

POLK COUNTY BOARD OF COMMISSIONERS

DATE: February 21, 2024
TIME: 9:00 a.m.
PLACE: Polk County Courthouse, Dallas, Oregon

THE LOCATION OF THIS MEETING IS ADA ACCESSIBLE. PLEASE ADVISE THE BOARD OF COMMISSIONERS AT (503-623-8173), AT LEAST 24 HOURS IN ADVANCE, OF ANY SPECIAL ACCOMMODATIONS NEEDED TO ATTEND OR TO PARTICIPATE IN THE MEETING VIRTUALLY.

PAGE: **AGENDA ITEMS**

1. CALL TO ORDER AND NOTE OF ATTENDANCE
2. ANNOUNCEMENTS
 - (a) Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. Each meeting is held in the Courthouse Conference Room, 850 Main Street, Dallas, Oregon. Each meeting begins at 9:00 a.m. and is conducted according to a prepared agenda that lists the principal subjects anticipated to be considered. Pursuant to ORS 192.640, the Board may consider and take action on subjects that are not listed on the agenda. The Board also holds a department staff meeting at 9:00am on every Monday in the Commissioners Conference Room at 850 Main Street, Dallas, Oregon.
 - (b) The Polk Extension Service District will be meeting at 9:30 am on March 6, 2024. The meeting will be in the main conference room located on the first floor of 850 Main St Dallas OR 97338.
3. COMMENTS (for items not on this agenda and limited to 3 minutes)
4. APPROVAL OF AGENDA
5. APPROVAL OF THE MINUTES FROM February 7, 2024
6. APPROVAL OF CONSENT CALENDAR
7. LENGTH OF SERVICE AWARDS – Matt Hawkins
 - Amanda Golden, 15 years of service
 - Tammi Traglia, 10 years of service
8. POLK COUNTY RESOLUTION NO. 24-03 – Darren Blackwell

CONSENT CALENDAR

- (a) Polk County Contract No. 24-27, North Santiam Paving Co.
(Todd Whitaker, Public Works Director)
- (b) Polk County Order No. 24-02, Ratify the Hearings Officer’s Decision on the appeal of Polk County Planning File CU 23-06
(Eric Knudson, Community Development Associate Planner)

THE BOARD OF COMMISSIONERS WILL MEET IN EXECUTIVE SESSION PURSUANT TO ORS 192.660.

ADJOURNMENT

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**BEFORE THE BOARD OF COMMISSIONERS FOR
POLK COUNTY, OREGON**

In the Matter of vacating a portion of Morris Road)
See Exhibit "A", "B" and "C".)
)

RESOLUTION NO. 24-03

WHEREAS, The Public Works Director has recommended that proceedings be initiated to vacate a portion of Morris Road (CR 7501), originally known as the C. W. Pewtherer Change to John Morris Road, more particularly described in Exhibit "A" and depicted in Exhibit "B" and "C" hereof; and

WHEREAS, ORS 368.326 to 368.366 specify the procedure for vacation of county property; now, therefore,

- (1) It is the intention of Polk County to vacate a portion of Morris Road, described in Exhibit "A" and depicted in Exhibit "B" and "C" hereof.
- (2) The reason for the proposed vacation is that the property described consist of an old road alignment no longer needed for public purposes and continued possession of the above described Morris Road is not in the best interest of the public.
- (3) The Board of Commissioners hereby directs the County Road Official to prepare and submit to the Board of Commissioners a report as required under ORS 368.346.

Dated: February 21, 2024 at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS

Craig Pope, Chair

Lyle Mordhorst, Commissioner

Approved as to Form

Morgan Smith
County Counsel

Jeremy Gordon, Commissioner

EXHIBIT "A"

Legal Description

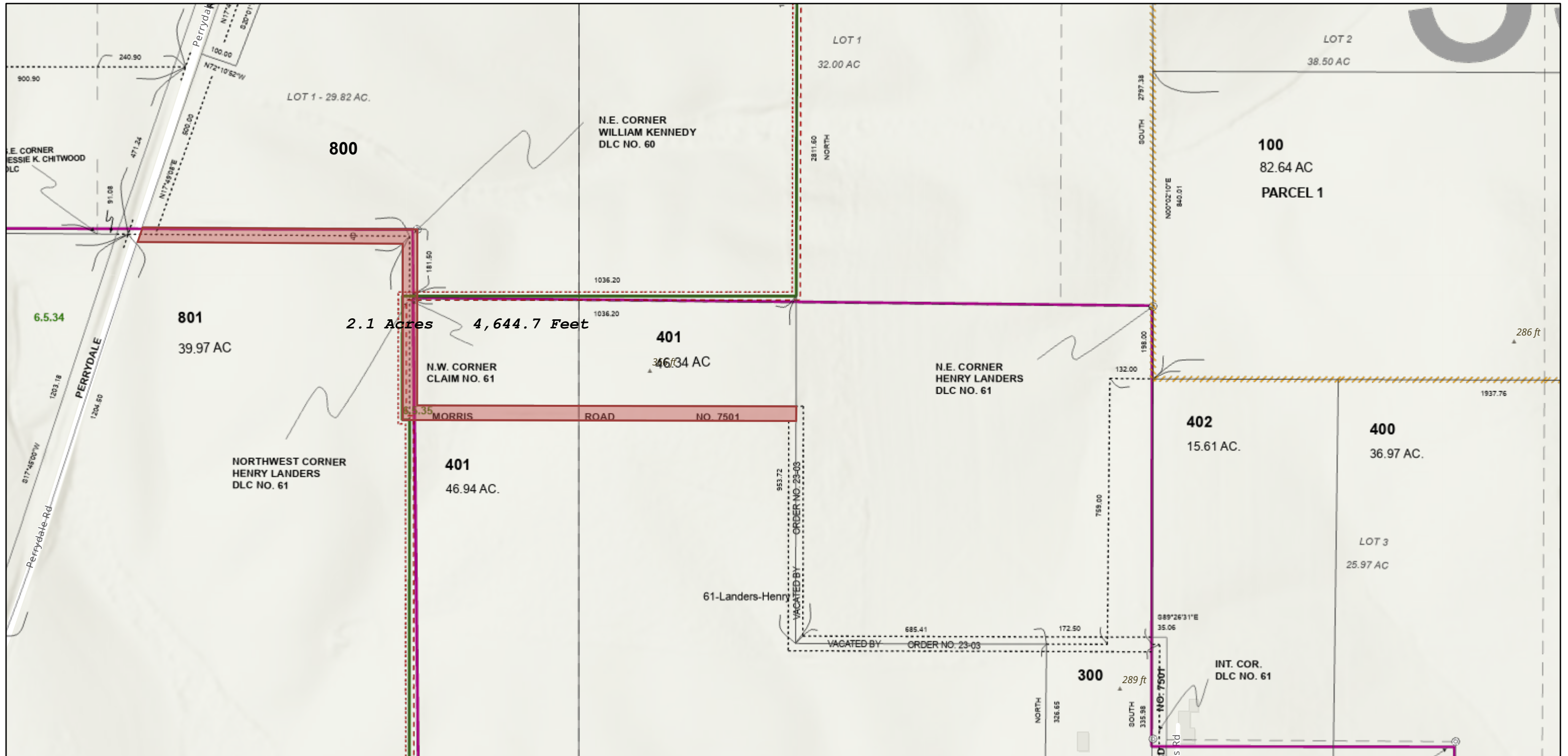
A tract of land 40 feet wide lying in the SE One-Quarter of Section 34 and the SW One-Quarter of Section 35 of Township 6 South, Range 5 West of the Willamette Meridian, Polk County, Oregon.

Said tract being a portion of what is now known as Morris Road (CR 7501). Said portion of road was originally known as the C. W. Pewtherer Change to John Morris Road (Old Road No. 197) and being further described as:

All that portion of the C. W. Pewtherer Change to John Morris Road (Old Road No. 197) created by Commissioners Journal Volume 7 page 392 dated June 6th 1889. Beginning at the NW termination of Polk County Board of Commissioners Order No. 23-03 vacating a portion of Morris Road; Thence running Westerly; Thence Northerly; Thence Westerly to the Easterly right of way of Perrydale Road. As shown on Exhibit "B".

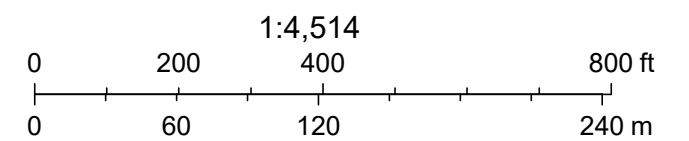
Save and except any public utilities that may exist in the existing right of way.

Exhibit "B"



12/8/2023, 3:10:08 PM

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|-----------------|-------------------------|---------------------|-------------------------|-----------|
| Taxlots | Historical lines | DLC Arrow | Anno Arrow | Tax Code |
| PLSSLines | Historical Boundary | ReferenceLines | Anno Arrow | Map Index |
| Corner | Cartographic lines | Historical Boundary | Bearing/Distance Hook | DLC |
| DLC - not found | Anno Arrow | DLC Arrow | Bearing / Distance Hook | Section |
| | Bearing / Distance Hook | DLC Arrow | Subdivision Line | |
| | | | Subdivision Line | |



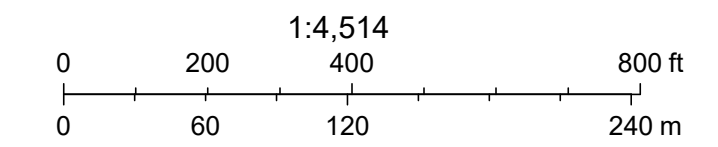
Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Esri Community Maps Contributors, Oregon Metro, Oregon State Parks, State of Oregon GEO, © OpenStreetMap, Microsoft, Esri, HERE,

Exhibit "B" Photo



12/8/2023, 3:02:43 PM

- | | | | | |
|-----------------|-------------------------|---------------------|-------------------------|-----------|
| Taxlots | Historical lines | DLC Arrow | Anno Arrow | Tax Code |
| PLSSLines | Historical Boundary | ReferenceLines | Anno Arrow | Map Index |
| Corner | Cartographic lines | Historical Boundary | Bearing/Distance Hook | DLC |
| DLC - not found | Anno Arrow | DLC Arrow | Bearing / Distance Hook | Section |
| | Bearing / Distance Hook | DLC Arrow | Subdivision Line | |
| | | | Subdivision Line | |



Maxar



Contract Review Sheet

Staff Contact: _____ Department: _____

Title: _____ Consent Calendar Date: _____

Contractor Name: _____

Address: _____

City, State, Zip: _____

Effective Dates - From: _____ Thru: _____

Contract Amount: \$ _____

Source Selection:

Sole Source

Personal Services

Competitive Quotes

Special/Exempt Procurement (explain below):

Formal Bid

Request for Proposals

Background/Discussion:

Fiscal Impact:

Recommendation:

Copies of signed contract should be sent to the following:

Name: _____ E-mail: _____

Name: _____ E-mail: _____

Name: _____ E-mail: _____

CONTRACT

THIS CONTRACT, made and entered into in triplicate this 21st day of February 2024, by and between POLK COUNTY, a political subdivision of the State of Oregon, acting by and through its Board of Commissioners, and North Santiam Paving Co. herein called the "Contractor" for the Project entitled **Polk County – Safe Routes to School Grant Project**, Project No. 19-45.

1. **CONTRACTOR'S SERVICES:** Contractor, in consideration of the sums to be paid by Polk County in the manner and at the times herein provided and in consideration of the other covenants and agreements herein contained, for the sum of:

\$966,361.50

hereby agrees to perform and complete the work herein described and provided for and to furnish all necessary machinery, tools, apparatus, equipment, supplies, materials and labor, and do all things in accordance with the applicable Drawings, Standard Specifications, General and Special Provisions, and the signed Bid Proposal dated January 17th, 2024 for the above named project, and in accordance with such alterations and modifications of the same as may be made by Polk County. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Contractor.

2. **CONTRACT TIME:** All Work under this Contract shall commence no earlier than June 17th, 2024, and shall be completed no later than November 30th, 2024. All work shall be completed by these dates. The Contract time may be extended in writing at the sole discretion of the County.
3. **LAWS AND REGULATIONS:** Polk County and Contractor agree to comply with the Ordinances and regulations of Polk County; applicable provisions in any contract between Polk County and the State of Oregon relating to the services to be provided under this Agreement by the Contractor; and all provisions of Federal and State Law, rules and regulations relating to Contractor's performance of services under this agreement. Specific laws and regulations that apply are incorporated into the General 2021 Oregon Standard Specifications for Construction under Part 00100 - General Conditions.
4. **HOLD HARMLESS:** Contractor shall defend, indemnify and save harmless Polk County, its Boards of Commissioners, officers, agents, and employees from all suits, actions, or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of Contractor, his subcontractors or the employees of either; or on account of or in consequence of any neglect in safeguarding the Work; or because of any act or omission, neglect, or misconduct of Contractor; or because of any claims or amounts arising or recovered under any Worker's Compensation law or any other law, ordinance, order or decree; and so much of the money due Contractor if any by virtue of this Contract as may be considered necessary by Polk County for such purpose may be retained for the use of Polk County; or, in case no money is due, Contractor's

surety may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to Polk County; except that money due Contractor will not be withheld when Contractor produces satisfactory evidence that Contractor is adequately protected by general liability and property damage insurance, and that said insurance expressly identifies Polk County and its agents as additional insured.

5. **MONITORING:** Contractor agrees that services provided under this contract by Contractor; facilities used in conjunction with such services; Contractor's policies, procedures, performance data, financial records, and other similar documents and records of Contractor; that may pertain to services under this contract, shall be open for inspection by Polk County's agents at any reasonable time during business hours. Contractor agrees to retain such records and documents for a period of seven (7) years, or such longer period as may be prescribed for such records and documents by the State Archivist of Oregon.
6. **PAYMENTS/CONSIDERATION:** In consideration of the faithful performances of all of the obligations, both general and special, herein set out, and in consideration of the faithful performance of the work as set forth in this Contract, the applicable Drawings, General Provisions, Bid Proposal, Special Provisions and all general and detailed Specifications and Drawings which are a part hereof, and in accordance with the directions of Polk County and to its satisfaction, Polk County agrees to pay Contractor the amount earned, as determined from the actual quantities of work performed and the prices and other basis of payment specified, and taking into consideration any amounts that may be deductible under the terms of the Contract and to make such payments in the manner and at the times provided in the applicable Standard Specifications, Special Provisions, and the Schedule of Contract Prices.
7. **RETAINAGE:** To ensure the proper performance of this Contract, Polk County shall retain five percent (5%) of the amount of each progress payment until final completion and acceptance of all work covered by this Contract. Pursuant to ORS 279C.845(7), if a Contractor is required to file certified payroll statements and fails to do so, Polk County shall retain 25 percent of any amount earned by the Contractor until the Contractor has filed such statements with Polk County. Polk County will pay the Contractor the amount retained due to failure to submit certified payrolls within 14 days after the Contractor files the certified statements.
8. **WITHHOLDING PAYMENTS/LIQUIDATED DAMAGES:** Notwithstanding any other payment provision of this contract, if Contractor fails to submit required reports when due, or fails to perform or document the performance of contracted services, Polk County may immediately withhold payments under this contract and/or assess liquidated damages as described in the Special Provisions.
9. **GUARANTEE:** Contractor agrees to guarantee all work under this contract for a period of one (1) year from the date of final acceptance thereof, except that the Contractor agrees to guarantee all pavement tapers at transverse joints for a period of two (2) years from the date

of final acceptance thereof. If any unsatisfactory conditions or damage develops within the time for this guarantee due to materials or workmanship which were defective, inferior, or not in accordance with the Contract, Contractor agrees, whenever notified by Polk County, to immediately place such guaranteed work in a condition satisfactory to Polk County and make repairs of all damage made necessary in the fulfillment of the guarantee.

10. **INSURANCE:** Contractor shall obtain, and at all times keep in effect, comprehensive liability insurance and property damage insurance covering activities and operations of Contractor. Contractor may satisfy this requirement for general liability insurance in any manner allowed by ORS 30.282. No work will be allowed until an insurance certificate naming Polk County and its agents as an additional insured has been received by Polk County. Such liability insurance, whatever the form, shall not be less than the limits of public body tort liability specified in ORS 30.272 or the project Special Provisions, whichever is higher, with provision for increased coverage as such limits are increased by legislative action. Contractor and/or his insurance company shall provide advance notification as described in Section 170.70(e) of the project Special Provisions.

11. **TERMINATION:** All or part of this contract may be terminated by mutual consent of both parties; or by Polk County at any time after 30 days notice in writing. In addition, Polk County may terminate all or part of this contract for any one or more of the reasons specified below:
 - a. After 10 days notice, if funding to Polk County from Federal, State or other sources is not obtained or is not continued at levels sufficient to allow for purchase of the indicated quantity of services. Polk County will give more notice whenever possible.
 - b. After 30 days notice, if Federal or State regulations are changed in such a way that services no longer are allowable under this contract.
 - c. Immediately, on notice of denial, revocation or non-renewal of any letter of approval, license or certificate required by law, rule or regulation to be held by Contractor to provide a service under this contract.
 - d. Immediately, if Contractor fails to provide services, or fails to meet any performance standards as specified by Polk County in this contract (or subsequent modifications of this contract) within the time therein specified, or any extensions thereof.
 - e. Immediately, if Polk County has evidence that Contractor has endangered or is endangering the health and safety of clients, residents, staff or the public.
 - f. Immediately, upon failure of Contractor to comply with the provisions of this contract and all applicable Federal, State and local laws, rules and regulations.
 - g. Termination, or the withholding of payments or reduction of obligation under 00195.70, shall be without prejudice to any other obligation or liability of either party accrued prior thereto.

12. **SETTLEMENT OF DISPUTES:** Differences between a Contractor and Polk County, or between Contractors, will be resolved when possible at appropriate management levels. Polk County has ultimate responsibility and authority for resolution of disagreements among subcontract agencies.
13. **DISPUTES:** All disputes, and all claims for alleged breach of contract shall, within ten (10) days of the commencement of dispute be presented in writing to Polk County for decision; but in the meanwhile, Contractor shall proceed with the work as directed.
 - a. Contractor shall submit in detail, the claim and proof thereof. Polk County, with reasonable promptness, shall render its decision to the Contractor in writing.
 - b. If Contractor does not agree with any decision of Polk County, Contractor shall accept that decision from the final release.
 - c. If Contractor has (1) given notice of any dispute within the limit stated above; (2) taken exception to Polk County's decision in the release; and (3) brought suit by way of arbitration proceeding pursuant to ORS 36.300 through 36.365 within 120 days after receipt of final payment under this contract or within six months of a written request by Polk County that Contractor submit a final voucher and release, whichever time is the lesser; then Polk County's decision shall not be final and conclusive but the dispute shall be tried in arbitration on its merits. If the above conditions precedent have not been met, Contractor agrees that his non-compliance with the conditions precedent constitutes a waiver of right to assert a claim.
14. **ATTORNEY FEES:** If an action, suit or proceeding, including appeal therefrom, is brought for failure to observe any terms for this contract, the prevailing party of said action is entitled to the recovery of reasonable attorney fees.
15. **CAPTIONS:** The heading or captions in this contract are solely for convenience of the reader, and do not have legal effect.
16. **CHOICE OF LAW:** This contract shall be governed by the laws of the State of Oregon.
17. **VENUE:** Venue relating to this contract shall be in the Circuit Court of the State of Oregon for Polk County, located in Dallas, Oregon.
18. **SEVERABILITY:** If any provision of this contract is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
19. **CONFIDENTIALITY:** Contractor understands and agrees that some records that will be made available are or may be considered confidential under ORS 308.290 and 308.413. Contractor agrees to comply with any and all confidentiality laws and regulations and will sign a confidentiality agreement if provided by Polk County.

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATION, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. CONTRACTOR, BY SIGNATURE BELOW, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Dated this 6th day of February 2024.


Contractor Signature Ronald R. Bochsler - President

93-0627856
Tax ID Number

Approved by the Polk County Board of Commissioners at their regular meeting on the _____ day of _____, 2024.

Chairman, Polk County Board of Commissioners

Approved as to Form:

Polk County Counsel



PERFORMANCE BOND

Any singular reference to Contractor, Surety, Oblige, or other party shall be considered plural where applicable.

Contractor (Name and Address):	Surety (Name and Address):
<u>North Santiam Paving Co</u>	<u>Federal Insurance Company</u>
<u>P.O. Box 516</u>	<u>202 B Halls Mill Road</u>
<u>Stayton, OR 97383</u>	<u>Whitehouse Station, NJ 08889</u>

Polk County Board of Commissioners
Polk County Courthouse
850 Main Street
Dallas, OR 97338

Contract

Date: February 6, 2024 Year (i.e. Date on signature page of Agreement)

Amount: \$ **966,361.50**

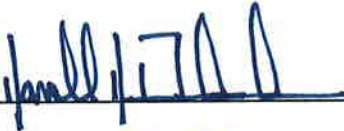

Project: **Polk County – Safe Routes to School Grant Project**

Bond

Date: February 6, 2024 Year (Not earlier than Contract Date)

Amount: \$ **966,361.50**

Modifications to this Bond: None

Contractor As Principle	Surety
Company: (Corporate Seal)	Company: (Corporate Seal)
Signature: <u></u>	Signature: <u></u>
Name: <u>RONALD R BOCHSLER</u>	Name: <u>Shellie Loop</u>
Title: <u>PRESIDENT</u>	Title: <u>Attorney-In-Fact</u>

For Information Only – Name, Address and Telephone
Agent Or Broker:

Rhodes Warden Insurance
P O Box 190
Stayton, OR 97383
503-769-7105

ARTICLES

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executor, administrators, successors and assigns to the Owner for the performance of the Construction Contract and any extension thereof, and during the twelve 12 month guaranty period which contract, extension and guaranty are incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described on the signature page herein, that the Owner is considering declaring the Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen (15) days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and;
 - 3.2 The Owner has declared Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty (20) days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and;
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a Contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent Contractors, which agents or independent Contractors shall be acceptable to the Owner; or
 - 4.3 Obtain bids or negotiated proposals from qualified Contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the Contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by

a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new Contractor and with reasonable promptness under the circumstances:

4.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

4.4.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen (15) days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.

8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two (2) years after Contractor Default or within two (2) years after the Contractor ceased working or within two (2) years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed by certified or registered mail or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted wherefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. **Definitions**

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company

Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Kimberly Smith of Albany, Oregon; Deborah D. Ford-Bates of Lebanon, Oregon; Julee Korkow and Shellie Loop of Stayton, Oregon-----

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY have each executed and attested these presents and affixed their corporate seals on this 30th day of July, 2021.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY
County of Hunterdon SS.

On this 30th day of July, 2021 before me, a Notary Public of New Jersey, personally came Dawn M. Chloros and Stephen M. Haney, to me known to be Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros and Stephen M. Haney, being by me duly sworn, severally and each for herself and himself did depose and say that they are Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that their signatures as such officers were duly affixed and subscribed by like authority.

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316885
Commission Expires July 18, 2024

Katherine J. Adelaar
Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016; WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006; and ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
- (2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
- (3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
- (ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this 6th Day of February, 2024



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

PAYMENT BOND

Any singular reference to Contractor, Surety, Obligee, or other party shall be considered plural where applicable.

Contractor

North Santiam Paving Co
P.O. Box 516
Stayton, OR 97383

Surety (Name and Address):

Federal Insurance Company
202 B Halls Mill Road
Whitehouse Station, NJ 08889

Polk County Board of Commissioners
Polk County Courthouse
850 Main Street
Dallas, OR 97338

Contract

Date: February 6, 2024 Year (i.e. Date on signature page of Agreement)
Amount: \$ **966,361.50**
Project: **Polk County – Safe Routes to School Grant Project**

Bond

Date: February 6, 2024 Year (Not earlier than Contract Date):
Amount: \$ **966,361.50**

Modifications to this Bond: None

Contractor As Principle

Company: (Corporate Seal)

Signature: 

Name: RONALD R BOCHSLER

Title: PRESIDENT

Surety

Company: (Corporate Seal)

Signature: 

Name: Shellie Loop

Title: Attorney-In-Fact

For Information Only – Name, Address and Telephone

Agent Or Broker:

Rhodes Warden Insurance
P O Box 190
Stayton, OR 97383
503-769-7105

ARTICLES

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, and administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference. The Contractor and Surety, jointly and severally, agree that this Bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Construction Contract not increasing the Contract Price more than twenty-five percent (25%). The term "amendment" wherever used in this Bond, and whether referring to this Bond, the Construction Contract or the loan documents, shall include any alteration, extension, or modification of any character whatsoever.
2. With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Claimant is defined as persons claiming to have supplied labor or materials for the prosecution of the work provided for in the Construction Contract, including any person having a direct contractual relationship with the Contractor furnishing the Bond or direct contractual relationship with any subcontractor, or an assignee of such person, or a person claiming monies due to the State Accident Insurance Fund Corporation, the State Department of Employment Trust Fund, or the Department of Revenue, in connection with the performance of the Construction Contract, has a right of action on the Contractor's Bond as provided in ORS 279C.380 and 279C.400 only if:
 - 4.1 The person or the assignee of the person has not been paid in full; and
 - 4.2 The person gives written notice of claim, as prescribed in ORS 279C.600, to the Contractor and the Secretary of State, if the Construction Contract is with a state agency, or the clerk or auditor if the public body is other than a state agency.

The intent of this Bond shall be to include without limitation, the terms `labor, materials or equipment, that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

5. The Contractor and Surety hereby jointly and severally agree with the Owner that every Claimant, who has not been paid in full before the expiration of a period of one hundred twenty (120) days after the date on which the last of such Claimant's work or labor was done or performed, or materials were furnished by such Claimant, for which claim is made, may have a right of action on this Bond. The Owner shall not be liable for the payment of any costs or expenses including attorneys' fees, which the Owner may incur in connection with its defense of any such right of action.
6. No suit or action shall be commenced on this Bond by any Claimant:
 - 6.1 Unless Claimant shall have given written notice to the Contractor and the Secretary of State, if the Construction Contract is with a state agency, or the clerk or auditor of the public body which let the Construction Contract if the public body is other than a state agency, within one hundred twenty (120) days after such Claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, or hand delivered in an envelope addressed to the Contractor, and such other entity who is to receive notice, at any place where that party maintains an office, conducts business, or at its residence, or delivered to that location.
 - 6.2 After the expiration of two (2) years from the date on which the Claimant last performed labor, materials or equipment. Any limitation embodied in this Bond, which is prohibited by any law controlling the project, shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by law.
7. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within forty-five (45) days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 7.2 Pay or arrange for payment of any undisputed amounts.
8. The Surety's total obligation shall not exceed the amount of this Bond and any amendments thereto as outlined in Paragraph 1, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety

under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
12. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted Hereford and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
13. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

14. DEFINITIONS

14.1 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:



Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company
Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Kimberly Smith of Albany, Oregon; Deborah D. Ford-Bates of Lebanon, Oregon; Julee Korkow and Shellie Loop of Stayton, Oregon

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY have each executed and attested these presents and affixed their corporate seals on this 30th day of July, 2021.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY
County of Hunterdon

SS.

On this 30th day of July, 2021 before me, a Notary Public of New Jersey, personally came Dawn M. Chloros and Stephen M. Haney, to me known to be Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros and Stephen M. Haney, being by me duly sworn, severally and each for herself and himself did depose and say that they are Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that their signatures as such officers were duly affixed and subscribed by like authority.

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316985
Commission Expires July 18, 2024

[Signature]
Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016; WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006; and ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this 6th Day of February, 2024



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/6/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Anchor Insurance and Surety, Inc PO Box 2808 Portland OR 97208	CONTACT NAME: Kim Lee PHONE (A/C, No, Ext): 503-224-2500 E-MAIL ADDRESS: klee@anchorias.com		FAX (A/C, No): 503-224-9830
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED North Santiam Paving Co PO Box 516 Stayton OR 97383-0516	INSURER A : SAIF Corporation		36196
	INSURER B : Charter Oak Fire Ins. Co.		25615
	INSURER C : Travelers Property Casualty Co. of America		25674
	INSURER D :		
	INSURER E :		
INSURER F :			

COVERAGES

CERTIFICATE NUMBER: 1938207010

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		DT-CO-0T79694A-COF-23	3/1/2023	3/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 JOBSITE POLLUTION \$ 1,000,000
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		810-0T795388-23-26-G	3/1/2023	3/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO POLLUTION \$ 1,000,000
C	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP-0T795388-23-26-G	3/1/2023	3/1/2024	EACH OCCURRENCE \$ 8,000,000 AGGREGATE \$ 8,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	812128	10/1/2023	10/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER OR E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C	INSTALLATION FLOATER LEASED/RENTED EQUIPMENT MOTOR TRUCK CARGO			630-2T24599A-TIL-23	3/1/2023	3/1/2024	ANY ONE OCCURRENCE 500,000 ANY ONE ITEM AGGRE 600,000 PER VEHICLE 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder and all other entities are additional insureds when specified by written contract. Coverage is primary & non-contributory and includes waiver of subrogation when required by written contract. All subject to the terms, conditions and exclusions of the policies. Endorsements attached: CGD246 0419, CGD316 0219, CGT100 02/19, CAT353 0215, CAT499 0216 & WC000313. Umbrella Liability goes over General Liability, Auto and Employers Liability

Polk County – Safe Routes to School Grant Project, Project No. 19-45

CERTIFICATE HOLDER**CANCELLATION**

Polk County
 850 Main Street
 Dallas OR 97338

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joel Dietz

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COMMERCIAL GENERAL LIABILITY

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided that the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured will be deemed to be damages because of "bodily injury" or "property damage", provided that:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that

COMMERCIAL GENERAL LIABILITY

- (b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) 50 feet long or less; and
 - (b) Not being used to carry any person or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify as "mobile equipment" under the definition of "mobile equipment" if such land vehicle were not subject to a compulsory or financial responsibility law, or other motor vehicle insurance law, where it is licensed or principally garaged; or
 - (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or

(6) An aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage" arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;

COMMERCIAL GENERAL LIABILITY

(2) "Bodily injury" or "property damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "bodily injury" or "property damage" described in Paragraph (1) above.

(3) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, asbestos, asbestos fibers or products containing asbestos; or

(b) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, asbestos, asbestos fibers or products containing asbestos.

t. Employment-Related Practices

"Bodily injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practice, policy, act or omission, such as coercion, demotion, evaluation, reassignment, discipline, failure to promote or advance, harassment, humiliation, discrimination, libel, slander, violation of the person's right of privacy, malicious prosecution or false arrest, detention or imprisonment applied to or directed at that person, regardless of whether such practice, policy, act or omission occurs, is applied or is committed before, during or after the time of that person's employment; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the

employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "bodily injury".

Exclusions c. through n. do not apply to "premises damage". A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

COMMERCIAL GENERAL LIABILITY

- (2) Designing or determining content of websites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a.(1), (2) and (3) of the definition of "personal injury".

For the purposes of this exclusion:

- (1) Creating and producing correspondence written in the conduct of your business, bulletins, financial or annual reports, or newsletters about your goods, products or services will not be considered the business of publishing; and
- (2) The placing of frames, borders or links, or advertising, for you or others anywhere on the Internet will not, by itself, be considered the business of advertising, "broadcasting" or publishing.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts or owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of any governmental authority or any other person or organization because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or

neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury" arising out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Unsolicited Communication

"Personal and advertising injury" arising out of any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distributing of "unsolicited communication".

q. Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information.

r. Asbestos

- (1) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of asbestos, asbestos fibers or products containing asbestos, provided that the "personal and advertising injury" is caused or contributed to by the hazardous properties of asbestos.
- (2) "Personal and advertising injury" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, and that are part of any claim or "suit" which also alleges any "personal and advertising injury" described in Paragraph (1) above.
- (3) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or

COMMERCIAL GENERAL LIABILITY

SUPPLEMENTARY PAYMENTS

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

- d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverages – Coverage A – Bodily Injury And Property Damage Liability or Paragraph 2.e. of Section I – Coverages – Coverage B – Personal And Advertising Injury Liability, such payments will not be deemed to be damages for "bodily injury", "property damage" or "personal injury", and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

COMMERCIAL GENERAL LIABILITY

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
 - e. Any person or organization that, with your express or implied consent, either uses or is responsible for the use of a watercraft that you do not own that is:
 - (1) 50 feet long or less; and
 - (2) Not being used to carry any person or property for a charge.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such organization will be deemed to be designated in the Declarations as:

- a. An organization, other than a partnership, joint venture or limited liability company; or
 - b. A trust;
- as indicated in its name or the documents that govern its structure.
4. Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

- a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
 - b. The insurance provided to such premises owner, manager or lessor does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
 - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.
5. Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", or "personal and advertising injury" that:
- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement; and
 - b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense that is committed, after the equipment lease expires.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint

COMMERCIAL GENERAL LIABILITY

- (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.
- e. The following provisions apply to Paragraph a. above, but only for purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:
- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known to you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture, or limited liability company), any of your trustees who is an individual (if you are a trust) or any "employee" authorized by you to give notice of an "occurrence" or offense.
 - (2) If you are a partnership, joint venture, limited liability company or trust, and none of your partners, joint venture members, managers or trustees are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:
 - (a) Any individual who is:
 - (i) A partner or member of any partnership or joint venture;
 - (ii) A manager of any limited liability company;
 - (iii) An executive officer or director of any other organization; or
 - (iv) A trustee of any trust;
- that is your partner, joint venture member, manager or trustee; or
- (b) Any employee authorized by such partnership, joint venture, limited liability company, trust or other organization to give notice of an "occurrence" or offense.
- (3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraph e.(1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.
- However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.
- ### 3. Legal Action Against Us
- No person or organization has a right under this Coverage Part:
- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
 - b. To sue us on this Coverage Part unless all of its terms have been fully complied with.
- A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, and the claimant or the claimant's legal representative.

COMMERCIAL GENERAL LIABILITY

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

d. Primary And Non-Contributory Insurance If Required By Written Contract

If you specifically agree in a written contract or agreement that the insurance afforded to an insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such insured which covers such insured as a named insured, and we will not share with that other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal and advertising injury" for which coverage is sought is caused by an offense that is committed;

subsequent to the signing of that contract or agreement by you.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

COMMERCIAL GENERAL LIABILITY

10. "Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

11. "Hostile fire" means a fire which becomes uncontrollable or breaks out from where it was intended to be.

12. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

13. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage" or "personal injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle,

tracks, roadbeds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection, architectural or engineering activities.

14. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

15. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

16. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

COMMERCIAL GENERAL LIABILITY

21. "Premises damage" means:

- a. With respect to the first paragraph of the exceptions in Exclusion **j.** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, "property damage" to any premises while rented to you for a period of seven or fewer consecutive days, including the contents of such premises; or
- b. With respect to the exception to Exclusions **c.** through **n.** in the last paragraph of Paragraph **2.** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, "property damage" to any premises while rented to you for a period of more than seven consecutive days, or while temporarily occupied by you with permission of the owner, caused by:
 - (1) Fire;
 - (2) Explosion;
 - (3) Lightning;
 - (4) Smoke resulting from fire, explosion or lightning; or
 - (5) Water.

But "premises damage" under this Paragraph **b.** does not include "property damage" to any premises caused by:

- (1) Rupture, bursting, or operation of pressure relief devices;
- (2) Rupture or bursting due to expansion or swelling of the contents of any building or structure caused by or resulting from water; or
- (3) Explosion of steam boilers, steam pipes, steam engines or steam turbines.

22. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your

contract calls for work at more than one job site.

- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of:
 - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
 - (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

23. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use will be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

24. "Slogan":

- a. Means a phrase that others use for the purpose of attracting attention in their advertising.
- b. Does not include a phrase used as, or in, the name of:
 - (1) Any person or organization, other than you; or
 - (2) Any business, or any of the premises, goods, products, services or work, of any person or organization, other than you.

Carrier: Charter Oak Fire Ins. Co.

Policy Number: DT-CO-0T79694A-COF-23

Insured: North Santiam Paving Co

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

(Includes Products-Completed Operations If Required By Contract)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that you agree in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only:

- a. With respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and
- b. If, and only to the extent that, such injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies. Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

- a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section III – Limits Of Insurance.
- b. The insurance provided to such additional insured does not apply to:

(1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
- (b) Supervisory, inspection, architectural or engineering activities.

(2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

c. The additional insured must comply with the following duties:

- (1) Give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:
 - (a) How, when and where the "occurrence" or offense took place;
 - (b) The names and addresses of any injured persons and witnesses; and
 - (c) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- (2) If a claim is made or "suit" is brought against the additional insured:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

XTEND ENDORSEMENT FOR CONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|--|---|
| <p>A. Who Is An Insured – Unnamed Subsidiaries</p> <p>B. Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations</p> | <p>C. Incidental Medical Malpractice</p> <p>D. Blanket Waiver Of Subrogation</p> <p>E. Contractual Liability – Railroads</p> <p>F. Damage To Premises Rented To You</p> |
|--|---|

PROVISIONS

A. WHO IS AN INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any of your subsidiaries, other than a partnership, joint venture or limited liability company, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and
- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. An organization other than a partnership, joint venture or limited liability company; or
- b. A trust;

as indicated in its name or the documents that govern its structure.

B. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

COMMERCIAL GENERAL LIABILITY

2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

F. DAMAGE TO PREMISES RENTED TO YOU

The following replaces the definition of "premises damage" in the **DEFINITIONS** Section:

"Premises damage" means "property damage" to:

- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
- b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.

COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph B.7., **Policy Period, Coverage Territory**, of SECTION IV – BUSINESS AUTO CONDITIONS:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., Limits Of Insurance, of SECTION II – COVERED AUTOS LIABILITY COVERAGE.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., Limits Of Insurance, of SECTION II – COVERED AUTOS LIABILITY COVERAGE, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

COMMERCIAL AUTO

such contract. The waiver applies only to the person or organization designated in such contract.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph **B.2., Concealment, Misrepresentation, Or Fraud,** of **SECTION IV – BUSINESS AUTO CONDITIONS:**

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

Carrier no: 20001

Endorsement no: WC000313
(Ed. 430B)

SAIF policy: 812128 North Santiam Paving Co

Waiver of Our Right to Recover from Others Endorsement

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Description: ALL OPERATIONS

Contractor name: Persons and/or organizations with whom the insured-employer is required by written contract to waive subrogation rights.

This endorsement does not alter the rights of an injured worker to pursue recovery from another party or SAIF to receive a statutory share of recoveries by an injured worker, even from the party listed in the schedule.

The premium charge for this endorsement is based on one (1) percent of your manual premium.

Effective date: October 01, 2023

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

Countersigned September 20, 2023 at Salem, Oregon



WC000313
(Ed. 430B)

Chip Terhune
President and Chief Executive Officer

COPY

COPY

FEDERAL INSURANCE COMPANY

RIDER AMENDING BOND

Bond No. 8195 44 64

Original Effective Date: 1/4/06

Type of Bond: Surety

This Rider, effective, 03/08/06 is to be attached to and form a part of the bond described above, executed by the undersigned Principal and Federal Insurance Company as Surety. It is understood and agreed that said bond is changed, amended or revised in the particulars as checked below:

The Name of the Obligee is changed: from: _____ to: _____

The Amount of the Bond is changed: from: _____ to: _____

Other: Name of the Principal is changed from: North Santiam Paving Company, Inc. to: North Santiam Paving Company

Said bond shall be subject to all its terms, conditions and limitations, except as herein expressly modified.

PROVIDED that regardless of the number of years this bond shall continue or be continued in force and of the number of premiums that shall be payable or paid, the Surety shall not be liable thereunder for a larger amount, in the aggregate, than the bond amount in effect with the execution of this Rider.

Signed, sealed and dated, eighth day of March, 2006.

NORTH SANTIAM PAVING COMPANY

Principal

By: [Signature]
RWR BOCHSLER - PRESIDENT

Federal Insurance Company

By: [Signature]
Astrid K. Botham Atty-in-fact



Chubb
Surety

POWER
OF
ATTORNEY

Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company

Attn: Surety Department
15 Mountain View Road
Warren, NJ 07059

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint RICHARD H KINGSLEY, LYLE GLEN PETE, PAMELA KINGSLEY, ASTRID K BOTHUM, JACK C DARLEY of STAYTON, OREGON"

COPY

each as their true and lawful Attorney-In-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 29th day of April, 2004

Kenneth C. Wendel
Kenneth C. Wendel, Assistant Secretary

Frank E. Robertson
Frank E. Robertson, Vice President

STATE OF NEW JERSEY
County of Somerset ss.

On this 29th day of April, 2004, before me, a Notary Public of New Jersey, personally came Kenneth C. Wendel, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Kenneth C. Wendel being by me duly sworn, did depose and say that he is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By-Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that he is acquainted with Frank E. Robertson, and knows him to be Vice President of said Companies; and that the signature of Frank E. Robertson, subscribed to said Power of Attorney is in the genuine handwriting of Frank E. Robertson, and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Notarial Seal



MARIA CALISE
Notary Public, State of New Jersey
No. 2183962
Commission Expires Nov. 16, 2005

Maria Calise
Notary Public

CERTIFICATION

Extract from the By-Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys-In-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Kenneth C. Wendel, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing extract of the By-Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this eighth day of March, 2006.



Kenneth C. Wendel
Kenneth C. Wendel, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com



COPY STATE OF OREGON
STATUTORY PUBLIC WORKS BOND

COPY

Surety bond #: 8195 44 64 CCB # (if applicable): 53247

We, North Santiam Paving Company, Inc., as principal, and Federal Insurance Company, a corporation qualified and authorized to do business in the State of Oregon, as surety, are held and firmly bound unto the State of Oregon for the use and benefit of the Oregon Bureau of Labor and Industries (BOLI) in the sum of thirty thousand dollars (\$30,000) lawful money of the United States of America to be paid as provided in ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360, for which payment well and truly to be made, we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by this agreement.

WHEREAS, the above-named principal wishes to be eligible to work on public works project(s) subject to the provisions of ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360, and is, therefore, required to obtain and file a statutory public works bond in the penal sum of \$30,000 with good and sufficient surety as required pursuant to the provisions of section 2, chapter 360, Oregon Laws 2005, conditioned as herein set forth.

NOW, THEREFORE, the conditions of the foregoing obligations are that if said principal with regard to all work done by the principal as a contractor or subcontractor on public works project(s), shall pay all claims ordered by BOLI against the principal to workers performing labor upon public works projects for unpaid wages determined to be due, in accordance with ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360, and OAR Chapter 839, then this obligation shall be void; otherwise to remain in full force and effect.

This bond is for the exclusive purpose of payment of wage claims ordered by BOLI to workers performing labor upon public works projects in accordance with ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360.

This bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penalty of this bond.

This bond shall become effective on the date it is executed by both the principal and surety and shall continuously remain in effect until depleted by claims paid under ORS chapter 279C, as amended by Oregon Laws 2005, chapter 360, unless the surety sooner cancels the bond. This bond may be cancelled by the surety and the surety be relieved of further liability for work performed on contracts entered after cancellation by giving 30 days' written notice to the principal, the Construction Contractors Board, and BOLI. Cancellation shall not limit the responsibility of the surety for the payment of claims ordered by BOLI relating to work performed during the work period of a contract entered into before cancellation of this bond.

IN WITNESS WHEREOF, the principal and surety execute this agreement. The surety fully authorizes its representatives in the State of Oregon to enter into this obligation.

SIGNED, SEALED AND DATED this fourth day of January, 2006.

Surety by:

FEDERAL INSURANCE COMPANY (Seal)

Company Name

Astrid K. Bothum
 Signature Astrid K. Bothum

Attorney-in-Fact

Title (e.g. Attorney-in-Fact)

SEND BOND TO: Construction Contractors Board
 PO Box 14140
 Salem, OR 97309-5052
 Telephone: (503) 378-4621

Principal by:

RONALD R BOCHSLER

Name

Ronald R Bochslers
 Signature

PRESIDENT

Title

PO Box 516
 Address

STAYTON OR 97383
 City State Zip



Chubb
Surety

POWER
OF
ATTORNEY

Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company

Attn: Surety Department
15 Mountain View Road
Warren, NJ 07059

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint RICHARD H KINGSLEY, GYLE GLEN PETE, PAMELA KINGSLEY, ASTRID K BOTHUM, JACK C DARLEY of STAYTON, OREGON***

COPY

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

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Kenneth C. Wendel

Kenneth C. Wendel, Assistant Secretary

Frank E. Robertson

Frank E. Robertson, Vice President

STATE OF NEW JERSEY
County of Somerset

ss.

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Notarial Seal



MARIA CALISE
Notary Public, State of New Jersey
No. 2183962
Commission Expires Nov. 16, 2005

Maria Calise

Notary Public

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I, Kenneth C. Wendel, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

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- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this fourth day of January, 2006.



Kenneth C. Wendel

Kenneth C. Wendel, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com



POLK COUNTY

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338
(503) 623-9237

COMMUNITY DEVELOPMENT

AUSTIN M'GUIGAN
Director

MEMORANDUM

TO: Board of Commissioners
FROM: Eric Knudson, Associate Planner
Polk County Community Development
DATE: February 15, 2024
SUBJECT: Ratify the Hearings Officer's Decision on an Appeal; Planning File CU 23-06

February 21, 2024 Consent Agenda

ISSUE:

Ratify the Hearings Officers final local decision on the appeal of Polk County Planning File CU 23-06

RECOMMENDATION:

Staff recommends that the Board of Commissioners ratify the Hearings Officers final local decision affirming, with amended conditions, the Planning Directors approval of Polk County Planning File CU 23-06.

BACKGROUND:

On February 15, 2023, a Code Enforcement investigation request was submitted to the Polk County Community Development alleging that dogs were being bred and puppies sold on the subject property within the Acreage Residential-Five Acre (AR-5) Zoning District. On May 9, 2023, as a result of the Polk County Code Enforcement Officer's investigation, the property owners submitted a conditional use application proposing to authorize a kennel on the subject property that would include the breeding, raising, and sale of dogs.

On November 17, 2023 the Polk County Planning Director approved the proposed dog kennel, subject to nine (9) conditions of approval. Although the application was approved, a timely appeal was submitted by the Applicant on November 29, 2023. The appeal identified objections to Conditions of Approval No. 1 and No. 2. On December 5, 2023 the Polk County Board of Commissioners directed staff to set the matter for a hearing before the Polk County Hearings Officer, pursuant to PCZO 111.280.

A duly noticed public hearing before the Hearings Officer was scheduled for January 16, 2024. Due to inclement weather conditions, the hearing was rescheduled to a date certain of January 19, 2024. An opportunity was provided for the Appellant (Applicant) and members of the public to submit oral and written testimony at the hearing. The Hearings Officer issued a final local decision affirming the Planning Directors decision on February 14, 2024, but modified Conditions of Approval No. 1 and 2 of the approval. The Polk County Board of Commissioners shall ratify the final local decision issued by the Hearings Officer, pursuant to PCZO 111.280.

DISCUSSION / ALTERNATIVES:

1. Adopt Order Number 24-02 ratifying the Hearings Officers final local decision affirming, with modifications, the Planning Directors approval of Polk County Planning Division file CU 23-06; or

2. Other.

FISCAL IMPACTS:

No fiscal impacts to the County have been identified.

ATTACHMENTS:

Order Number 24-02

Exhibit A: Hearings Officer's Decision

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF POLK, STATE OF OREGON**

In the matter of Polk County Planning Division)
File CU 23-06 authorizing a dog kennel on)
an approximately 4.8 acre parcel zoned Acreage)
Residential-Five Acres. The subject property is)
located at 4860 South Kings Valley Highway,)
Dallas OR 97338 (T8S, R5W, Section 19,)
Tax Lot 1003).)

ORDER NO. 24-02

WHEREAS, On May 9, 2023, the property owners submitted a conditional use application proposing to authorize a dog kennel within the Acreage Residential-Five Acre (AR-5) Zoning District; and

WHEREAS, On November 17, 2023 the Polk County Planning Director approved Planning Division application CU 23-06, subject to nine (9) conditions of approval, authorizing a dog kennel on the subject property; and

WHEREAS, On November 29, 2023 a timely appeal was submitted by the Applicant; and

WHEREAS, On December 5, 2023 the Polk County Board of Commissioners directed staff to set the matter for a hearing before the Polk County Hearings Officer, pursuant to PCZO 111.280; and

WHEREAS, A duly noticed public hearing before the Hearings Officer was scheduled for January 16, 2024, but was rescheduled to a date certain of January 19, 2024 due to inclement weather conditions; and

WHEREAS, On January 19, 2024 the Polk County Hearings Officer conducted the rescheduled public hearing, where an opportunity was provided for the Appellant (Applicant) and members of the public to submit oral and written testimony; and

WHEREAS, On February 14, 2024 the Hearings Officer issued a final local decision affirming the Planning Directors decision with amended conditions, included as Exhibit A; and

WHEREAS, Pursuant to PCZO 111.280, the Board of Commissioners shall ratify the final local decision issued by the Hearings Officer; now therefore,

THE POLK COUNTY BOARD OF COMMISSIONERS ORDERS AS FOLLOWS:

Sec. 1. That Polk County Board of Commissioners ratify the Hearings Officer's final local decision.

Sec. 2. An emergency is declared, and the provisions of this order become effective upon its adoption.

Dated this 21st day of February, 2024 at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS

Craig Pope, Chair

Jeremy Gordon, Commissioner

Lyle Mordhorst, Commissioner

Approved as to form:

Morgan Smith
County Counsel

First Reading: _____

Second Reading: _____

Recording Secretary: _____

**BEFORE THE PLANNING DIVISION
FOR POLK COUNTY, OREGON**

In the Matter of the Application of:

Randy and Mary Oberg

File No: CU 23-06

HEARING DECISION

I. SUMMARY OF PROCEEDINGS

A. BACKGROUND

This matter arose on the application of Randy and Mary Oberg (“Applicants”) to operate a kennel on the subject property pursuant to Polk County Zoning Ordinance (PCZO) 128.540(E). The dog kennel would include the breeding, raising, and sale of dogs. The subject property is approximately 4.8 acres in size and is located within the Acreage Residential-Five Acre (AR-5) Zoning District, which permits a dog kennel, subject to review and approval of a conditional use permit.

1. PROCEDURAL HISTORY

On February 15, 2023, a Code Enforcement investigation request was submitted to the Polk County Community Development Department alleging that dogs were being bred and puppies sold on the subject property. On May 9, 2023, as a result of the Polk County Code Enforcement Officer’s investigation, the property owners submitted a conditional use application proposing to authorize a dog kennel within the Acreage Residential-Five Acre (AR-5) Zoning District. The AR-5 zone permits a dog kennel as a conditional use, which includes a facility that is operated for the production or sheltering of dogs which are to be offered for commercial sale.

On November 17, 2023, the Polk County Planning Director approved the proposed dog kennel, subject to nine (9) conditions of approval.

On November 29, 2023, the Applicants filed a timely appeal of the Planning Director’s decision identifying objections to the first and second conditions of approval. Thus, the Appellants are also the Applicants and referred to as Applicants throughout this decision.

On December 5, 2023, the Polk County Board of Commissioners directed Polk County Community Development Staff (“County Staff”) to set the matter for a hearing before the Polk County Hearings Officer, pursuant to PCZO 111.280.

The Hearings Officer’s decision will constitute the final County decision subject to ratification by the Board of Commissioners.

2. COMPREHENSIVE PLAN AND ZONING DESIGNATIONS

///
///
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Location	Comprehensive Plan Designation	Zoning Designation
Subject Property	Rural Lands	Acreage Residential - Five Acres (AR-5)
Property North	Rural Lands	Acreage Residential - Five Acres (AR-5)
Property East	Rural Lands	Acreage Residential - Five Acres (AR-5)
Property South	Rural Lands	Acreage Residential - Five Acres (AR-5)
Property West	Agriculture	Exclusive Farm Use (EFU)

3. PROPERTY DESCRIPTION

The subject property is located at 4860 South Kings Valley Highway, Dallas (T8S, R5W, Section 19, Tax Lot 1003) and contains approximately 4.8 acres. According to the 2023 Polk County Assessor's records, the subject property contains one (1) single-family dwelling and one (1) accessory structure. According to Polk County Community Development records, the existing single-family dwelling was lawfully established in 1997, pursuant to Building Permit No. B96-3681. The existing accessory structure appears to be the outdoor dog-run that would be used in part for the proposed kennel. County Staff was unable to identify any building permits associated with the dog-run structure.

The subject property was lawfully created in accordance with Polk County Subdivision and Partition Ordinance (PCSO) 91.950(1)(b), as evidenced by Parcel 2 in Polk County Partition Plat No. 1996-0015, dated May 15, 1996, which was authorized by Planning Authorization LP 96-02. The subject property is currently described in the bargain and sale deed recorded in Polk County Book of Record 328, Page 590, dated December 20, 1996.

According to the National Wetlands Inventory (NWI) Map, Airlie North Quadrangle, there are no inventoried wetlands located on the subject property. Based on a review of Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panel number 41053C0400F, dated December 18, 2006, the subject property is not located within the Special Flood Hazard Area (SFHA). Based on a review of the Polk County Significant Resource Area (SRA) Map, the subject property does not contain inventoried significant resources. There are no identified historic sites, or Willamette River Greenway areas on the subject property.

4. SERVICES

Access: The subject property has frontage along and direct access to South Kings Valley Highway. South Kings Valley Highway is a minor arterial as defined in the Polk County Transportation Systems Plan, Figure 3.

Services: The subject property is served by an on-site septic system and is located within the area served by the Luckiamute Domestic Water Cooperative.

School: Dallas School District No. 2

Fire: Southwest Polk Rural Fire Protection District

Police: Polk County Sheriff

B. COMMENTS

Prior to the Polk County Planning Director's decision several comments were received into the record:

In the Matter of the Application of Randy and Mary Oberg – CU 23-06
Hearings Officer Decision
Page 2 of 13

Oregon Department of Transportation	This proposal will not trigger any permits from ODOT. The subject property has an existing approach that was issued in 1996 for two (2) residencies, and the permit will still be valid with the addition of a kennel.
Polk County Animal Control Officer	The Polk County Animal Control Officer provided comments recommending that the proposed dog kennel not exceed ten (10) adult dogs.
Brooks Wagner	A neighboring property owner provided comments expressing opposition to the proposed kennel with concerns regarding increased noise that it would cause. The neighbor asserts that in the past, the dogs have barked for hours and the loud noise funnels up the hill and disturbs at least four families. The commenter states that they have already met with the property owner and Polk County Animal Control in the past, and states that the property owner agreed to enclose the dog run. The neighbor states that the property owners did not enclose the dog-run structure following the meeting.
Building Division	No building permit records were found for the existing "Covered Dog Run" to be used for the proposed kennel. To use the existing structure for the proposed use, a building permit would be required for the structure and would be subject to compliance with Oregon Structural Specialty Code requirements. In addition, compliance with Oregon Electrical, Plumbing, and Mechanical Specialty Codes would be required. The Oregon Structural Specialty Code requirements may require ADA parking and a public restroom depending on the activities taking place within the structure. The building permit for the structure may also require review and approval of your project by the Deputy State Fire Marshal, including any required inspections for compliance with the Oregon Fire Code.
Linda Taylor	A neighboring property owner provided comments expressing opposition to the proposed kennel with concerns regarding the increased noise that it would cause. The neighbor states that the applicants have had dogs in the past and the neighbors have tried to ignore the barking, but the potential of 40 dogs could result in significant noise, impacting the surrounding area. These comments suggest a possible sound barrier, but acknowledge that may be difficult to achieve. The comments further indicate that other neighbors in the area also have dogs, but the noises are not as frequent or disruptive as the applicant's dogs. The comments indicate that when you live in the country, you choose to live there for the peace and quiet and not to hear barking dogs. For this reason, the neighboring property owners states that they are not in favor of the proposed business so close to their home. The neighbor states that they have tolerated barking dogs on the subject property in the past, but now that they are working from home and their husband is retired, barking dogs is not something that they want to tolerate.
Environmental Health	The subject property contains an on-site septic system. The on-site septic permit was issued on December 6, 1996 under Septic Permit No. 4241. All property line setbacks from the existing on-site septic system and future repair are need to be maintained pursuant to Oregon Administrative Rule (OAR) 340-071-0220 Table 1. Any wastewater

	generated from the proposed kennel cannot enter the residential on-site septic system. The applicants will need to work with the Oregon Department of Agriculture to determine wastewater management requirements.
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Prior to the hearing, the following comment was received into the record:

Sharon Ballard	A neighboring property owner provided comments in favor of the Applicants' appeal. The property owner commented that she occasionally hears the Applicants' dogs but it does not rise to a level of concern. Full comments are included in the record.
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II. PUBLIC HEARING

A duly advertised hearing was originally scheduled for January 16, 2024, at the Polk County Courthouse. Due to inclement weather the hearing was rescheduled to January 19, 2024. County Staff contacted the Applicants to advise of the new date and posted notice of the new date at the Polk County Courthouse.

The Hearings Officer called the meeting to order at the appointed hour. There were no objections as to notice, jurisdiction, or conflicts of interest. County Staff recited the applicable review and decision criteria and recommended denial of the appeal. The Applicants presented testimony, submitted documents, and submitted written testimony from another neighboring property owner in favor of their appeal. A member of the public testified in support of the appeal. No other public testimony was received in favor or against the application. There was no request to keep the record open, or for a continuance. The Hearings Officer thereupon declared the record closed and adjourned the meeting. All of the testimony, evidence, and arguments are a part of the record and were considered in this matter.

III. REVIEW AND DECISION CRITERIA

This application is to operate a kennel for the breeding, raising, and selling of dogs within an existing dwelling and existing outdoor dog-run located on the subject property within the Acreage Residential-Five Acre (AR-5) Zoning District. The review and decision criteria for the application is listed under PCZO 119.070 and PCZO 128.540(E).

1. CONDITIONAL USE

(A) Kennels [PCZO 128.540(E)]

- (1) **KENNEL, KENNEL (COMMERCIAL).** A facility for the keeping of dogs which have a set of permanent canine teeth or have become six months of age if:
- (a) **The facility receives more than \$250 in gross receipts during a year for the sheltering of dogs which are not the property of the operator of the facility;**
 - (b) **The facility is privately operated as animal shelter, whether for profit or not for profit;**
 - (c) **The facility is operated for the production or sheltering of dogs which are to be offered for commercial sale. [PCZO 110.301]**

The Applicants are proposing to operate a kennel on the subject property that would include the breeding, raising, and sale of dogs within an existing outdoor dog-run and the existing single-family dwelling. The subject property is located within the AR-5 Zoning District. Dog kennels are

a permitted use within the AR-5 zone, subject to review and approval of a conditional use permit. The proposed dog kennel facility would be operated for the production of dogs which are to be offered for commercial sale. The Applicants are proposing a kennel for the keeping of six (6) adult female breeding dogs and two (2) adult male breeding dogs, all of which would be Pembroke Welsh Corgis. The eight (8) adult dogs would produce 4-6 litters per year and each litter averages 4-7 puppies. All litters would be whelped in the existing single-family dwelling, and the puppies would be kept primarily indoors with their mother(s) until they are sold at around eight (8) weeks of age. All adult dogs would otherwise be kept in the existing outdoor dog-run. The Applicants state that all dogs are American Kennel Club (AKC) registered, microchipped, and licensed. This proposal does not include a request to board or rescue dogs.

All puppies produced on-site would be shown on the subject property by appointment only, with only one (1) customer on-site at a time. The puppies would be available for showings at six (6) weeks of age and available for commercial sale at eight (8) weeks of age. The Applicants are proposing for the puppies to be shown and sold on the subject property seven (7) days a week between the hours of 10:00 a.m. and 7:00 p.m. The Applicants state that customers would be shown the puppies on the front and side patios only and customers would not be allowed inside the dwelling, backyard, or dog-run area. The Applicants are not proposing any employees other than the existing residents/property owners. All adult dogs would be put to bed at night in appropriately sized crates between 8:30-9:00 p.m. in the dog-run. The dogs would be let out of the dwelling and/or dog-run and into the backyard at approximately 7:00 a.m. each morning.

Based on the proposed activities described by the Applicants, the Hearings Officer finds that proposed dog kennel meets the description of a dog kennel defined in PCZO 110.301(C). Thus, the application complies with the criterion.

2. FINDINGS OF THE HEARINGS OFFICER OR PLANNING DIRECTOR. Before granting a conditional use, the Hearings Officer or Planning Director shall determine:

(A) That he or she has the power to grant the conditional use; [PCZO 119.070(A)]

Pursuant to PCZO sections 111.250(A) and 119.030, the Hearings Officer has the power to make a decision on conditional use permits.

(B) That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zoning district; [PCZO 119.070(B)]

It is the purpose and function of the Acreage Residential - 5 acre (AR-5) zone to:

- (1) Provide for the best use of the land based on the location, inherent limitations and ability to serve the functional needs of the area.**
- (2) Provide larger acreage homesites which will be a buffer area between farm zones and higher density urban and urbanizing areas, thus reducing the conflicts between residential use and usual and normal farming practices.**
- (3) Provide for the orderly growth of the urban areas so that as urbanization occurs, the supporting community will be able to afford the increased capital investments required for services to and within the new urban area and the costs of maintenance of utility facilities, rebuilding of arterial streets, protective services and desired social services.**
- (4) To provide for the efficient, redivision of acreage subdivisions which may occur in the area.**
- (5) To promote the pre-planning of future important streets in the area.**
- (6) To meet the needs of a segment of the population for non-urban, non-farm acreage homesites.**

(7) To provide for the above, yet not adversely affect fish and wildlife resources and habitat areas, natural areas, and scenic areas. [PCZO 128.510]

The purpose and intent of the AR-5 zone is primarily to allow larger acreage home-sites and an orderly transition to urban uses. Dog kennels are a permitted use in the AR-5 zone if they meet the criteria for a conditional use review; however, the scale and scope of the proposed kennel should be consistent with maintaining the purpose and intent of the AR-5 zone.

The Applicants are proposing to operate a kennel on the subject property that would include the breeding, raising, and sale of dogs within an existing outdoor dog-run and the existing single-family dwelling. The Applicants are not proposing to rescue or board dogs. Single-family dwellings are an outright permitted use in the AR-5 zone. Thereby, it is not uncommon for property owners to have dogs as pets on their AR-5 zoned property. However, because the proposed dog kennel facility would be operated for the keeping of eight (8) adult dogs used for the production of puppies to be offered for commercial sale on the subject property, the Hearings Officer finds that the proposed use would constitute a dog kennel, as defined in PCZO 110.301, and is subject to the criteria for a conditional use review.

Based on the 2023 Assessor's Report, the existing dog-run structure is 640 square feet in size. Based on the Applicants' plot plan and the 2022 aerial photograph accessed through Polk County Geographic Information System (GIS), the existing dog-run on the subject property is located approximately 61.0 feet from the side (southwestern) property line, and approximately 65.0 feet from the rear (southeastern) property line, which are two nearest property lines. The single-family dwelling is located approximately 40.0 feet west of the dog-run structure. The subject property has frontage along and direct access to South Kings Valley Highway. The Applicants are not proposing any changes to the existing access.

As discussed previously, the proposed kennel would be for the keeping of six (6) adult female breeding dogs and two (2) adult male breeding dogs, all of which would be Pembroke Welsh Corgis. The Applicants are proposing to produce a total of 4-6 litters per year, with each litter averaging 4-7 puppies that would be for commercial sale. All puppies produced on-site would be shown on the subject property by appointment only, with only one (1) customer on-site at a time. County Staff interpreted the term "customer" to mean one (1) individual or one (1) family on-site at a time, since it is common for families to see and meet a puppy prior to purchase and the Hearings Officer concurs. The showing and sale appointments are proposed to be made available seven (7) days a week between the hours of 10:00 a.m. and 7:00 p.m. Customers would be shown the puppies on the front and side patios only and customers would not be allowed inside the dwelling, backyard, or dog-run areas. The outdoor dog-run would be scraped and cleaned daily. Solid waste would be collected and composted or placed in garbage bags and removed with trash pickup service. All adult dogs would be put to bed at night in the dog-run between 8:30 and 9:00 p.m. The dogs are let out of the dwelling and dog-run and into the backyard each morning at approximately 7:00 a.m. The Applicants state that the puppies are sold at about eight (8) weeks old and the majority of that eight-week period they would spend indoors with their mother.

It is proposed that customers would come on-site to purchase the puppies, therefore, County Staff finds, and the Hearings Officer concurs, that the proposed kennel would be attributable to an increase of traffic to and from the subject property. Based on the proposed scale of no more than approximately 42 puppies being sold on the subject property in a calendar year (up to six litters of approximately seven puppies per litter), the Hearings Officer finds that the proposed use would generate additional vehicles trips up to six (6) times per year when each litter is shown and sold at around 6-8 weeks old. Due to this infrequency, the anticipated vehicle trips generated by the proposed kennel, and the noise that it would generate, would be negligible compared to the noise generated by Highway 223, which is listed as a minor arterial, as defined in Polk County Transportation Systems Plan, Figure 3. Additionally, the existing access is located entirely on the

subject property and the proposed use would generate significantly less vehicle trips than other uses outright permitted in the AR-5 zone, such as a church or a school.

In the narrative provided, the Applicants indicate that there would be 4-6 litters per year and that the breeding cycles would occur "from time to time." Based on the proposed scale, it is understood that each of the six (6) female dogs would not breed more than once a year on average. Because the breeding cycles of dogs can be unpredictable and the exact timing cannot necessarily be controlled, it is acknowledged that the total number of dogs on the subject property could reach up to 50 dogs (eight adults plus six litters, each containing approximately seven puppies) at one time if all six (6) female dogs were to breed at the same time and have the same number of puppies. County Staff received comments from two (2) neighboring properties owners expressing concerns about the proposed scale of the dog kennel, and the possibility of 40-50 dogs on the property. Although it is unlikely that all six (6) female dogs would be pregnant at the same time, the Hearings Officer finds that it is possible but would occur infrequently at best. As discussed above, the Applicants are proposing to keep the puppies primarily indoors with the adult mother(s) until they are sold at around eight (8) weeks old, and would otherwise keep all eight (8) of the adult breeding dogs in the outdoor dog-run.

Prior to the Planning Director approving the application, County Staff received comments from two (2) neighboring property owners expressing opposition to the proposed kennel and raised concerns regarding a dog kennel being operated within an unenclosed structure and the potential noise impacts to neighboring properties or surrounding land uses that would be generated by the proposed kennel.

One comment indicates that the subject property has had dogs on the property in the past that would bark continuously for hours and would cause disturbance to at least four (4) of the surrounding properties. The comments further indicate that this neighbor has previously met with the Applicants and Polk County Animal Control, and agreed that enclosing the dog-run would help mitigate the impacts caused by the noise. However, the Applicants never enclosed the structure, and is not proposing to enclose the structure as part of this request. A comment from another neighboring property owner indicates that they have also been impacted by the noise generated by dogs on the subject property in the past, and are concerned about the proposed size and scale of the dog kennel without any mechanisms in place to mitigate the potential noise generated by up to potentially 40 dogs.

The Applicants provided a response to these comments and stated that the barking from the dogs is not a chronic nuisance but rather a natural alert response that is to be expected from dogs when they hear noises such as visitors, sirens, or gunfire, or see deer on the property. The Applicants further contend that they have lived on the subject property since 1996 and have always had dogs. The Applicants further indicate that in that time they have only had one (1) complaint about noise from a neighboring property, which was resolved years ago by planting sound barrier trees on the subject property, which are now 40-foot tall Cyprus trees, and by having a set time to put the dogs away at night. The Applicants also addressed the concerns from neighbors by stating that because the subject property and surrounding area are located in a valley, distinguishing where the barks are coming from can be quite difficult because many of the neighboring properties owners also have dogs that bark.

In addition, the Polk County Animal Control Officer provided comments requesting that the number of adult dogs associated with the proposed dog kennel not exceed ten (10) dogs. The definition of a dog kennel is listed in PCZO 110.301, which describes adult dogs as dogs which have a set of permanent canine teeth or are at least six (6) months of age. As discussed, the Applicants are proposing a dog kennel that would have no more than eight (8) adult dogs. It is within the scope of this review for Polk County to place conditions on the proposed dog kennel to limit potential offsite impacts such as noise, odor, dust, traffic, or hours of operation that would otherwise not be in harmony with the purpose and intent of the AR-5 zone. Based on the concerns

raised by neighboring property owners regarding the potential noise, together with the fact that there would be eight (8) adult breeding dogs kept in the unenclosed dog-run year-round for the purpose of breeding that perhaps would not otherwise be on the subject property if the property owners were not operating a dog kennel, the Planning Director found that there was substantial evidence in the record to suggest that there could be potential off-site impacts to the surrounding area caused by the dog kennel, as it is proposed in this application and approved the application with the following Condition of Approval:

Condition of Approval 1: The proposed dog kennel shall be operated within the existing single-family dwelling and dog-run located on the subject property. The property owners shall enclose the existing dog run with a door and walls on all four (4) sides of the structure. The improvements for enclosing the dog-run structure shall be subject to compliance with the engineering requirements of the Oregon Structural Specialty Code (OSSC) and shall have an approved exterior wall covering, which is defined in OSSC Chapter 14.

The Applicants filed an appeal to the approval of the application in part because of this Condition for Approval. On appeal, the Applicants argue the covered dog run does not need to be completely enclosed for a variety of reasons, including:

“We have enclosed an area of our covered dog run where the dogs sleep at night. Our schedule is to put the dogs to bed at between 8:30 and 9:00pm each night and put them out in the morning at around 8:00am.

Our dogs are part of our daily lives. They often go on outings with us, they are not kept in the dog runs during the day. They play in the back yard or spend time relaxing in the house with us, we have a doggy door which allows them to come in and out as they please. The dog runs were used more in the past, current use if for feeding and when female are in heat. I believe it would be unnecessary to enclose the covered dog run for the control of noise, since the dogs are mainly in the back yard.

When the notice of us asking for a Commercial Kennel license was sent to our neighbors, no explanation of the scale and limitations of the request, that we made, were mentioned. We feel this scared a couple of our neighbors, bringing up past issues which had been resolved as shown in attached paperwork.

We never stated in our application that the dogs resided in the covered dog area all day. We were asked to describe the outbuilding on our property. The term "Commercial Dog Kennel" makes one think of some large breeding, boarding or rescue facility which we are not. We are a small family-owned business, having a few litters of puppies each year, the application for Commercial Dog Kennel came only at the request of the Polk County Planning Commission since we raise and sell dogs.”

As part of the appeal documentation, the Applicants included documentation ranging from 2003-2004, this included a previous complaint from a neighbor about barking along with the resolution as well as letters from neighboring property owners that the dogs on the subject property were not causing a nuisance.

At the public hearing, the Applicants submitted additional testimony and evidence into the record to address the noise concerns. The Applicants submitted two letters into the record from neighboring property owners. The first letter stated that the neighboring property owners do hear the Applicants’ dogs occasionally, but the noise level does not rise to a level of concern. It should be noted that this letter was also received directly into the record prior to the hearing. The second letter expresses support for the Applicants’ application and that they have not experienced any nuisance or odors from the Applicants’ property. At the public hearing, a former neighboring property owner also testified in support of the application at the public hearing. The former property

owner lived near the Applicants for six (6) years and testified they were never bothered by the Applicants' dogs. Full comments are included in the record.

At public hearing, the Applicants also testified and offered a counterproposal to address the noise concerns. Applicant Randy Oberg testified that he works from home and does not hear the dogs frequently barking. He also testified that their dogs do bark when there are other external noises or factors, such as sirens, wild animals, or visitors. The Applicants also testified that many of their neighbors' own dogs and it is hard to tell whose dogs are barking at times. The Applicants submitted audio into the record of dogs barking at night. The Applicants testified that the dogs barking on the audio were not their dogs as they had already put their dogs in for the night. The Applicants also offered to plant Cyprus Trees in the area near the dog run to act as a sound barrier. The Applicants testified they can purchase Cyprus Trees that are 7 feet tall right now. The Applicants also submitted information from the internet about Leyland Cypress trees and offered to plant approximately 15 trees on the hill by the dog run.

The applicable review and decision criteria for a conditional use permit that Condition of Approval No.1 is associated with is listed under PCZO 119.070(B), which states:

That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone.

This criterion requires the Applicants to demonstrate that the dog kennel would be in harmony with the purpose and intent of the AR-5 zone. A conditional use proposal that creates disruptions to residential properties affects the welfare of those residing in the surrounding area and is not in harmony with the purpose and intent of a residential zone.

On appeal and at the public hearing the Applicants' narrative suggests that the offsite impacts identified by County Staff and the neighbors do not rise to the level of a nuisance and rather barking from dogs that are pets is a typical sound that is normally associated with an AR-5 zoned property where single-family dwellings are outright permitted. Statements were received from two (2) neighboring property owners that indicate support of the application and statements that any barking by the Applicants' dogs is not a nuisance. The Applicants also provided audio of dogs, that were not their own, barking in the evening. Further, the Applicants assert that the breeding dogs are also their pets and are a part of their daily lives rather than being used for just breeding purposes, thus, they spend time playing in the backyard and inside the dwelling with the property owners. The dog run structure was used more in the past, whereas the dog run is currently used primarily for feeding and when females are in heat.

The Hearings Officer acknowledges that pets are not regulated by the PCZO, however, because the proposed use constitutes a conditional use dog kennel, the Applicants must demonstrate that the commercial production of dogs would comply with the applicable review and decision criteria, including how it is in harmony with the purpose and intent of the residential zone, which is a higher bar than demonstrating that the use would not create a nuisance.

The record contains evidence that some neighboring property owners support this application and that others do not. The neighboring property owners who oppose the application are primarily concerned about the potential impacts of noise, particularly barking dogs. The Applicants have identified several ways they currently reduce the noise of their dogs and have included evidence that dogs on neighboring properties also bark and that it can be hard to identify which property the barking is originating from. The Applicants have also stated that the purpose of the application is to breed, raise and sell puppies. The adult dogs that the Applicants are breeding are their family dogs and they do not intend to kennel or rescue adult dogs. The Applicants have stated that the puppies will be primarily kept inside their home until they are sold at approximately eight (8) weeks old. The Applicants have also stated that their dogs are primarily in their home or in the backyard, not in the unenclosed portion of the dog run. Thus, the record contains substantial

evidence that the potential noise impacts from the kennel would not cause incompatible offsite impacts that are not in harmony with the purpose and intent of the residential zone.

At the public hearing, the Applicants proposed an alternative to mitigate noise and have offered to plant approximately fifteen (15) Leyland Cyprus trees near the dog run. Since the Hearings Officer finds the record contains substantial evidence that the application is in harmony with the purpose and intent of the residential zone, the Hearings Officer will not make a finding as to this suggested alternative for noise mitigation. However, the Applicants are certainly welcome to plant additional trees to further reduce any potential noise to neighboring property owners.

The Applicants have stated that the covered dog run has a portion that is enclosed and when the dogs are put away for the night, it is in the enclosed portion of the covered dog run. The Polk County Building Division submitted the following comment: “

No building permit records were found for the existing “Covered Dog Run” to be used for the proposed kennel. To use the existing structure for the proposed use, a building permit would be required for the structure and would be subject to compliance with Oregon Structural Specialty Code requirements. In addition, compliance with Oregon Electrical, Plumbing, and Mechanical Specialty Codes would be required. The Oregon Structural Specialty Code requirements may require ADA parking and a public restroom depending on the activities taking place within the structure. The building permit for the structure may also require review and approval of your project by the Deputy State Fire Marshal, including any required inspections for compliance with the Oregon Fire Code.

The Hearings Officer finds that the evidence in the record demonstrates that the current covered dog run is used by the Applicants for their dogs. Testimony from the Applicants states that a majority of the covered dog run is unenclosed but there is also a portion that is enclosed. The record also does not contain any permits nor any evidence that the current covered dog run is in compliance with the Oregon Structural Specialty Code Requirements. Thus, as a condition of approval, the Hearings Officer finds the Applicants must obtain building permits for the existing covered dog-run structure and the currently existing exterior wall of the structure shall be subject to compliance with the engineering requirements of the Oregon Structural Specialty Code (OSSC) and shall have an approved exterior wall covering, which is defined in OSSC Chapter 14 as:

A material or assembly of materials applied on the exterior side of exterior walls for the purpose of providing a weather-resisting barrier, insulation or for aesthetics, including but not limited to, veneers, siding, exterior insulation and finish systems, architectural trim and embellishments such as cornices, soffits, fascias, gutters and leaders.

The Polk County Environmental Health Division provided comments indicating that the subject property contains an on-site septic system. The on-site septic permit was issued on December 6, 1996, pursuant to Septic Permit No. 4241. All setbacks to the existing on-site septic system and future repair area shall be maintained, pursuant to Oregon Administrative Rule (OAR) 340-071-0220 Table 1. Any wastewater generated from the proposed dog kennel cannot enter the residential on-site septic system. These comments further indicate that the Applicants will need to work with the Oregon Department of Agriculture (ODA) to determine wastewater management requirements. The Applicants state that the dog-run would be scraped and cleaned daily and solid waste would be collected and composted or placed in garbage bags and removed with trash pickup service. The Applicants provided documentation demonstrating that ODA performed a site visit on the subject property and determined that the proposed kennel would not require any permits related to wastewater management from ODA. In order to limit off-site impacts related to odor, County Staff recommends a condition of approval that the property owners shall scrape and clean the dog-run daily and shall be responsible for ensuring that the solid waste is collected and placed in garbage bags that are removed with pickup service, or composted in a manner that doesn't cause a public nuisance.

To ensure that the business is operated consistent with the scale proposed and evaluated in this application, County Staff recommends a condition of approval that the dog kennel shall be operated for the keeping of no more than eight (8) adult dogs used for the production of puppies to be offered for commercial sale on the subject property. The kennel shall produce no more than six (6) litters of puppies in a calendar year. In addition, the property owners shall be permitted to show and sell the puppies bred on-site anytime between the hours of 10:00 a.m. and 7:00 p.m., seven (7) days a week by appointment only, with one (1) customer (family) on-site at a time. All showings and sales shall be limited to the front and side patios of the single-family dwelling and the public shall not be allowed to enter any structures.

As discussed above, County staff recommends placing conditions on the proposed dog kennel to limit potential off-site impacts related to noise, odor, traffic, and hours of operation that would not otherwise be in harmony with the purpose and intent of the AR-5 zone. Also, as discussed in detail above, the Hearings Officer is revising County Staff's recommended Condition of Approval No. 1. Thus, The Hearings Officer finds that with the recommended conditions of approval listed above, the proposed dog kennel would not have a significant impact on neighboring properties or surrounding land uses and would be in harmony with the purpose and intent of the AR-5 Zoning District.

Condition of Approval No. 2: The Applicants' narrative indicates that they are contesting this condition, but do not provide any further information regarding the basis of their objection.

The Planning Directors findings regarding Conditional of Approval No. 2 stated:

Because this application was submitted to address an active code enforcement investigation regarding an existing dog kennel operating on the subject property, staff recommends a condition of approval that the dogs shall not continue to be bred until all of the conditions of approval required by this Decision are met, including enclosing the dog-run structure.

Dog kennels can be permitted in the AR-5 zone, subject to review and approval of a conditional use permit, pursuant to PCZO 128.540(E). The definition of a kennel is listed in PCZO 110.301. This definition includes facilities that are operated for the production or sheltering of dogs which are to be offered for commercial sale. As previously discussed, this application was submitted as a result of Code Enforcement after the Polk County Code Enforcement Officer's investigation led to the conclusion that the activities occurring on the subject property constituted a "kennel," and Community Development records indicated that the subject property had not received a land use authorization to operate a kennel. Because the property owners were carrying out activities that are regulated by the PCZO without the proper authorization, County Staff imposed Condition of Approval No. 2 to ensure that the regulated activities would not continue until the property owners had received the proper authorization and complied with these conditions.

At the public hearing, the Applicants testified that this Condition of Approval affects their income.

The Hearings Officer finds that based on the information in the record, Condition of Approval No. 2 remains applicable to ensure compliance with the PCZO. The Hearings Officer finds that until the current dog run has a building permit and the current enclosed portion is in compliance with OSSC, the dogs shall not continue to be bred until all of the conditions of approval by this Decision are met.

The Hearings Officer finds that with the above-mentioned conditions of approval the application complies with these criteria.

IV. CONCLUSIONS

Based on the Review and Decision Criteria above, the Hearings Officer believes there is sufficient evidence in the record, and hereby APPROVES the proposed conditional use to operate a dog kennel that consists of breeding, raising, and the sale of dogs. The Hearings Officers amends

In the Matter of the Application of Randy and Mary Oberg – CU 23-06

Hearings Officer Decision

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Condition of Approval 1 and 2 below and readopts 3 through 9 listed below in order to ensure that the proposed use is consistent with the findings in the Review and Decision Criteria (Section III) and as required by the Polk County Zoning Ordinance and other provisions of law.

Appeals to the Land Use Board of Appeals (LUBA) may only be based on Review and Decision Criteria contained in Section III.

Any modifications to conditions shall be approved in accordance with provisions of law (variance, or subsequent land use application, etc.).

Conditions of Approval:

1. The proposed dog kennel shall be operated within the existing single-family dwelling and dog-run located on the subject property. The existing dog run structure shall be subject to compliance with the engineering requirements of the Oregon Structural Specialty Code (OSSC) and shall have an approved exterior wall covering where exterior wall coverings currently exist, which is defined in OSSC Chapter 14.
2. Dogs shall not continue to be bred until all of the conditions of approval required by this Decision are met.
3. The Applicants shall obtain all necessary permits from the Polk County Building Division. These permits may include, but are not limited to the following: building, mechanical, electrical, and plumbing permits. The Applicants shall contact the Deputy State Fire Marshal to determine whether any additional permits or improvements would be required for compliance with Oregon Fire Code.
4. The dog kennel shall be operated for the keeping of no more than eight (8) adult dogs that are used for the production of puppies to be offered for commercial sale on the subject property. The kennel shall produce no more than six (6) litters of puppies in a calendar year.
5. The property owners shall be permitted to show and sell the puppies bred on-site anytime between the hours of 10:00 a.m. and 7:00 p.m., seven (7) days a week by appointment only, with only one (1) customer (family) on-site at a time. All showings and sales shall be limited to the front and side patios of the single-family dwelling and the public shall not be allowed to enter any structures.
6. The property owners shall scrape and clean the dog-run daily and shall be responsible for ensuring that the solid waste is collected and placed in garbage bags that are removed with pickup service, or composted in a manner that doesn't cause a public nuisance.
7. The property owners shall be responsible for ensuring that all applicable local, State, and Federal permits have been obtained for any activities proposed as part of this application. Nothing in this land use decision overrides any regulations administered by another government entity.
8. Prior to the issuance of building permits, the Applicants shall provide a parking plan to the Polk County Community Development Department depicting a minimum of one (1) parking space to demonstrate compliance with PCZO Sections 112.210 through 112.270. The applicant shall provide ADA parking if required by Oregon Structural Specialty Code. The applicant may need to increase the parking and loading areas on the property as needed in order to ensure that there is adequate parking to serve all activities that occur on the property. No parking shall be allowed within a public right-of-way. As required by PCZO 112.270, the parking space shall be surfaced in gravel, asphalt or concrete. The standard surface base is six (6) inches of one (1) inch minus gravel to three (3) inch minus; if three (3) inch minus is used the top two (2) inches shall be one (1) inch minus or an alternative as approved by the Director of Public Works. Bumper guards or wheel barriers shall be installed so that no portion of a vehicle will project onto a public right-of-way or over adjoining property. All parking spaces shall be served with either

separate ingress and egress driveways or with adequate turn-arounds sized and constructed to provide adequate ability for emergency service vehicles to turn around.

9. Discontinuance of the activity authorized for this conditional use for a continuous period of six (6) months shall be deemed an abandonment of such conditional use. The conditional use approval would then become null and void.

V. EFFECTIVE DATE; APPEAL

This Order takes effect upon the expiration of the time allowed for an appeal, if no appeal is filed.

If an appeal is filed, this Order does not take effect until the final decision on the appeal has taken effect. The Polk County Planning Division cannot assist in preparation of an appeal but will provide information on how an appeal can be filed. **TIME IS OF THE ESSENCE IN FILING AN APPEAL.** The Planning Division will provide information on applicable deadlines.

Dated this 14 day of February, 2024.

Leslie Howell

Leslie Howell
Dallas, Oregon
Polk County Hearings Officer