and a positive environment for business creation.
- Recognizing value-added processing that contributes positively to economic well-being in all areas of productions.
- Viewing agriculture as a crucial segment of the economy, utilizing both traditional production and alternative methods in support of a strong industry.
- Encouraging local financial institution and private investor collaboration and utilizing government economic development programs to promote small business growth, while supporting sustainable operations.
- Building a flourishing, low-impact tourism collaboration to support the success of local businesses in the lodging, retail, and restaurant industries.

### **II. 2015-16 Economic Projects**

- **Redevelopment of the West Park Plaza**



## Community Development Annual Report Fiscal Year 2015-2016

### 2015-16 Economic Projects Continued:

- **Redevelopment of the Old Kmart Property**



- **Downtown Façade Grant Program**



- **Working on Downtown TGM Outreach grant**
- **Applying for Brownfield grants**
- **Potential development through site visits and meetings and industrial lands**

## Community Development Annual Report Fiscal Year 2015-2016

### III. Preliminary Design Advisory Committee (PDAC) Meetings

It is required as per city code 10B-04-15(1) that any residential or commercial proposed development hold a PDAC meeting prior to their development. It gives an opportunity for both the developer/builder and City staff to ask questions to assist in clarifying the requirements and standards for the project. The applicant will meet with Fire, Public Works, Building, Planning, and any other needed departments at the same time. The PDAC meeting will provide both information and direction before the project begins.

### **BUILDING DEPARTMENT**

Dan Cummings, Community Development Director, oversees the Building Department.

Marcy Siriwardene, City's Planning & Zoning Technician, is the first point of contact between the public and the department as the City continues to grow. Marcy assists with the building and planning departments and has picked up another department; economic activity, this past year. She also fills in for City Recorder, as needed.

The City of Ontario signed an agreement with the City of Fruitland to share their Building Official and Inspector (January 31, 2006). We have a Building Official and a Building Inspector that work both sides of the river. Danny Little, Building Official, performs the commercial plan reviews and inspections. He is currently working on obtaining his Fire and Plan Review Inspector certification. Jeff Dickinson, Building Inspector, mainly does the residential inspections and is working on obtaining additional certifications.



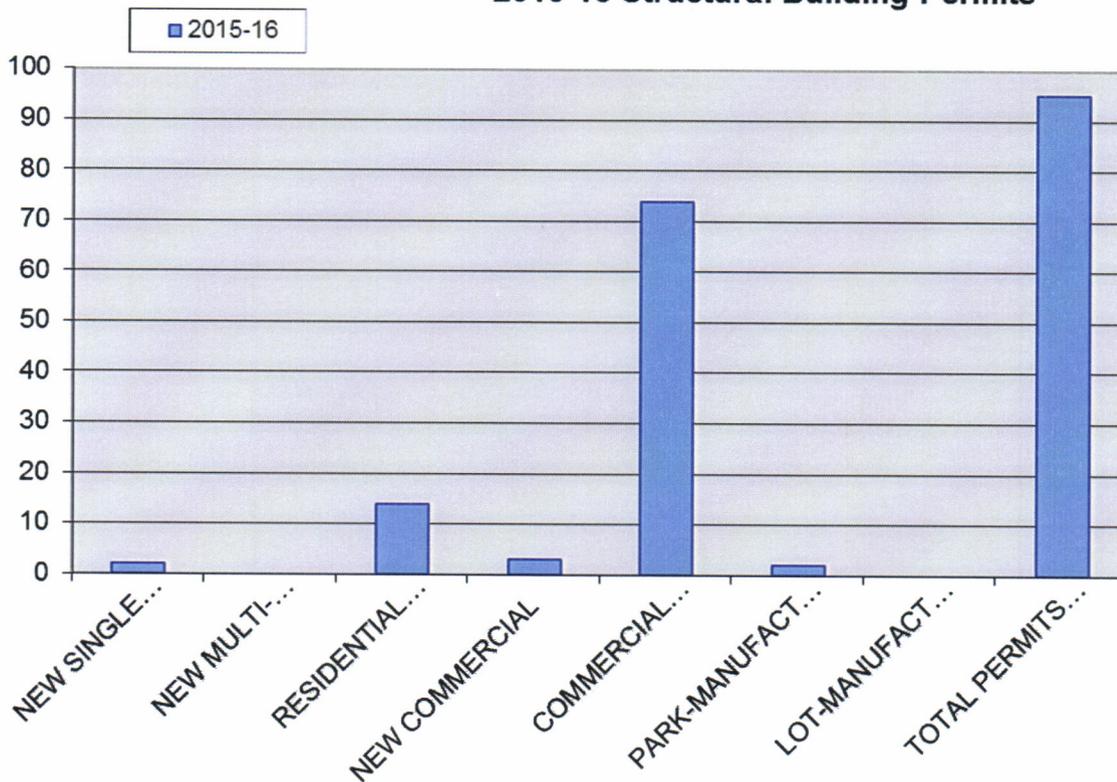


## Community Development Annual Report Fiscal Year 2015-2016

### I. 2015-16 Structural Permits Issued

New Single Family Residential	2
New Multi-Family Residential	--
Residential Alterations	14
New Commercial	3
Commercial Alterations	74
Manufactured Home in Park	2
<u>Manufactured Home on Lot</u>	--
<b>Total Structural Permits</b>	<b>95</b>

**2015-16 Structural Building Permits**



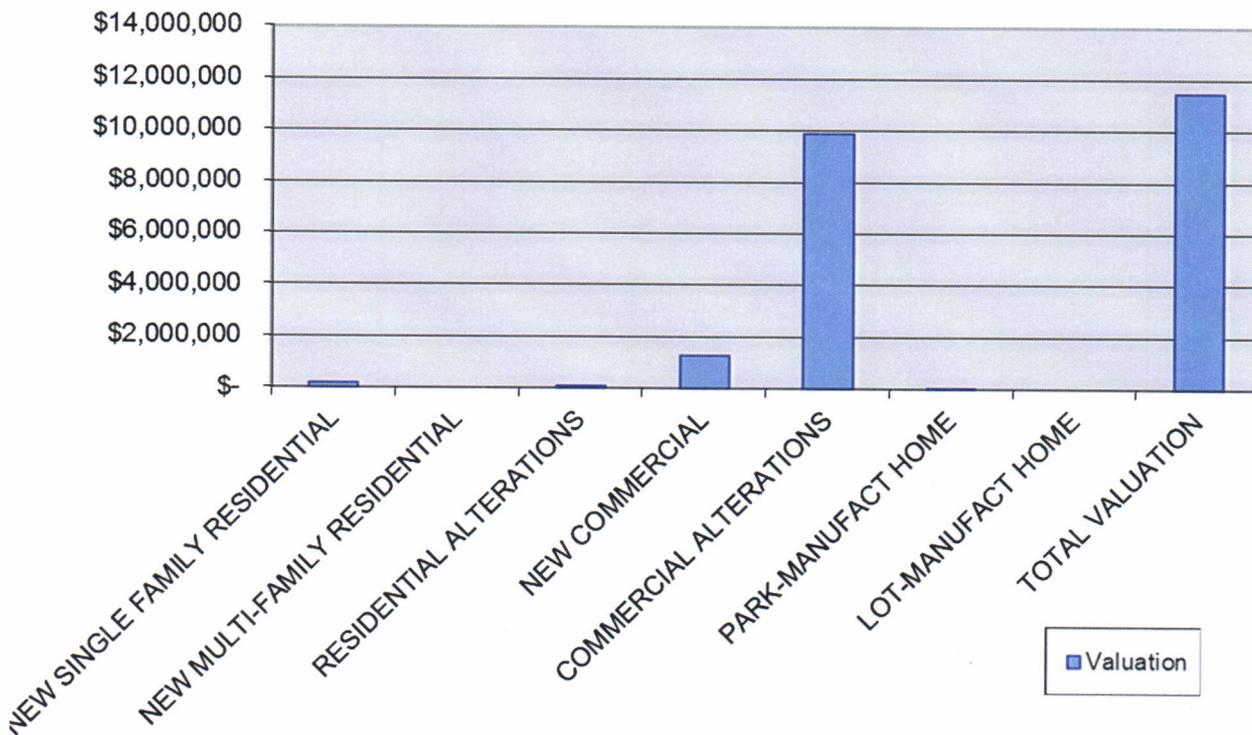


## Community Development Annual Report Fiscal Year 2015-2016

### II. 2015-16 Building Valuations on Permits Issued

New Single Family Residential	178,000
New Multi-Family Residential	--
Residential Alterations	113,073
New Commercial	1,291,760
Commercial Alterations	9,885,698
Manufactured Home in Park	12,500
<u>Manufactured Home on Lot</u>	<u>--</u>
Total Structural Permits	\$11,481,031

**2015-16 Structural Building Permit Valuation**



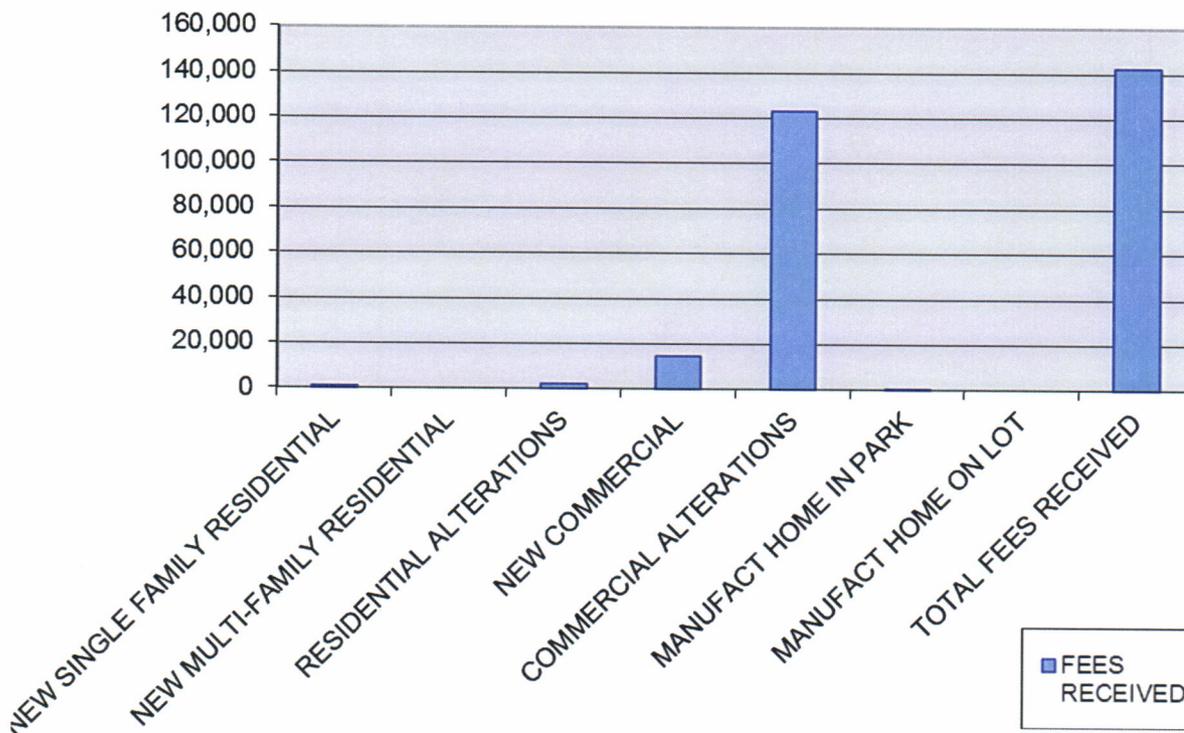


## Community Development Annual Report Fiscal Year 2015-2016

### III. 2015-16 Permit Fees on Permits Issued

New Single Family Residential	1,260
New Multi-Family Residential	--
Residential Alterations	2,399
New Commercial	14,865
Commercial Alterations	123,161
Manufactured Home in Park	452
<u>Manufactured Home on Lot</u>	<u>--</u>
Total Structural Permits	\$142,137

**2015-16 Structural Building Permits Fees**



### IV. 2015-16 Mechanical Permits and Fees Issued

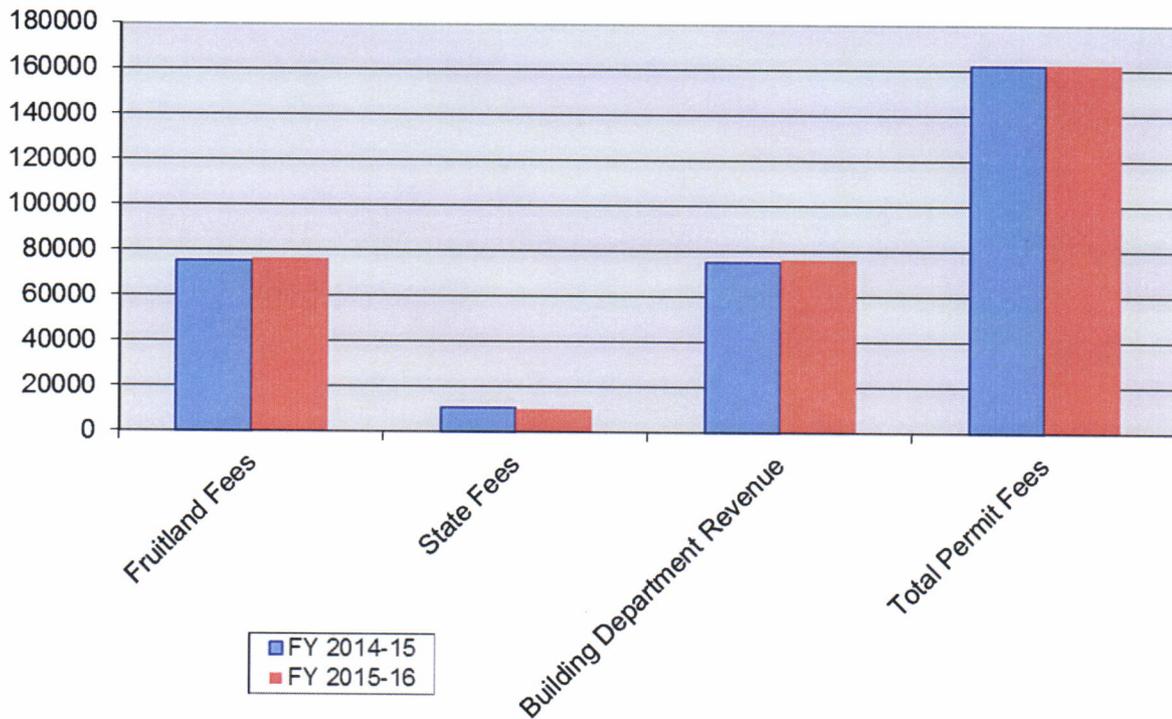
Mechanical Permits Issued	167
Total Mechanical Fees	\$20,801

# Community Development Annual Report Fiscal Year 2015-2016



## V. Comparison of Last Fiscal Year to This Fiscal Year

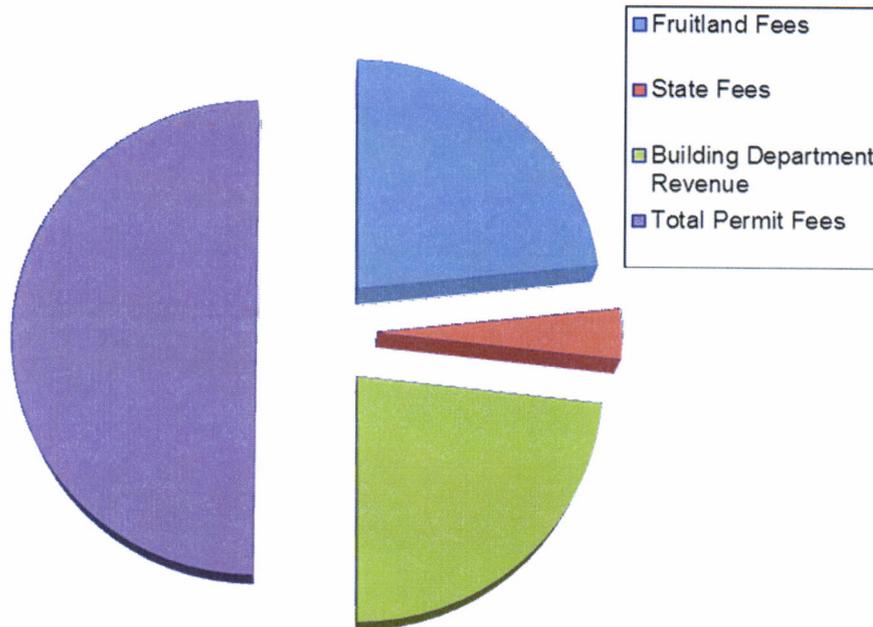
### Comparison of 2014-15 to 2015-16 Total Building & Mechanical Permits





## VI. Revenue Breakdown of Building Permits

2015-16 Revenue Breakdown of Building Permits



# Community Development Annual Report Fiscal Year 2015-2016

## VII. 2015-16 Building Projects

- St Alphonsus-SAMCO Commercial Redevelopment



- Commercial Redevelopment-Chamber of Commerce

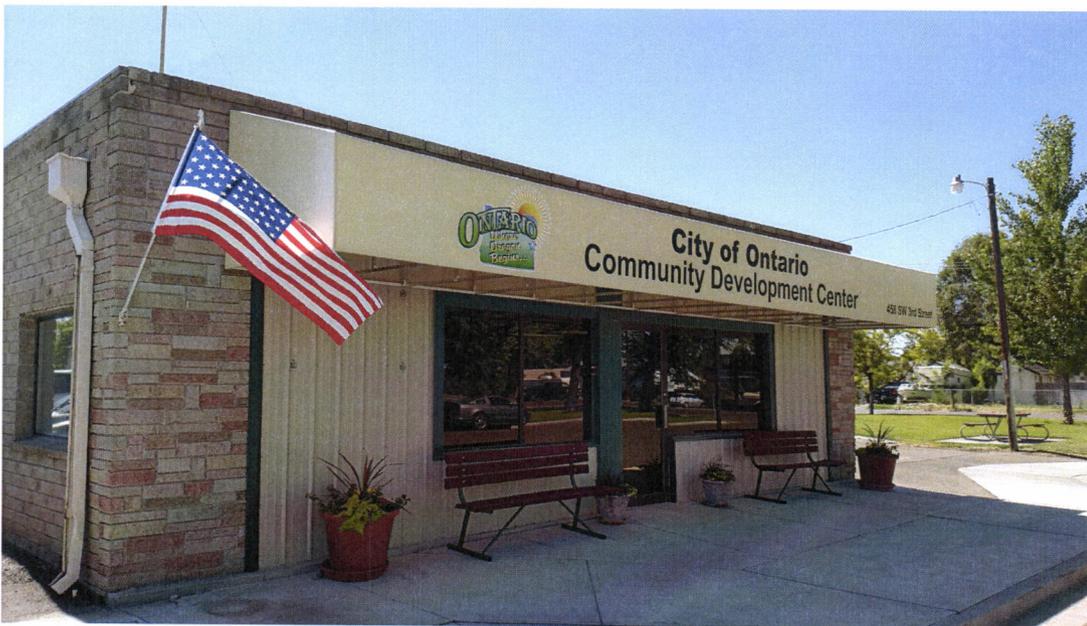


## Community Development Annual Report Fiscal Year 2015-2016

- St Alphonus 3<sup>rd</sup> Floor Remodel



- Completion of Phase II of Community Development Center Remodel



This past year the City Council approved the funding of the second phase of the Annex Remodel Project that included an awning at the Community Development Center. Phase I was completed in 2014-15, Phase II was completed in 2015-16, and the Council has approved budgeting for Phase III this coming year. Our building has had many, many improvements including an awning, interior remodeling, and sidewalks around the perimeter. Thank you to all who participated and made it possible!!