



TOWN OF LAKEVIEW

525 N. 1st Street • Lakeview, OR 97630
541-947-2029 General Business 541-947-2952 Fax
www.lakevieworegon.org

AGENDA

**TOWN OF LAKEVIEW
TOWN COUNCIL
REGULAR SESSION
September 23, 2014
4:00 P.M.**

- I. **CALL TO ORDER**
 - A. Pledge of Allegiance

- II. **PUBLIC HEARING**

- III. **PUBLIC COMMENT**

- IV. **COMMUNICATIONS / COMMENTS / INFORMATIONAL ITEMS**
 - A. Schminck Memorial Museum; Thank you letter
 - B. Lakeview Med Club, LLC; Letter

- V. **CONSENT CALENDAR**
 - A. September 9, 2014 Regular Council minutes
 - B. September 9, 2014 Work Session minutes

- VI. **MAYOR-COUNCIL-MANAGER UPDATE**
 - A.

- VII. **OLD BUSINESS**
 - A.

VIII. NEW BUSINESS

- A. 4-H Signs
- B. Ordinance No. _____; Air Quality Ordinance.
- C. Resolution No. _____; A Resolution Approving Labor Contracts for General, Fire and Police Employee Units, Teamsters of Oregon. (Labor Contracts Available at Town Hall)
- D. Local Agency Grant Agreement Congestion Mitigation and Air Quality Program; Street Sweeper Acquisition Town of Lakeview. (Replaces August 26,2014 Agreement)

IX. EXECUTIVE SESSION

- A. ORS 192.660(2)()

X. ADJOURNMENT

Town Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Amy Havel, 541-947-4957. The Public Law does not require that every proposed item of business be described on the notice. The law requires a reasonable effort to inform the public and interested person, including news media, of the nature of the more important issues (“principal subjects”) coming before the body.



Schminck Memorial Museum

128 South E Street
Lakeview, OR 97630-1721
541-947-3134

10 September 2014

Ray Simms, City Manager
525 N. 1st St.
Lakeview, OR 97630

Dear Mr. Simms,

The Schminck Memorial Museum Board joins with me in expressing our sincere appreciation to you and the Lakeview City Council for your donation of \$1,500.00 to the Schminck Memorial Museum.

We are extremely grateful for your very generous donation and for your interest in keeping this museum open. It is through our many generous friends like you that we are able to continue our work of historical preservation, and in the case of Schminck to preserve the artifacts and history of Oregon, with emphasis on south central Oregon from 1840 to 1948.

Your donation is tax deductible as the Daughters of the American Revolution is a non-profit 501c3 organization. Our Federal Tax number is 93-60255210 for your records. No goods or services were received in return for the donation.

Sincerely,

Joan A. Hunter, Chairman
Schminck Memorial Museum Board

Lakeview Med Club, LLC
9/9 Town Hall Work Session on Legal Med Pot Stores

Wednesday, September 10, 2014

Dear Lakeview Town Hall Officials and Employees,

Wow! That sure was a humdinger of a work session! I can still feel the passion! Or, was it the lack of compassion?!

The only take away from the session is our Town Attorney, Mr. John Bogardus, is on the ball with the strict Oregon law on legal medical marijuana dispensaries. He has already made a case that the process does not have to be contentious. He is telling us that this is what he does and is there to guide us. Also, he is telling us that he has no choice but to guide our behavior.

The next item of importance is that we still are not planning on reopening LMC, unless you folks want us to. If it is legal to have a med pot store, and our Town Hall does not want it, we would not have one. If our Town Hall approves to reopen LMC and then changes their mind, an informal phone call will shut LMC down indefinitely. This paragraph does not seem to sink in.

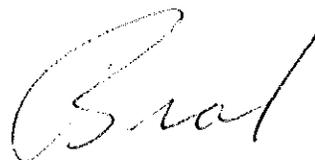
Now, for the Baptist thing that dominated the work session- I am literally afraid to tell my mother how we were treated. She may come here and blow the Town Hall roof off! She is a super Baptist! I am not kidding. You folks at the First Baptist Church would ban her from attending. She is banned from Baptist Churches in Rhode Island, a religious renegade state. She stands up and argues with ministers in the middle of their sermons! You folks have no idea how vicious my 85-year old, Irish, retired-school teacher mother can be. She has been to Israel three times and I get a weekly dose of the whole deal. I get chastised every week for using the word 'religion.' The End is upon us!

I will bring some report cards and class photos to the next pot session from my Bethany Baptist School. My whole world as a boy revolved around the Baptist Church. It was wonderful in the Baptist bubble! Baptist adults were disappointing.

You locals all know each other, so let me write about my grandmother, Doris, my mother's mother. Doris was the daughter of Senator Fred Robertshaw who married the youngest of seven O' Donovan girls. It has been said that my grandmother always had a silver spoon in her mouth. She left her family behind and traveled the world with Bible students, scholars, and generals. She studied Hebrew and the original scriptures. Doris only went to church (smaller churches) for the music and to give them money. She would ask ministers to stop scaring their congregations about hell. She was so antiwar. Of course, I forgive you all. It is a Baptist thing. I have turned the other cheek for you.

Brad Augustine

CC: Lake County Commissioners, Mr. Don Liddycoat, and Lake County Examiner



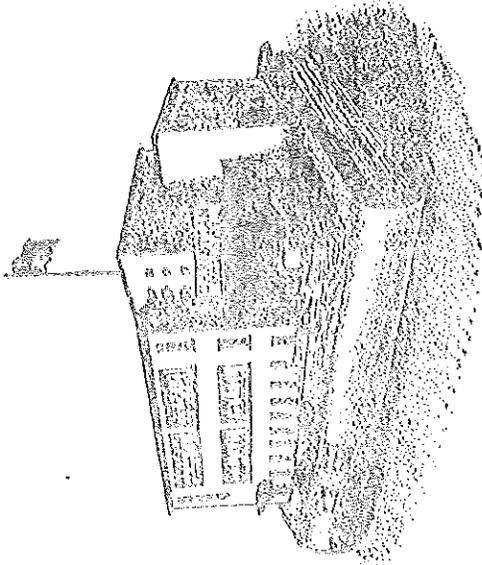
w/two Encls:

Brad

Progress Report For

7th

GRADE



BAPTIST DAY SCHOOL

CHURCH BETHANY BAPTIST SCHOOL

2244 Clark Avenue

Long Beach 15, California

ADDRESS

CITY

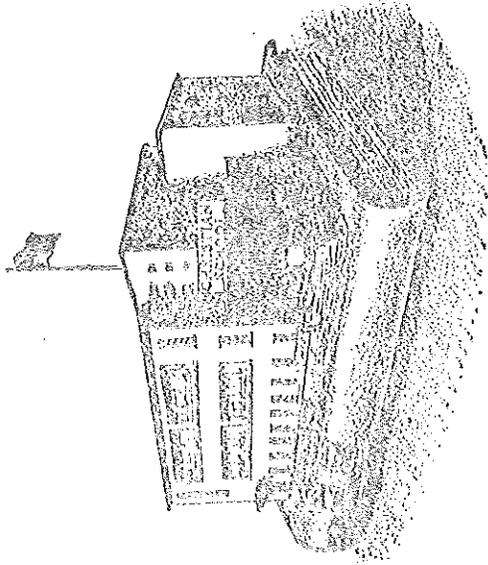
SCHOOL YEAR Sept. 12 19 60 to June 16 19 61

Progress Report For

Brad Augustin

GRADE

5



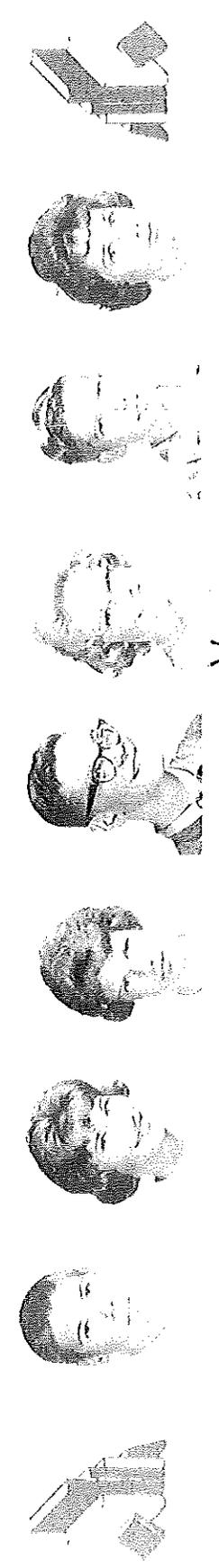
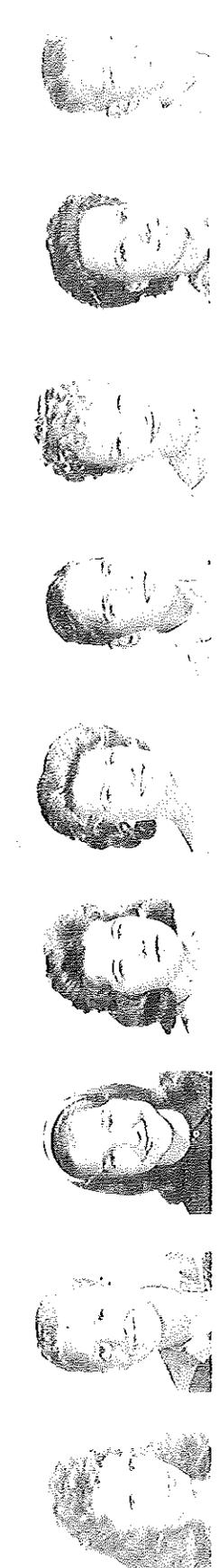
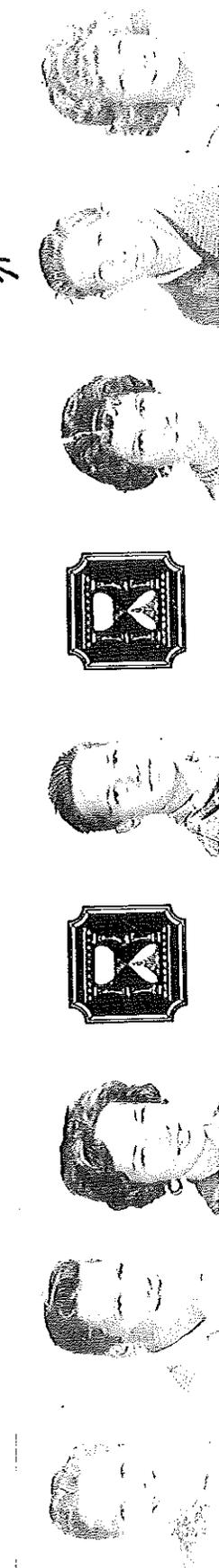
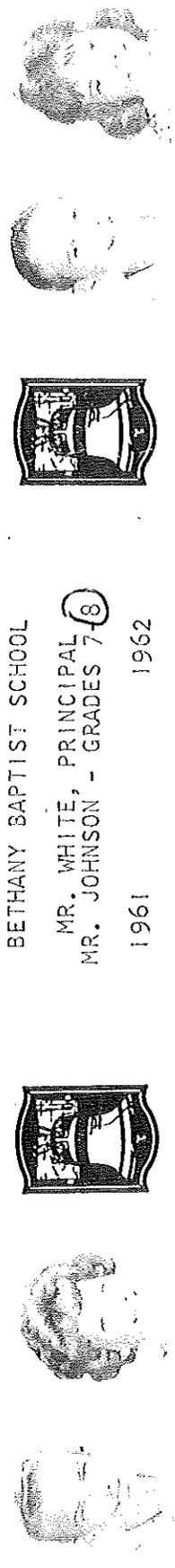
BAPTIST DAY SCHOOL

CHURCH Bethany

ADDRESS 5225 Clark Avenue

CITY Long Beach

SCHOOL YEAR Sept. 15 19 58 to June 19 19 59



BETHANY BAPTIST SCHOOL

MR. WHITE, PRINCIPAL
MR. JOHNSON - GRADES 7-8

1961

1962

Verna

Preacher's Kid

LAKEVIEW TOWN COUNCIL
Council Meeting Minutes
September 9, 2014

Council Members present: Mike Patrick, Mayor
Mike Warren
Sandra Wenzel
Michael Hughes
Sharon Faulkner

Council Members Absent:

Staff Present: Ray Simms
Ron Wilkie
Amy Havel
Scott Utley

Public Present: Frank Vaughn
Kurt Liedtke
Steve Brown
Ann Woods

Mayor Mike Patrick called the regular Council Meeting to order at 4:05 p.m.

Michael Hughes:

- Ag advisory meeting this evening following council.

Ray Simms:

- The geothermal dedication is set for October 3, 2014

NEW BUSINESS

Resolution No.867; Fair Housing Program.

Sandra Wenzel moved and Sharon Faulkner seconded the motion to approve.

The motion passed unanimously.

Resolution No.868; Records Retention Policy.

Sandra Wenzel moved and Mike Warren seconded the motion to approve.

The motion passed unanimously.

Liquor License Application; Coyote Quick Stop.

Sandra Wenzel moved and Michael Hughes seconded the motion to approve.

The motion passed unanimously.

With no further business, the regular session adjourned at 4:29 p.m.

Respectfully submitted,

Amy Havel, Recorder

Mike Patrick, Mayor

Resolution No.867;
Fair Housing
Program.

Resolution No.868;
Records Retention
Policy.

Liquor License
Application; Coyote
Quick Stop.

**LAKEVIEW TOWN COUNCIL
Work Session Meeting Minutes
September 9, 2014**

Council Members present: Mike Patrick, Mayor
Mike Warren
Sandra Wenzel
Michael Hughes
Sharon Faulkner

Council Members Absent:

Staff Present: Ray Simms
Amy Haval
John Bogardus

Public Present: Kurt Liedtke
Brad Augustine
Joyce Augustine
Ann Woods
Teresa Whitman

Mayor Patrick called the work session to order at 3:00 pm

OLD BUSINESS

The Council discussed the draft ordinance for Air Quality ordinance.

Air Quality
Ordinance.

Mr. Bogardus stated that the some of the draft definitions have been updated. Sub "I" on page 2 now states new solid fuel burning device this is the terminology for what use to be certified wood stoves. The second updated definition is "L" on page 3, this definition states solid fuel burning devices this includes all wood stoves except for the new solid fuel burning devices. Mr. Bogardus did inform the council that the difference in these are that both can be burned on "green days" but only with new solid fuel burning device can you receive an exemption to burn on "yellow days".

Mr. Bogardus also clarified the difference between the definitions used in the ordinance commercial and residential structures is that; commercial structures cannot be granted an exemption to burn on "yellow days" a residential structure may be granted an exemption for "yellow days".

Mayor Patrick discussed with the council that he believes they need to pick up the discussion where it ended in the last session at section 4 regarding exemptions.

Ray Simms discussed that in the last session they had came to the conclusion that after one year the sole source exemption will no longer apply. The council also had agreed that if the sole source exemption is for one year than a fee shall not apply, if the sole source exemption exceeds a year then a fee should apply.

Sharon Faulkner questioned if the county had came to an agreement on the Air Quality ordinance.

Ray Simms stated the county did adopt a sole source exemption but at this time it does not expire but possibly in the future they could amend this.

Michael Hughes agreed with the one-year sole source exemption with no fee.

Mike Warren also agreed with the one-year sole source exemption with no fee.

Sandra Wenzel felt that there should be a two-year sole source exemption with a fee.

Sharon Faulkner was concerned that the county's sole source exemption does not expire and this may conflict with the town ordinance.

Mr. Bogardus agreed and believes that the two ordinances should mirror each other. He brought up the point that on South 9th Street one side of the street is county and on the other side is town this could present a problem if the ordinances do not corroborate.

Sharon Faulkner discussed that in the future it could be a possibility to amend the ordinance to match the county ordinance.

The council discussed the fines for violations of the ordinance.

Mr. Bogardus will update the Air Quality ordinance and present in to the council at the meeting September 23, 2014.

The council also discussed the Medical Marijuana dispensary ordinance.

Mike Warren discussed he had spoke with a clergy and they had brought to his attention that in the town there is no ordinance on the distance from a bar to a church, so Mr. Warren feels that the distance from the dispensary to a church should be dropped from the ordinance.

Mayor Patrick mentioned the letters that had been sent in from the concerned citizens of the town.

Teresa Whitman from the First Baptist Church discussed with the council her concerns. She spoke of her direct supervision over the children at the church and that she feels she does not want the children to possibly be exposed to something there parents would not approve of while she was over seeing them.

Mike Warren questioned Mrs. Whitman on situations she may feel that would "expose" the children.

Mrs. Whitman gave a few examples that she feels concerns her.

- 1) If someone were to purchase medicinal marijuana and when reaching outside "showing off" there purchase.
- 2) 2) The children being able to see the merchandise through the window when passing by.

Mike Warren questioned if she feels the same about the medicine purchased at Howard's Drug.

Ray Simms discussed changing the hours of operation.

Mr. Bogardus will update the Medical Marijuana ordinance and present in the council at the next meeting.

With no further business, the regular session adjourned at 4:01 p.m.

Respectfully submitted,

Amy Havel, Recorder

Mike Patrick, Mayor

Subject: 4-H Signs
From: Davis, Jamie (Jamie.Davis@oregonstate.edu)
To: lakeviewrecorder@yahoo.com;
Date: Wednesday, September 10, 2014 5:06 PM

To: Town Council

Care of: Christy Sarnia

From: Jamie Davis, Lake County Extension

Re: Signs in Town Planters for National 4-H Week

Date: 9/11/14

To promote National 4-H Week we would like place professionally made 4-H signs in 8 to 10 of the town planters along "F" and "E" street. National 4-H week is held the second week of October. The request is to have signs in place from October 5th to 11th.

If you have any questions please contact the OSU Lake County Extension Office.

947-6054

Jamie.Davis@oregonstate.edu

Jamie M. Davis

Oregon State University, Lake County Extension Agent

4-H Youth Development & Family Community Health

School of Social and Behavioral Health Sciences

College of Public Health and Human Sciences

103 South "E" Street | Lakeview Oregon 97630

541.947.6054 (P) | 541.947.6055 (F)

ORDINANCE NO. _____

AN ORDINANCE PROHIBITING THE USE OF SOLID FUEL BURNING DEVICES WITHIN THE TOWN OF LAKEVIEW; PROVIDING CERTAIN EXEMPTIONS THEREFROM; ESTABLISHING CONTROLS FOR THE ENFORCEMENT OF THIS ORDINANCE; PROVIDING PENALTIES FOR VIOLATIONS HEREOF; REPEALING ORDINANCE NO. 748 IN ITS ENTIRETY AND DECLARING AN EMERGENCY.

WHEREAS, the health, safety and welfare of the citizens of the Town of Lakeview are adversely affected by deteriorating air quality within the Town boundaries; and

WHEREAS, wood combustion for space heating produces particulate matter and other pollutants which are injurious to the public health, and are a primary cause of deteriorated air quality within the Town of Lakeview; and

WHEREAS, a mandatory wood burning curtailment ordinance is essential to comply with the provisions of the Federal Clean Air Act and to insure healthful air quality; now, therefore,

THE COUNCIL OF THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

Section 1. - Definitions: As used in this Ordinance, the following words, except where the context clearly indicates otherwise, mean:

(a) Air Pollution Alert. A 24 hour period commencing at noon after the designation by the Town of Lakeview of a Yellow Day or Red Day Air Quality Advisory.

(b) Air Quality Advisory. A public announcement to inform Town of Lakeview residents of forecasted air quality.

(c) Alternative Heat Source. A heat source other than a Solid Fuel Burning Device, with such heat source being capable of heating a residence in accordance with Oregon Building Code standards.

(d) Commercial Structure. Any non residential building primarily used for business or commercial purposes.

(e) Green Day. An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24 hour period.

(f) Yellow Day. An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM2.5 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM2.5 concentrations are expected to approach the 24 hour national ambient air quality particulate health standard of 30 ug/m3.

(g) Red Day. An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM2.5 concentrations at levels which are at risk of reaching and/or exceeding 30 ug/m3.

(h) Person. Any individual, partnership, corporation, company, association or other business entity.

(i) New Solid Fuel Burning Device. A Solid Fuel Burning Device as defined by OAR 340-262-0450(16) and which has been certified by either the Oregon Department of Environmental Quality pursuant to OAR 340-262-0500 or by the United States Environmental Protection Agency pursuant to 40 CFR part 60, sub-part AAA as in effect on July 1, 2010.

(j) Residence. Any building used as a home, dwelling or place of abode, including a condominium or rental unit.

(k) Sole Source of Heat. One or more Solid Fuel Burning Devices which constitutes the only source of heat in a Residence. A Sole Source of Heat is one which provides heat to the main living space of the Residence but does not include ancillary heating units in bed and bathroom areas.

(l) Solid Fuel Burning Device. A wood stove or any other device that burns wood, coal or other nongaseous or non-liquid fuels for aesthetic, space heating or water heating purposes in a Residence or Commercial structure and that has a heat output of less than one million British thermal units per hour. Solid fuel burning devices do not include fireplaces, antique stoves, pellet stoves, masonry heaters, central wood fire furnaces, wood cook stoves or New Solid Fuel Burning Devices as those terms are defined by OAR 340-262-0450.

Section 2. - Operation of Solid Fuel Burning Device Prohibition:

(a) The operation of a Solid Fuel Burning Device within the Town of Lakeview in a Commercial Structure during an Air Pollution Alert Period is prohibited as of the effective date hereof. The operation of a Solid Fuel Burning Device within the Town of Lakeview in a Residence during an Air Pollution Alert Period shall be prohibited unless an exemption has been granted by the Town of Lakeview pursuant to Section 4 below. A rebuttable presumption of a violation of this Ordinance shall exist if smoke is being discharged through a flue or chimney at any time during an Air Pollution Alert period. The owner, renter or the primary occupant residing in the premises who is over the age of 18 shall be presumed to be the violator unless rebutted by contrary evidence.

(b) Visible smoke emissions created during a ten (10) minute start up period and ten (10) minutes after refueling are exempt but such refueling shall be limited to once every four (4) hours.

Section 3. - Alternative Heat Source Requirement: On or after one year from the effective date of this Ordinance, no property owner shall rent or lease a Residence or Commercial Structure unless the same is equipped with an Alternative Heat Source. Liability for a violation of this Section shall be entirely with owner of the Residence or Commercial Structure.

Section 4. - Exemptions from Prohibition: It shall be permissible for a Residence to operate a Solid Fuel Burning Device during a Red or Yellow Day when the head of that household has previously obtained from the Town of Lakeview Air Quality Office an exemption to operate the same. Exemption availability shall be limited to the following circumstances:

(a) Sole Source. An exemption may be issued to the heads of households who sign a sworn statement declaring their reliance on a Solid Fuel Burning Device as the sole device providing heat for the main living space of their Residence. The availability of this exemption shall permanently expire after one year from the effective date of this Ordinance.

(b) Economic Need. An exemption for economic need to operate a Solid Fuel Burning Device may be granted to heads of households if the head of household can establish that the total family income is less than 80% of the median income level for the Town of Lakeview as established by the Federal Department of Housing and Urban Development (<http://www.huduser.org/portal/datasets/il.htm/>). Exemptions granted based upon economic shall expire annually on September 30th, must be reapplied for annually and shall not require an exemption fee.

(c) New Solid Fuel Burning Devices. An exemption may be issued to the heads of household for the operation of a New Solid Fuel Burning Device in a Residence during a Yellow Day Air Quality Advisory. However, the availability of this exemption is strictly contingent upon the New Solid Fuel Burning Device producing no visible smoke. The operation of a new Solid Fuel Burning Stove shall be prohibited during a Red Day Air Quality Advisory, unless some other applicable exemption has been granted.

Section 5. - Immediate Expiration of Exemption: If an exemption pursuant to Section 4 above is granted to a Residence and the Residence is subsequently transferred whether by sale, gift, descent and distribution, or otherwise, then the exemption as granted shall immediately expire and the Residence may or may not be eligible for a future exemption unless new economic need is established pursuant to Section 4(b) above.

Section 6. - Enforcement and Penalties: A first violation of Section 2 of this Ordinance shall result in the violator receiving a written warning from the Town specifying the nature of the violation. Such written notice shall be sent by both registered and first class mail and shall contain penalty and enforcement information for subsequent violations.

Subsequent violations of Section 2 of this Ordinance, after issuance of a written warning, may be commenced by the issuance of a citation and shall be prosecuted in the Lake County Circuit Court as a Class A Violation pursuant to the provisions of ORS Chapter 153 as now in effect or as may be amended from time to time. A violation of Section 3 of this Ordinance shall be prosecuted as a Class B Violation.

If subsequent violations of this Ordinance occur, and in lieu of or in addition to the above penalties, the Town may, after notice and right to hearing, remove and destroy, without legal liability or compensation to the owner, any New Solid Fuel Burning Device or Solid Fuel Burning Device being operated in violation of this Ordinance. The Town's Police Chief, or his designee, will have primary responsibility for the enforcement of this Ordinance.

Section 7. - Severability: If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

Section 8. - Emergency and Effective Date: This Ordinance and its purposes being necessary for the preservation of public peace, health and safety of the Town of Lakeview and its inhabitants, an emergency is hereby declared to exist and this Ordinance shall take effect immediately upon its adoption by the Town Council.

A motion was made to read this Ordinance by title only and such motion passed unanimously. Thereafter, the Ordinance was read by title only and was adopted as indicated below.

Passed by the Town Council by a vote as follows:

_____ In Favor

_____ Opposed

Adopted this _____ day of September, 2014.

Mike Patrick, Mayor

Attest:

Amy Havel, Town Recorder

**BEFORE THE TOWN COUNCIL
OF
LAKEVIEW, OREGON**

**In The Matter of Approving Labor
Contracts for General, Fire and Police
Employee Units, Teamsters of Oregon**

RESOLUTION NO. _____

WHEREAS, the Town of Lakeview regular, non-exempt employees are represented for labor matters by the Oregon Teamsters Local Union No. 223; and

WHEREAS, The Town and the Teamsters have agreed to new 3 year contract terms effective July 1, 2014 through June 30, 2017;

NOW THEREFORE BE IT RESOLVED the Lakeview Town Council hereby approves resolution NO. _____ approving 3 separate labor agreements; one with general employees, one with Fire employees and one with Police employees and authorizes the Mayor to sign the contracts.

PASSED AND ADOPTED by the Lakeview Town Council this 23rd day of September, 2014 and signed by the Mayor of the Town of Lakeview.

Passed by the Common Council by a majority vote:

____ In Favor
____ Opposed

TOWN OF LAKEVIEW, OREGON

Mike Patrick, Mayor

Attest:

Amy Havel, Town Recorder

**LOCAL AGENCY GRANT AGREEMENT
CONGESTION MITIGATION AND AIR QUALITY PROGRAM
Street Sweeper Acquisition
Project Name Town of Lakeview**

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

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.

The street sweepers acquired pursuant to this Agreement shall perform work on local streets that are part of the city street system under the jurisdiction and control of the Agency. **NOW THEREFORE** the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. State and Agency agree that Agency shall use the Grant Funds for the purchase of a new Elgin 4M Eagle street sweeper, hereinafter referred to as "Project" and more fully described in Exhibit "A", attached hereto and by this reference made a part hereof.
2. This Project shall be conducted as a part of the Congestion Mitigation and Air Quality (CMAQ) Program under Title 23, United States Code. The total Project cost is estimated at \$301,025, which is subject to change. The CMAQ funds are limited to \$270,110 ("Grant Funds"), with Agency providing the match and non-participating costs, including all costs in excess of the available federal funds.
3. If any Grant Funds are not expended upon completion of the Project, the unexpended funds shall be returned to State pursuant to Agency Obligations, paragraph 8, unless State authorizes Agency to retain the unexpended funds pursuant to an amendment to this Agreement.
4. The scope, schedule, progress report requirements, and Project Change Request process are described in Exhibit A. Agency agrees to the conditions set forth in Exhibit A.
5. State will submit the requests for federal funding to the Federal Highway Administration (FHWA). The federal funding for this Project is contingent upon

approval by the FHWA. Any work performed prior to acceptance by FHWA or outside the scope of work will be considered nonparticipating and paid for by Agency

6. This Agreement is contingent upon an amendment to the Statewide Transportation Improvement Program (STIP) to add the Project or adjust funding and a subsequent approval by the Oregon Transportation Commission (OTC). If the STIP amendment does not occur or OTC approval is not obtained, this Agreement shall be considered null and void.
7. Agency is a subrecipient of the federal funds under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
8. The term of the Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or five (5) calendar years following the date all required signatures are obtained, whichever is sooner.

AGENCY OBLIGATIONS

1. Agency shall perform the Project described in Exhibit A.
2. Agency shall, upon purchase of the Project vehicle described in Exhibit A, operate and maintain the vehicle at its own expense for the useful life of said vehicle. The useful life of the vehicle is estimated to be approximately five years. Agency's maintenance responsibilities shall survive any termination of this Agreement.
3. Agency acknowledges and agrees that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
4. Agency shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under the Agreement, including, without limitation, the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Agency shall comply with the requirements of Buy America (23 CFR 635.441).

5. Agency shall have a current Indirect Cost Allocation Plan and an approved indirect rate from its federal cognizant agency prior to invoicing indirect costs. A copy of the current approved rate from the federal cognizant agency or State must be attached to invoices with indirect costs. If Agency does not have a current approved rate, it can apply directly to its federal cognizant agency for an Indirect Cost Rate. If the Agency has no federal cognizant agency, it can submit an indirect Cost Rate proposal to State for review and approval for State invoices. Without an approved Indirect Cost Rate State will only pay Agency for Direct Costs.
6. Agency, by executing this Agreement, certifies to the statements in Exhibits B and C attached hereto and by this reference made a part of this Agreement.
7. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
8. Any Grant Funds disbursed to Recipient under this Agreement that are expended in violation of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of expiration or termination of this Agreement must be returned to State. Agency shall return all Misexpended Funds to State promptly after State's written demand and no later than fifteen (15) days after State's written demand. Agency shall return all Unexpended Funds to State within fourteen (14) days after expiration or termination of this Agreement.
9. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
10. Agency's Project Manager for this Project is Ray Simms – Town Manager, 525 N. First Street, Lakeview, OR 97630. (541) 947-2019, lakeviewtownmanager@yahoo.com, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. State agrees to disburse Grant Funds to Agency within forty-five (45) days of receipt by State of the Project invoice in a maximum amount of \$270,110. Said maximum

amount shall include reimbursement for all expenses. Travel expenses shall not be reimbursed.

2. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
3. State's Project Manager for this Project is Darrell Newton - Local Agency Programs Coordinator, 63055 N. Highway 97, Bldg M, Bend, OR 97701-5765, (541) 388-6272, darrell.r.newton@orodt.state.or.us,, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to perform the Project called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement or so fails to pursue the Project as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to provide the Grant Funds in performance of this Agreement.
 - e. If federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the Project funded under this Agreement is prohibited or if State is prohibited from paying for the Project from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party

must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

5. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
6. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
7. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
8. State and Agency hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and

enforced as if the Agreement did not contain the particular term or provision held to be invalid.

9. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
10. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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

This Project is in the 2012-2015 Statewide Transportation Improvement Program, (Key #19171) that was adopted by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

Agency/ODOT
Agreement No. 30254

TOWN OF LAKEVIEW, by and through its
elected officials

By _____
Mayor

Title _____

Date _____

By _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Agency Counsel

Date _____

Agency Contact:

Ray Simms – Town Manager
525 N. 1st Street
Lakeview, OR 97630
(541) 947-2029
lakeviewtownmanager@yahoo.com

State Contact:

Darrell Newton - Local Agency Programs
Coordinator
63055 N. Highway 97, Bldg M
Bend OR, 97701-5765
(541) 388-6272
darrell.r.newton@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 4 Manager

Date _____

APPROVAL RECOMMENDED

By _____
Local Agency Liaison

Date _____

By _____
CMAQ Program Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

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EXHIBIT A
Project Cost Estimate, Progress Reports and Project Change Request Process
Agreement No. 30254
Key Number: 19171
Project Name: Street Sweeper Acquisition

1. Project Description

Purchase of one (1) new Elgin 4M Eagle street sweeper

2. This Project is subject to progress reporting and project change process as stated below.
3. **Monthly Progress Reports (MPR)** - Agency shall submit monthly progress reports using MPR Form 734-2862, incorporated by reference and made a part of this Agreement. The Monthly Progress Report is due by the 5th day of each month, starting the first month after execution of this Agreement, and continuing through Project completion.

The fillable MPR form and instructions are available at the following address:

http://www.oregon.gov/ODOT/TD/AT/Pages/Forms_Applications.aspx

4. **Project Milestones** – The Parties agree that the dates shown in Table 1 constitute the intended schedule for advancing and completing the Project. Project Milestones may only be changed through amendment of this Agreement, after obtaining an approved Project Change Request.

Table 1: Project Milestones

	Milestone Description	Completion Date
1	Project Completion (non-construction projects) Street Sweeper Purchased	12/31/15

5. **Project Change Request (PCR) Process** - Agency must obtain approval from State's Contact for changes to the Project's scope or schedule as specified in paragraphs below.
- a. **Reimbursement** - No reimbursement of Grant Funds will be made for costs incurred as a result of a change in scope or schedule unless such change is pursuant to an approved PCR and any Amendment to this Agreement required by the PCR.

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- b. **Schedule** – A PCR is required if Agency or State's Contact anticipate that any Project Milestone will be delayed by more than ninety (90) days, and also for any change in schedule that will require amendment of the Statewide Transportation Improvement Program (STIP).
6. **PCR Form** - Agency must submit all change requests using PCR Form 734-2930 and incorporated by reference and made a part of this Agreement. A PCR Form shall be submitted to State's Contact no later than thirty (30) days after Agency becomes aware of a need for change. The PCR shall explain the change being requested, the reasons for the change, and any efforts to mitigate the change. A Project Change Request may be rejected at the discretion of State's CMAQ Program Manager. Agency shall not proceed with any changes to *Project scope* prior to the PCR being approved by State and the ensuing amendment executed.

The fillable PCR form and its instructions are available at the following web site:
http://www.oregon.gov/ODOT/TD/AT/Pages/Forms_Applications.aspx

7. **Consequence for Non-Performance** - If Agency fails to fulfill its obligations in paragraphs No. 3 through No. 6 above, or does not assist in advancing the Project or perform tasks that the Agency is responsible for under the Project Milestones, State's course of action through the duration of Agency's default may include: (a) restricting Agency consideration for future funds awarded through State managed funding programs, (b) withdrawing unused Grant Funds, and (c) terminating this Agreement as stated in General Provisions , Paragraph No. 2a and 2b of this Agreement or take such other action as State determines appropriate.

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For purposes of Exhibits B and C, references to Department shall mean STATE, references to Contractor shall mean Agency, and references to Contract shall mean Agreement.

EXHIBIT B (Local Agency or State Agency)

CONTRACTOR CERTIFICATION

Contractor certifies by signing this Contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Contractor) to solicit or secure this Contract,
- (b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Contractor), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the Contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

DEPARTMENT OFFICIAL CERTIFICATION

Department official likewise certifies by signing this Contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this Contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

Exhibit C
Federal Provisions
Oregon Department of Transportation

CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

Contractor certifies by signing this Contract that to the best of its knowledge and belief, it and its principals:

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1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

EXCEPTIONS:

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this Contract, the Contractor is deemed to have signed this certification.

II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY COVERED TRANSACTIONS

1. By signing this Contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Department determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.
4. The Contractor shall provide immediate written notice to the Department if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503)

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986-2710) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The Contractor agrees by entering into this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by entering into this Contract that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this Contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this Contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

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4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Contract is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this Contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by entering into this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

IV. EMPLOYMENT

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranting, Department shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

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2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the Contract, any professional or technical personnel who are or have been at any time during the period of this Contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be entitled to rely on the accuracy, competence, and completeness of Contractor's services.

V. NONDISCRIMINATION

During the performance of this Contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this Contract. Contractor, with regard to the work performed after award and prior to completion of the Contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the Contract covers a program set forth in Appendix B of the Regulations.
2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this Contract, Contractor agrees as follows:
 - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
 - b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.

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5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the Contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
 - b. Cancellation, termination or suspension of the agreement in whole or in part.
6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

VI. DISADVANTAGED BUSINESS
ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

DBE POLICY STATEMENT

DBE Policy. It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this Contract.

Required Statement For USDOT Financial Assistance Agreement. If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

DBE Obligations. The Department and its Contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither Department nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Department deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this Contract.

Records and Reports. Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet Contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the Contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

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Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

DBE Definition. Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

By signing this Contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Contract for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

VII. LOBBYING

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**FOR INQUIRY CONCERNING DEPARTMENT'S DBE PROGRAM REQUIREMENT
CONTACT OFFICE OF CIVIL RIGHT**