

## POLK COUNTY BOARD OF COMMISSIONERS

DATE: December 3, 2025  
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 Grand Ronde Sanitary District Board is meeting on December 17, 2025 at 9:15 a.m. The meeting will take place in the Polk County Courthouse, 850 Main Street, Dallas, OR, 97338.
3. COMMENTS (for items not on this agenda and limited to 3 minutes. We encourage all community members to engage with public comments to the Board of Commissioners. However, out of respect for our audience and a general sense of decorum please refrain from vulgar, threatening or inappropriate language.)
4. APPROVAL OF AGENDA
5. APPROVAL OF THE MINUTES FROM November 26, 2025
6. APPROVAL OF CONSENT CALENDAR
7. VSO UPDATE – Brent DeMoe & Joe Bell

### CONSENT CALENDAR

- a) Polk County Contract No. 25-210, State of Oregon  
(Dean Bender, Emergency Management Manager)
- b) Polk County Contract No. 25-211, State or Oregon  
(Dean Bender, Emergency Management Manager)
- c) Polk County Contract No. 25-212, Yamhill County Care Organization, Inc.  
(Rosana Rivera, Health Services)
- d) Polk County Contract No. 25-213, Oregon Health Authority  
(Rosana Rivera, Public Health)

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

## ADJOURNMENT

### POLK COUNTY PUBLIC MEETINGS AND PUBLIC HEARINGS GUIDELINE FOR CITIZENS

\*\*\*\*\*

#### REGULAR MEETING AGENDA

Regular meetings of the Polk County Board of Commissioners convene at 9 a.m. each Wednesday morning. Any person wishing to bring a matter before the Board at one of these meetings may do so by mailing or delivering written notice, concisely describing the nature of the item, to the Board of Commissioners, Polk County Courthouse, Dallas, Oregon 97338, by noon on the preceding Thursday. Unless otherwise announced, meetings are held in the Main Conference Room of the Courthouse.

\*\*\*\*\*

#### APPEARANCE OF INTERESTED CITIZENS

The Board sets aside a time at each regular meeting for comment by the public on subjects not appearing on the Agenda. Individuals may come forward and make any statement they wish, but not to exceed three (3) minutes in length, except as is required to give concise answers to questions from Board members. If the subject will require a lengthier presentation, or merits inclusion as an item on the Agenda of a future meeting, the Board shall schedule it accordingly.

\*\*\*\*\*

#### PUBLIC HEARING FORMAT Land Use

1. Chairman opens hearing.
  - a. Reading of hearing request or appeal statement.
  - b. Call for abstentions (ex parte contact or conflict of interest).
2. County staff presents background, summary and its recommendation (20-minute limit).
3. Applicant (Appellant) presents his/her case (15-minute limit).
4. Public testimony. Note that all testimony and evidence must be directed toward the applicable factual and legal criteria as identified in the record and/or during this hearing. Do not repeat previous testimony. Simply note for the record that you are in agreement with that earlier testimony. Your time to present testimony is limited. FAILURE TO RAISE AN ISSUE IN THIS HEARING, IN PERSON OR BY LETTER, OR FAILURE TO PROVIDE ADEQUATE SPECIFICITY TO AFFORD THE BOARD AN OPPORTUNITY TO RESPOND TO THE ISSUE MAY PRECLUDE LATER APPEAL TO LUBA ON THAT ISSUE.
  - a. Individuals in favor of the application or appeal.
  - b. Individuals against the application or appeal. At the discretion of the Chairman, an attorney, consultant, or other designated representative of two or more individuals may be allowed the combined time for each represented individual who does not speak, not to exceed 20 minutes. The Chairman may require proof of designation.
5. Rebuttal by Applicant (Appellant) (10-minute limit).
6. Questions from Board (discussion limited to individuals questioned by the Board).
  - a. Staff.
  - b. Applicant (Appellant).
  - c. Individuals testifying.
7. Chairman closes hearing and announces closing of Record.
8. Chairman announces date for deliberation and decision.
9. The Board's decision is deemed the final decision of Polk County. It may be appealed to LUBA within 21 days of its issuance in written form. The address and phone number of LUBA may be obtained from the Polk County Community Development Department and will also appear on the Notice of Decision which will be mailed to all persons who testify, submit comments, or print their name and address on the hearing attendance sheet at the back of the hearing room.

**POLK COUNTY BOARD OF COMMISSIONERS**  
**MINUTES November 26, 2025**

**1. CALL TO ORDER & ATTENDANCE**

At 9:00 a.m., Commissioner Pope declared the meeting of the Polk County Board of Commissioners to be in session. Commissioner Mordhorst and Commissioner Gordon were present.

Staff present: Greg Hansen, Administrative Officer  
Matt Hawkins, Administrative Services Director

**2. ANNOUNCEMENTS**

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 principle 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 9:00 a.m. on every Monday in the Commissioners Conference Room at 850 Main Street, Dallas, Oregon.

The Polk County Board of Commissioners will be meeting with the Marion County Commissioners on December 2, 2025 at 3:00 p.m. located at 555 Court Street NE Salem in the Commissioners Board Room. Please contact Nicole Pineda if you have questions at [pineda.nicole@co.polk.or.us](mailto:pineda.nicole@co.polk.or.us)

**3. COMMENTS**

John Swanson introduced himself to the Board and stated he wanted to make a comment in regards to him running for the Commissioner #2 Position. Mr. Swanson wanted to address the Board about funding uncertainty we are seeing from the State and wanted to report that there are over 150,000 signatures so far to petition the Transportation Bill that was just passed in Oregon.

E.M. Easterly provided public comment in regards to him trying to appeal a planning file 8 days ago and was unsuccessful and explained why. Mr. Easterly stated that he contacted Director McGuigan but has not received a response. He is asking that the Commissioners review the items in the planning file that he believes are incorrect. Mr. Easterly provided them with a handout to review.

Steve Anderson was present to provide a public comment in regards to the planning file that was approved last week for a transfer station. Mr. Anderson wanted to share his concerns of this approval and why he is against it. Mr. Anderson read aloud a prepared statement.

**4. APPROVAL OF AGENDA**

**MOTION: COMMISSIONER GORDON MOVED, COMMISSIONER MORDHORST  
SECONDED, TO APPROVE THE AGENDA.**

**ALL VOTED YES.  
MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.**

**5. APPROVAL OF MINUTES OF November 12, 2025**

**MOTION: COMMISSIONER MORDHORST MOVED, COMMISSIONER GORDON  
SECONDED, TO APPROVE THE MINUTES OF November 12, 2025.**

**ALL VOTED YES.  
MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.**

**6. APPROVAL OF CONSENT CALENDAR**

**MOTION: COMMISSIONER GORDON MOVED, COMMISSIONER MORDHORST  
SECONDED, TO APPROVE THE CONSENT CALENDAR.**

**ALL VOTED YES.  
MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.**

**7. PLANNING COMMISSION INTERVIEW**

Anthony Blosser applied to be on the Polk County Planning Commission and was present to answer a set of questions on the record. Commissioner Pope asked Mr. Blosser to introduce himself to the Board and the public before beginning the questions and he responded with some background information on himself. Next, the Commissioners took turns asking the interview questions. Commissioner Pope asked a follow up question to question #3 and asked if he has seen changes in other states to compare to Oregon and SB100 and Mr. Blosser answered his question. The Commissioners continued the list of questions. Commissioner Pope asked a follow up question about what are his feelings about ADUs, housing expansions, drinking water and sewage/septic hookups and the impacts those are having on cities and Mr. Blosser answered his question. The Commissioners thanked him for his time.

**8. RECLASSIFICATION OF AN EMPLOYEE**

Matt Hawkins, Admin Services Director, is requesting the reclassification of an employee from an HS Administrative Specialist III to an HS Administrative Analyst I. Should the reclassification be approved, it would be effective December 1, 2025 and would have an approximate impact to the FY25-26 budget of \$3,600 including PERS contribution should it be for 12 months.

**APPROVED BY CONSENSUS OF THE BOARD.**

The following items were approved by Motion under **5. APPROVAL OF CONSENT CALENDAR:**

- a) Polk County Contract No. 25-204, Oregon Health Authority  
(Rosana Rivera, Public Health)
- b) Declaration of Surplus  
(Todd Whitaker, Public Works Director)
- c) Polk County Contract No. 25-207, Liberty House  
(Aaron Felton, District Attorney)
- d) Polk County Contract No. 25-208, Bicoastal Psychological & Consultation Services, LLC  
(Rosana Rivera, Behavioral Health)

There no need for an executive session and Commissioner Pope adjourned the meeting at 9:23 a.m.

**POLK COUNTY BOARD OF COMMISSIONERS**

---

Craig Pope, Chair

---

Jeremy Gordon, Commissioner

---

Lyle Mordhorst, Commissioner



# POLK COUNTY

820 S.W. ASH STREET \* DALLAS, OREGON 97338-2112  
(503) 623-0715 \* FAX (503) 623-6819

## EMERGENCY MANAGEMENT

**To:** Polk County Board of Commissioners  
**From:** L. Dean Bender, Emergency Manager   
**Date:** November 24, 2025  
**Subject:** Lease Agreement with State of Oregon – Eagle Crest Tower Site

12/3/25 Consent

### RECOMMENDATION:

Accept and approve the new "Lease Agreement" with the State of Oregon to allow the State of Oregon through their Department of Transportation, Wireless Communications Section to lease tower and building space at the Polk County Eagle Crest Tower Site.

Lease agreement includes in-building space to house electronic equipment as well as antenna/dishes to co-locate on the County tower that is outlined in this agreement.

This agreement also provides a way to recoup additional electricity costs that the State of Oregon uses at this tower site.

### ISSUE:

Should Polk County agree to this new "Lease Agreement" with the State of Oregon to co-locate on the Eagle Crest Tower site and allow them to have tower space and interior space in the communications building bunker building?

### BACKGROUND:

Back in 2004, Polk County and the State of Oregon began a partnership to share tower resources that benefited both entities in order to establish communication type equipment at each other's locations to offset any cost to the other entity. This site sharing was lopsided with the State using much more space in the buildings and on the tower however this was offset with significant investments to the Eagle Crest Tower site to improve the facilities by the State of Oregon. Those agreements have all since expired and it is time to formally sign a new agreement that follows the published rental rates.

The State and Polk Emergency Management have spent countless hours documenting what each entity has at each other's tower locations and have followed the rental rate sheet to come up with this new agreement going forward. This agreement for the Eagle Crest Tower site will generate rental income to the County of \$41,641.10 for year 1 with an automatic 3% increase each year going forward. In addition, the State will reimburse Polk County for any and all fees or other related costs and expenses assessed upon the County which are attributable to ODOT's equipment like the annual power usage charge assessed by the County each year according to the meter readings.

**ALTERNATIVE:**

1. Decline lease agreement which would have a significant impact to State, County and City residents from State agencies that use our tower location for communications purposes.
2. Decline lease agreement amendment and look for alternative sources of revenue to help off-set the maintenance and power cost for the Polk County radio system.

**FISCAL IMPACT:**

None.

For year 1, this will generate \$41,641.10 in revenue for the County. This will increase 3% yearly each year. This agreement is for a 5-year term with an option to extend for two additional 5-year terms with the State of Oregon.

# INTERGOVERNMENTAL COLOCATION AGREEMENT

## Eagle Crest

**THIS INTERGOVERNMENTAL COLOCATION AND CIRCUIT USE AGREEMENT** ("Agreement") is effective as of January 1, 2026 ("Effective Date"), by and between Polk County, a political subdivision of the State of Oregon, acting by and through its elected, appointed, designated or delegated officials, hereinafter referred to as ("Polk"), and the State of Oregon, acting by and through its Department of Transportation, Wireless Communications Section ("ODOT") each a "Party" and, collectively, the "Parties".

### 1. RECITALS

- A. By the authority granted in Oregon Revised Statute (ORS) 190.110 and 283.110, a unit of local government or a state agency of this state may cooperate for any lawful purpose, by agreement or otherwise, with a unit of local government or a state agency of this or another state, or with the United States, or with a United States governmental agency, or with an American Indian tribe or an agency of an American Indian tribe. State agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
- B. Polk owns a tower and adjacent improvements including buildings, and related structures ("Polk Facilities") on property it owns located at:  

Eagle Crest located at Latitude 44.98325, Longitude -123.14308, Section NW ¼ 11, Township 7S, Range 4W, Willamette Meridian, County of Polk, State of Oregon ("Site").
- C. In 2010 the Parties recognized the opportunity to share resources and partner for mutual benefit and have each made material contributions to the Site. ODOT purchased and installed a second 12'x32' shelter ("Additional Building") and Polk purchased and installed a 120/240 generator for the Additional Building. ODOT transferred ownership of the Additional Building to Polk by Bill of Sale dated January 13, 2015.
- D. Polk and ODOT agree the period between October 26, 2020 and the Effective Date of this Agreement shall be a holdover tenancy with the same terms as the Intergovernmental Agreement and Communications Site Lease agreement dated October 27, 2010, which expired on October 26, 2020.
- E. ODOT desires to colocate in a portion of the Site and Polk Facilities for its communications purposes, and Polk is willing to authorize the right to colocate in a portion of the Site and Polk Facilities as identified in the Colocation and Circuit Authorization ("Authorized Space"), (Exhibit A), and in accordance with this Agreement.
- F. Polk has circuit use on the State microwave network for public safety interoperability provided by ODOT as identified in the Colocation and Circuit Authorization ("Authorized Circuit"), (Exhibit A), and in accordance with the Intergovernmental Colocation and Circuit Use Agreement for Bald Mountain effective July 1, 2025.
- G. Polk and ODOT are currently parties to the following agreements ("Existing Agreement(s)") related to this Site:
  1. Intergovernmental Agreement and Communications Site Lease Agreement dated October 27, 2010
  2. Master Intergovernmental Agreement to Collocate At Multiple Wireless Communications Sites agreement dated June 10, 2013.
- H. Polk and ODOT desire to terminate the Existing Agreements. This Agreement shall supersede and replace Existing Agreements, and their exhibits, addendums and subsequent amendment(s), in their entirety. Existing Agreements will terminate as of the Effective Date, upon the execution of this Agreement.



**NOW THEREFORE**, the premises being generally as in the foregoing Recitals and in consideration of the mutual obligations provided in this Agreement, the Parties hereby agree as follows:

## **2. TERM OF AGREEMENT**

The term of this Agreement shall commence as of the Effective Date and expires on **December 31, 2031** ("Initial Term"), on which date this Agreement automatically terminates unless terminated earlier in accordance with Section 11 or renewed by a fully executed amendment.

ODOT may request that this Agreement be extended for up to two (2) additional five (5) years ("Renewal Term") by providing written request to Polk at least sixty (60) days prior to the expiration of this Agreement. ODOT must not be in default or in breach of any of the Agreement terms. Fee amount applicable to each Renewal Term will be established at the time of renewal. Renewal of the Agreement is dependent on securing any necessary authorizations related to the agreement or lease between Polk and the landowner or facility owner. Any Renewal Term shall be on the same terms as the then current Term or Renewal Term. The Initial Term and the Renewal Term are jointly referred to as the "Term".

## **3. COMPENSATION AND PAYMENT TERMS**

- A. ODOT shall pay Polk an annual fee (January 1 through December 31) in the amount of Forty One Thousand Six Hundred Forty and 10/100 Dollars (\$41,641.10) ("Base Rent"). Base Rent is comprised of the sum total, excluding the Authorized Circuit, of all fees on Exhibit A which represents reimbursement of operations and maintenance, diesel attributable to ODOT equipment, of the Site and Authorized Space. Base Rent shall be pro-rated beginning the Effective Date. Base Rent shall be amended and/or prorated as necessary for revised Colocation and Circuit Authorizations amending Exhibit A as specified in Section 8.
- B. The Base Rent shall each increase annually by three percent (3%).
- C. ODOT agrees to reimburse Polk for any and all fees or other costs and expenses assessed upon Polk which are attributable solely to ODOT's equipment or uses at the Site ("Other Charges"). Polk shall send an invoice to ODOT for Other Charges, if any, and an annual invoice for power usage based on ODOT's equipment due within forty five (45) days of receipt of invoice from Polk.
- D. ODOT shall send all payments required under this Agreement to the address shown on the invoice from sent within forty five (45) days of receipt of invoice from the other Party. Any delay or failure of the Parties in invoicing for Circuit Fee, Base Rent, or Other Charges shall not constitute a waiver of or in any way impair the obligation of the Parties to pay Circuit Fee, Base Rent, or Other Charges.

## **4. AUTHORIZED USE**

ODOT is authorized:

- A. Use of Authorized Space for the installation, maintenance, operation, and repair of ODOT owned communications equipment that has been authorized by Polk as shown on Exhibit A. Exhibit A which cannot be amended, modified, or revised unless done in writing, submitted for review by Polk and signed by the ODOT Wireless Communications Manager and an authorized agent of Polk with the appropriate authority. Such signed authorizations shall then be incorporated as an amended Exhibit A to this Agreement as provided in Section 8.
- B. Use of a port on Polk's dual-pole microwave dish located approx 65' on the tower for microwave between the Site and Northern Command Center.
- C. Reasonable access twenty-four (24) hours per day, seven (7) days per week so that ODOT or their contractor may perform authorized activities. ODOT will make a best effort to provide Polk with reasonable advance notice prior to accessing the Site by either calling the Dan Apperson at (503) 807-3036, or via e-mail at dan@radiodanllc.com. In accordance with Section 22, ODOT will be responsible for the acts or omissions of all who access the Site on ODOT's behalf. ODOT

does not warrant any access to the Site and ODOT acknowledges its responsibility to arrange for access across property owned by others. Any right of access Polk has by permit, license, easement or lease may or may not be extended to other parties.

- D. Use of Authorized Space without interference with Polk, other occupants or anyone authorized at the Site. Any use of unmanned aerial systems (S) at the Site shall be in accordance with all applicable regulations and requires notification by ODOT to Polk, including but not limited to when use is near or within the path of any Polk owned communications equipment at the Site. Notification shall be given by calling Dan Apperson at (503) 807-3036, or via e-mail at dan@radiodanllc.com.
- E. Subject to Polk approval, perform or obtain studies, tests or reports for the purpose of determining whether the Authorized Space meets the requirements of ODOT for use in accordance with (1) ODOT's submitted design, engineering, operations and maintenance specifications, and (2) applicable existing or proposed governmental approvals. Such studies, tests or reports may include without limitation, surveys, engineering procedures, environmental investigations or other tests or reports on, and over, the Authorized Space. ODOT is responsible for applicable or proposed governmental licenses and approvals of its Microwave System at ODOT's sole expense.
- F. If upgrades or other changes to the Site and/or Polk Facilities are to be completed, including but not limited to power systems, the Parties will work cooperatively. Upgrades or other changes will include analysis of equipment and power that may result in required changes to equipment and/or power sources. Should such changes be required Polk will assess and amend associated fees. The upgrades will be completed by Polk at Polk's expense unless the upgrades were requested by ODOT.

## **5. RESPONSIBILITIES OF THE PARTIES**

In addition to any other responsibilities of the Parties provided in this Agreement, each Party shall:

- A. Agree that it will not, by its act or omission to act, cause a default under the Master Lease. In furtherance of the foregoing, the Parties confirm, each to the other, that it is not practical in this Agreement to enumerate all of the rights and obligations of the various parties under the Master Lease and to specifically allocate those rights and obligations in this Agreement.
- B. To the extent permitted by Oregon law, be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating related to that Party's activity conducted in or on the Site. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by the Parties.
- C. ODOT's Responsibilities

In addition to any other responsibilities of ODOT provided in this Agreement, ODOT shall:

- 1. Pay charges invoiced by Polk as described in Section 3.
- 2. Test any new equipment installed by ODOT to ensure there is not interference with other existing user's equipment at the Site.
- 3. Responsible for correcting radio interference problems if such interference is created by its equipment. Upon written or electronic notice by Polk, the Party responsible for interference will be required to shut down offending equipment and start corrections within fifteen (15) days or suspend use of offending equipment if interference cannot be resolved.
- 4. Responsible for removal of unused equipment, cable and other personal property or improvements from Authorized Space during the Term of this Agreement, at ODOT's sole

expense. Removal is expected within thirty (30) days of discontinued use but shall be completed within thirty (30) days of the date of any notice from Polk.

5. Provide a copy of the FCC license for frequencies described in Exhibit A to the Polk, upon request.
6. Acquire and pay all costs associated with all governmental licenses, permits, approvals or other relief, including without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits ("Government Approvals") required by any regulatory body or deemed necessary or appropriate by ODOT for its use of the Authorized Space pursuant to Section 4. ODOT's use of Authorized Space is contingent upon its suitability and ODOT's ability to obtain and maintain Government Approvals.
7. ODOT will be fully responsible for and will assume all risk of loss of its equipment, personal property, furniture, fixtures, equipment, and furnishings located in Authorized Space.
8. Maintain and repair ODOT's communications equipment as authorized in Exhibit A at ODOT's expense. Once approved, installation shall be at the discretion and option of ODOT, at its sole expense. Such installation shall be completed as to avoid hazard or damage to the Site and Polk Facilities or injury to Polk employees, agents, suppliers or the public. Any necessary additional protective devices will be provided by ODOT, at its sole expense.
9. Keep Authorized Space and ODOT communications equipment in good order, repair and condition throughout the Term of this Agreement and to promptly and completely repair all damage beyond excepted reasonable wear and tear to the Site, Polk Facilities, or both, caused by ODOT.
10. At the expiration or earlier termination of this Agreement, ODOT will remove its communications equipment and ODOT's personal property from the Authorized Space in a neat and orderly manner, and repair all damage caused by such removal at ODOT's sole expense. Any equipment or other property not so removed within thirty (30) days after the expiration or termination will be deemed abandoned and the property of Polk. ODOT will be liable for all costs incurred by Polk from removing the ODOT's communications equipment and repairing the Site, Polk Facilities, or both as a result thereof.

#### D. Polk's Responsibilities

In addition to any other responsibilities of Polk provided in this Agreement, Polk shall:

1. Pay the utility provider all charges for commercial electric service. Polk shall not be held responsible for electric service interruption.
2. Provide ODOT with thirty (30) day advance notice of any planned construction activities that Polk is aware of at the Site.
3. Polk authorizes ODOT to prepare, execute and file all required applications to obtain Governmental Approvals for ODOT's Authorized Use under this Agreement and agrees to reasonably assist ODOT with such applications and with obtaining and maintaining the Government Approvals.
4. Maintain the Site and Polk Facilities in good condition, reasonable wear and tear, and damage from the elements excepted. Polk shall maintain and repair the access within its control thereto, in good condition, subject to reasonable wear and tear and damage from the elements.

## **6. REPRESENTATIONS AND WARRANTIES**

- A. Polk and ODOT each acknowledge and represent to the other that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the authorized individual set forth as signatory for the Party below.

**B. ODOT represents and warrants to Polk that:**

1. The individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of ODOT, and to legally bind ODOT.
2. The making and performance by ODOT of this Agreement (a) have been duly authorized by ODOT, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of ODOT's charter or other organizational document and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which ODOT is party or by which ODOT may be bound or affected. No authorization, consent, license, approval of, or filing or registration with, or notification to any governmental body, or regulatory, or supervisory authority is required for the execution, delivery or performance by ODOT of this Agreement, other than those that have already been obtained.
3. This Agreement has been duly executed and delivered by ODOT and constitutes a legal, valid and binding obligation of ODOT enforceable in accordance with its terms.
4. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by ODOT.
5. ODOT certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure within ODOT's current appropriation or limitation of the current biennial budget at levels sufficient, in ODOT's reasonable administrative discretion to perform its obligations under this Agreement.

**C. Polk represents and warrants to ODOT that:**

1. (i) It controls the Site by deed, lease, license or other legal agreement; (ii) as long as ODOT is not in default, then Polk grants to ODOT quiet enjoyment of the Authorized Space from the lawful claims of all persons claiming by or through Polk, subject to the provisions of this Agreement; and (iii) Polk's execution and performance of this Agreement does not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on Polk.
2. To the best of Polk's knowledge, the Site is in full compliance with applicable state and federal environmental laws and regulations affecting it.
3. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by each Party.

**7. NOTICES, AUTHORIZED REPRESENTATIVES AND CONTACT INFORMATION**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

**A. Polk's Authorized Representative is:**

Dean Bender, Emergency Manager  
850 Main Street  
Dallas, OR 97338  
503-623-9251

Bender.dean@co.polk.or.us

**24 HOUR EMERGENCY CONTACT:**

Dan Apperson  
RadioDan LLC  
dan@radiodanllc.com  
(503) 807-3036

**B. ODOT's Authorized Representative is:**

ODOT Wireless Communications Section Manager, or designee  
455 Airport Rd. SE, Building C  
Salem, OR 97301-5375

**24 HOUR EMERGENCY CONTACT:**

WCS Network Operations Center  
WirelessWorkOrderDesk@odot.oregon.gov  
(503) 986-2911

A Party may designate a new Authorized Representative by written notice to the other Party.

**8. AMENDMENTS**

Except as provided in this Section, this Agreement cannot be amended, modified, or revised unless done in writing and signed by an authorized agent of Polk and an authorized agent of ODOT. No provision may be waived except in writing signed by both Parties.

ANY changes to equipment listed in Exhibit A shall be done on the Colocation and Circuit Authorization Form and submitted for review and approval by Polk PRIOR to installation of equipment. Once approved by Polk and signed by the ODOT Wireless Communications Manager and an authorized agent of Polk with the appropriate authority it shall amend Exhibit A, replacing the previous related authorization, and shall be incorporated into this Agreement.

**9. INSURANCE**

Each Party shall provide insurance or self-insurance as described below:

- A. ODOT is self-insured under ORS 30.282(2) up to the limits described in ORS 30.269 to 30.273. In addition, the ODOT has qualified for self-insurance under ORS 806.130 of the Oregon Vehicle Code up to the limits as set forth in ORS 806.070. Upon request by the Polk, the ODOT shall provide written proof of self-insurance to Polk.
- B. Polk shall, at its own cost and expense, either (1) secure and maintain a policy of insurance from a qualified insurance company(s) through the term of this Agreement, or (2) provide similar type protection through an Administrative Trust commonly known as City County Insurance Services or Special Districts of Association of Oregon (SDAO) insurance. In either case, Polk shall secure liability protection with respect to its operations and operations of its officers, employees, and agents including volunteers acting within the scope of their employment or duties arising out of a governmental or proprietary function, equivalent to the limits identified in the Oregon Tort Claims Act, ORS 30.260 through 30.300.
- C. All employers, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Both Parties shall ensure that each of its contractors or subcontractors complies with these requirements.
- D. The insurance certificates will be located in each Party's files and will be made available upon request

by any of the Parties.

## **10. CONTRIBUTION**

- A. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against ODOT or Polk with respect to which the other Party may have liability, the notified Party shall promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party, along with the written notice, a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and a meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's contribution obligation under this Section and that Party's liability with respect to the Third Party Claim.
- B. With respect to a Third Party Claim for which ODOT is jointly liable with Polk (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Polk in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of Polk on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of Polk on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
- C. With respect to a Third Party Claim for which Polk is jointly liable with ODOT (or would be if joined in the Third Party Claim), Polk shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of Polk on the one hand and of ODOT on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Polk on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Polk's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
- D. The Parties shall attempt to resolve any dispute arising out of this Agreement in good faith. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

## **11. TERMINATION**

This Agreement may be terminated without penalty or further liability, as follows:

- A. Upon sixty (60) days prior written notice, if the other Party remains in default under Section 15 of this Agreement after the applicable cure periods.
- B. Upon three hundred sixty five (365) days prior written notice by Polk to ODOT.
- C. Upon ninety (90) days notice by either Party to the other Party, for any reason.
- D. Immediately upon written notice to the other Party, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Party sending notice performance under

this Agreement is prohibited or that Party is prohibited from paying for such performance from the planned funding source.

- E. Immediately upon written notice to the other Party, if that other Party fails to perform or to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may authorized in writing.
- F. If for any reason the Master Lease or any other agreement affecting control of the Site is terminated; however, good faith efforts shall be used to keep such agreements in effect.
- G. Immediately upon written notice to ODOT, if that ODOT fails to provide payment of Base Rent or Other Charges outlined in Section 3 of this Agreement.
- H. By written consent of both Parties at any time.
- I. As otherwise expressly provided in this Agreement.

ODOT's property listed in Exhibit A, may be removed by ODOT, at its option, at any time during the Term with notification to Polk. Within forty-five (45) days of the expiration or earlier termination of this Agreement, the Master Lease or any other authorization related to Polk's control of the Site, ODOT shall remove its communications equipment from the Authorized Space shall be done in a neat and orderly manner, reasonable wear and tear and loss by casualty or other causes beyond its control excepted. ODOT shall repair all damage caused by such removal at ODOT's sole expense. Any property not so removed within forty-five (45) days after the expiration or termination will be deemed abandoned and the property of Polk. ODOT will be liable for all costs incurred by Polk from removing the ODOT's communications equipment and repairing the Site, Polk Facilities, or both as a result thereof.

Notwithstanding anything contained herein, Polk shall have no obligation to refund prepaid fees should ODOT exercise any rights granted in this Agreement.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

## **12. NONAPPROPRIATION**

ODOT's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of ODOT.

## **13. GOVERNING LAW, CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws. Any claim, action, suit or proceeding (collectively, "Claim") between the ODOT and Polk that arises from or relates to the Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Polk County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Polk HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of the ODOT's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon. This provision survives termination of the Agreement.

## **14. DISPUTE RESOLUTION**

The Parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be

done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition to other processes to resolve disputes arising under the Agreement, either Party may notify the other that it wishes to engage in a more guided dispute resolution process. Upon such notification, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute. If the Parties do not reach agreement as a result of the non-binding discussion, the Parties may agree to consider further appropriate dispute resolution processes, including binding arbitration. The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies at law or in equity.

## **15. DEFAULT AND REMEDIES**

- A. The following shall be deemed a default by ODOT and a breach of this Agreement:
1. Non-payment of amounts invoiced if such remains unpaid for more than thirty (30) days after the date of written notice from Polk of such failure to pay.
  2. Failure to perform, and/or to correct such failures, of any other term or condition under this Agreement within forty-five (45) days after the date of written notice from Polk, or such longer period as Polk may authorize in writing.
  3. If ODOT remains in default beyond any applicable cure period.
  4. Any representation, warranty or statement made by ODOT in this Agreement or in any documents or reports relied upon by Polk is proven untrue in any material respect.
  5. ODOT (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing.
- B. The following shall be deemed a default by Polk and a breach of this Agreement:
1. Polk fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement within forty-five (45) days after the date of written notice from ODOT.
  2. If Polk remains in default beyond any applicable cure period.
  3. Any representation, warranty or statement made by Polk in this Agreement or in any documents or reports relied upon by ODOT is untrue in any material respect.
- C. In the event a Party is in default, the other Party may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:
1. Termination of this Agreement.
  2. Initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief related to the Project or Site.
  3. These remedies are cumulative to the extent the remedies are not inconsistent, and Parties may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies at law or in equity.



This provision survives termination of the Agreement.

## **16. LIMITATION OF LIABILITY**

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

## **17. SURVIVAL**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 6, 9, 10, 11, 12, 13, 15, 17 and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

## **18. OPTION TO PURCHASE / RIGHT OF FIRST REFUSAL**

Polk agrees that if Polk abandons the Site, or decides to sell the property on which the Site is located, and/or the tower(s), buildings or other improvements on the Site, County shall offer the land, tower(s), building(s) or other improvements to ODOT at the then current fair market value of the property or improvements. The then current fair market value of the land, towers(s), building(s) or other improvements must be supported by an independent third-party appraisal. Notwithstanding the foregoing, if Polk abandons the Site or decides to sell the Additional Building, Polk shall transfer ownership of the Additional Building to ODOT at no cost to ODOT.

## **19. SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## **20. COUNTERPARTS**

This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original. This provision survives termination of the Agreement.

## **21. COMPLIANCE WITH LAW**

The Parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, the Parties expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

## **22. INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Polk is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise. Each Party shall remain solely responsible for its own employees and related benefits. At no time will Polk's employees who provide services under this Agreement be considered an employee of ODOT, nor will any ODOT employee who provides services under this Agreement be considered an employee of Polk.

## **23. CONTRACTORS**

- A. Polk shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Polk's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the contractor and subcontractor from and against any and all Claims.
- B. Any such indemnification shall also provide that neither Polk's contractor and subcontractor nor any attorney engaged by Polk's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Polk's contractor is prohibited from defending the State of Oregon, or that Polk's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Polk's contractor if the State of Oregon elects to assume its own defense.
- C. ODOT may contract any portion of installation, maintenance or repair of its colocated communications equipment contemplated by this Agreement to an approved entity competent to perform such work. If either Party's communications equipment is damaged or disrupted by a third party permitted at the Site by the other Party ("Authorizing Party"), the Authorizing Party shall: (a) require the third party to indemnify the other Party for the work performed by the third party; (b) ensure the third party is insured for the contractual indemnity required hereunder; and (c) cause the third party to mitigate the damages or disruption and ensure the equipment is restored to its condition prior to the damage or disruption.

## **24. FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODOT may terminate this Agreement upon written notice to Polk after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

## **25. RECORDS MAINTENANCE AND ACCESS**

Each Party shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, the Parties shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of the Parties, whether in paper, electronic or other

form, that are pertinent to this Agreement in such a manner as to clearly document the Parties performance. All financial records, books, documents, papers, plans, records of shipments and payments, writings and other records of the Parties, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records."

Each Party acknowledges and agrees that ODOT and the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to all Records specific to this Agreement for the purpose of making audit, examination and make excerpts and transcripts. The Parties shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment, completion of Project, and/or termination of this Agreement as applicable, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, ODOT shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

## **26. INTENDED BENEFICIARIES**

Polk and ODOT are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement. This provision survives termination of the Agreement.

## **27. ASSIGNMENT AND SUCCESSIONS IN INTEREST**

Neither Party may assign or transfer its interest in this Agreement without the prior written consent of the other Party and any attempt to assign or transfer interest in this Agreement without such consent will be void and of no force or effect. Consent to assignment or transfer of its interest in this Agreement will not relieve the Parties of any of their duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

## **28. SUBLEASE**

ODOT shall not, without Polk's prior written consent, enter into any subleases for use of the Site or Polk Facilities. Polk's consent to any sublease will not relieve ODOT of any of its duties or obligations under this Agreement.

## **29. MERGER, WAIVER**

This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Polk to enforce any provision of this Agreement shall not constitute a waiver by Polk of that or any other provision. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

## **30. HEADINGS**

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

## **31. COUNTERPARTS**

This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to

the same counterpart. Each copy of this Agreement so executed shall constitute an original.

### **32. AGREEMENT DOCUMENTS**

This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Polk to enforce any provision of this Agreement shall not constitute a waiver by Polk of that or any other provision.

[The remainder of this page is intentionally left blank]

*(SIGNATURE PAGE FOLLOWS)*

## SIGNATURES

Electronic Signatures. The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. Polk reserves the right at any time to require the submission of the hard copy originals of any documents.

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

**Polk County, a political subdivision of the State of Oregon, acting by and through its elected, appointed, designated or delegated officials**

**STATE OF OREGON, by and through its Department of Transportation**

By \_\_\_\_\_

By \_\_\_\_\_  
Joe Messman, ODOT Wireless Section Manager

\_\_\_\_\_  
Printed name, Title

Date \_\_\_\_\_

Date \_\_\_\_\_

Reviewed: \_\_\_\_\_  
Dianne Majors,, Lands & Administration Manager

**List of Exhibits which are attached hereto and by this reference made a part of this Agreement.**

Exhibit A – Colocation Authorization Form

**EXHIBIT A**  
**COLOCATION AUTHORIZATION FORM**

# COLOCATION AND CIRCUIT AUTHORIZATION FORM

If authorized, this form will be used as a site specific supplemental or exhibit to agreements/leases

Complete the entire form indicating "N/A" in spaces where appropriate. Your installation must conform to the standard engineering practices and must be FCC compliant. An inter-modulation analysis will be performed prior to installation of any new equipment which requires accurate frequency information and modulation bandwidths. Please contact us for guidance if you have any questions.

**BOLD revisions if amending a prior authorization**

|                      |                                       |                           |                                                               |
|----------------------|---------------------------------------|---------------------------|---------------------------------------------------------------|
| Date Of Request      | 4/15/2025                             | Agency Name               | Oregon Dept of Transportation Wireless Communications Section |
| 24 hour Contact Info | Network Operations Center             | Address                   | 455 Airport Rd. SE, Building C                                |
| Email Address        | WirelessWorkOrderDesk@odot.oregon.gov | City, State, Zip          | Salem, OR 97301-5375                                          |
| Cell Phone           | (503) 988-2911                        | Authorized Representative | Kimber Sexton                                                 |
|                      |                                       | Email Address             | kimber.sexton@odot.oregon.gov                                 |
|                      |                                       | Cell Phone                | (971) 301-3209                                                |

Check appropriate box

New

Revision

X

## SITE INFORMATION

|                                                  |                      |           |             |
|--------------------------------------------------|----------------------|-----------|-------------|
| Site Name                                        | Eagle Crest          | Landowner | Polk County |
| Latitude & Longitude                             | 44.98325, -123.14308 | County    | Polk County |
| Power Source at Site (Applicant mark x if known) | X Commercial         | Solar     | Other       |

## FREQUENCIES

List ALL Transmit (TX) and Receive (RX) frequencies and attach a copy of any pertinent FCC licenses to this form. An inter-modulation analysis will be performed prior to installation of any new equipment which requires accurate frequency information and modulation bandwidths.

**BOLD revisions if amending a prior authorization**

| Call Sign: (If any) | Frequency                                                                                                                                                                                                                                                                           | TX | RX | Both | Bandwidth      | Power Output (Watts) | Power ERP (Watts) |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|----|------|----------------|----------------------|-------------------|
| 1 WPTZ796 WOLV683   | Transmit: 769.46875<br>Receive: 799.46875<br>769.91875<br>799.91875<br>770.66875<br>800.66875<br>770.95625<br>800.95625<br>771.53125<br>801.53125<br>773.28125<br>803.28125<br>773.53125<br>803.53125<br>773.78125<br>803.78125<br>774.05625<br>804.05625<br>774.58125<br>804.58125 |    |    | X    | 12.5 KHz       | 25 W                 | 134.9 W           |
| 2 WPN609            | 11215.00000000                                                                                                                                                                                                                                                                      |    |    |      | 30K00FW1280 AM |                      |                   |
| 3                   | 6375.14000000                                                                                                                                                                                                                                                                       |    |    |      | 30K00FW1280 AM |                      |                   |
| 4                   | 6226.89000000                                                                                                                                                                                                                                                                       |    |    |      | 30K00FW1280 AM |                      |                   |
| 5                   | 11485.00000000                                                                                                                                                                                                                                                                      |    |    |      | 30K00FW1280 AM |                      |                   |
| 6                   | 6585.00000000                                                                                                                                                                                                                                                                       |    |    |      | 30K00FW1280 AM |                      |                   |
| 7                   | 6207.12000000                                                                                                                                                                                                                                                                       |    |    |      | 30K00FW1280 AM |                      |                   |
| 8                   | 11465.00000000                                                                                                                                                                                                                                                                      |    |    |      | 30K00FW1280 AM |                      |                   |

## TOWER EQUIPMENT

Complete ALL information. Be as descriptive as possible with equipment, antenna, feed line/waveguide, ice shield and dipole details. If necessary, attach additional installation details, drawings and/or pictures. **IMPORTANT:** Include the azimuth for antenna installation.

**BOLD revisions (equipment additions and replacements) if amending a prior authorization.**

| Manufacturer | Model Number | Size             | Description                                   | Leg | Height | Azimuth (0-360°) | Feedline Type |
|--------------|--------------|------------------|-----------------------------------------------|-----|--------|------------------|---------------|
| 1 dB Spectra | DS7A08F36U-D | 6.6'             | Omni Directional Transmit antenna             |     | 110'   |                  |               |
| 2 dB Spectra | DS7C10F36U-D | 6.6'             | Omni Directional Receive antenna              |     | 153'   |                  |               |
| 3 dB Spectra | DS7TMD31-S   | 9"x21.25"        | Tower Mounted Amplifier                       |     |        |                  |               |
| 4 Eclipse    | HPX6-107E    | 6'               | microwave antenna to ARC                      |     | 66'    | 116.8            |               |
| 5 Eclipse    | UHX6-59L     | 6'               | microwave antenna to Whipper                  |     | 120'   | 152.2            |               |
| 6 Eclipse    | HPX6-107E    | 6'               | microwave antenna to Prospect Main            |     | 142'   | 174              |               |
| 7 Eclipse    | PAR6-59      | 6'               | microwave antenna to Bald Min                 |     | 70'    | 236.92           |               |
| 8 Eclipse    | PL4-59       | 6'               | Diversity microwave antenna to Bald Min       |     | 50'    | 236.92           |               |
| 9 Eclipse    | PAR6-59W     | 6'               | microwave antenna to Doan Creek               |     | 55'    | 278.86           |               |
| 10 Eclipse   | VHLP2-11W    | 2'               | microwave antenna to DPSST                    |     | 40'    | 123.98           |               |
| 11 RAD       | Airmux 400LP | 11.8"x11.8"x3.9" | microwave antenna to Oregon State Fairgrounds |     | 36'    | 104.96           |               |

## SHELTER EQUIPMENT

Complete ALL information. All equipment must be rack mountable. Equipment cabinets are not space efficient and will not be allowed.

**BOLD revisions (equipment additions and replacements) if amending a prior authorization.**

| Manufacturer       | Model Number | Description                    | Power Draw (Volts / Amps)         | Heat Load (BTU / Watts) |
|--------------------|--------------|--------------------------------|-----------------------------------|-------------------------|
| 1 L3Harris         | Master V     | Base Station                   | 100-240 VAC (147-63 Hz) or 48 VDC | 10-100                  |
| 2 Nokia            |              | Service Aggregation Router 8   |                                   |                         |
| 3 Adtran           |              | VOIP orderwire                 |                                   |                         |
| 4 Sageon II        |              | power system with 8 rectifiers |                                   |                         |
| 5 C&D Technologies |              | gel cell batteries             |                                   |                         |

## SHELTER AND RACK SPACE

Be specific about the amount of rack space requested. Include power and backup power sources for proposed equipment. If necessary, provide additional installation details below and attach drawings and/or pictures. **NOTE:** A standard 7 foot rack has a total of 48 units; half a rack would take up 24 rack units.

11 racks allocated, 9 in use

## Annual Back up Power Fee

## Colocation Subtotal

## STATE MICROWAVE NETWORK CIRCUIT

Circuit Information -  
Provided by ODOT to Polk County - See Bald IGA

| Circuit Type | Bandwidth | Hops | Originating Site | Terminating Site |
|--------------|-----------|------|------------------|------------------|
| Ethernet     | 1.544     | 1    | Eagle Crest      | Bald Min         |

## Circuit Subtotal

## ADDITIONAL INFORMATION RELATED TO THIS REQUEST

Polk County will maintain the Site and generators

## AUTHORIZATION:

**KS Notes:** \*Rates will be based on the discounted Urban rate on the ODOT rate sheet 1/15/2025 Confirmed SAR use between Eagle and Bald with Adam House  
**REVIEWED BY:** Dave Hayden - Confirmed equipment, Mitch Hodges & Kurt Chandler - Confirmed frequencies 4/20/25 Confirmed by Dave Hayden - 1 rack Sageon II power system with 8 rectifiers, 2 stacks 2180 AH C&D Technologies gel cell batteries 6/5/25 Kevin Main confirmed 11 rack spaces are available to ODOT, of which 9 are in use and two battery stacks 44"x25."  
**AUTHORIZATION:** 11 rack spaces - 9 are occupied and the space for battery pile takes up accounts for 2 rack spaces, generator fee for 11 racks. Polk County will continue to invoice for commercial power annually based on readings on the usage meter at the shelter. Should another tenant move in, we will need to amend the agreement accordingly.

## Total Annual Payment:

\$41,640.10

## Signatures

ODOT Authorized Signor:

Joe Massman, ODOT Wireless Communications Section Manager

Date

Polk County Authorized Signor:

Date

Reviewed

Dianne Majors





# POLK COUNTY

820 S.W. ASH STREET \* DALLAS, OREGON 97338-2112  
(503) 623-0715 \* FAX (503) 623-6819

## EMERGENCY MANAGEMENT

**To:** Polk County Board of Commissioners  
**From:** L. Dean Bender, Emergency Manager   
**Date:** November 24, 2025  
**Subject:** Lease Agreement with State of Oregon – Bald Mt Tower Site

12/3/25 Consent

### RECOMMENDATION:

Accept and approve the new "Lease Agreement" with the State of Oregon to lease space at the Bald Mt. Tower site that is managed by the Department of Transportation, Wireless Communications section.

Lease agreement includes in-building space to house electronic equipment as well as antenna/dishes to co-locate on the tower that is outlined in this agreement.

This agreement also provides critical microwave path access to this remote tower site which is also managed by the State of Oregon.

### ISSUE:

Should Polk County agree to this new "Lease Agreement" with the State of Oregon to co-locate on the Bald Mt Tower site and have interior space in the communications building bunker building?

### BACKGROUND:

Back in 2004, Polk County and the State of Oregon began a partnership to share tower resources that benefited both entities in order to establish communication type equipment at each other's locations to offset any cost to the other entity. This site sharing was lopsided with the State using much more space in the buildings and on the tower however this was offset with significant investments to the Eagle Crest Tower site to improve the facilities by the State of Oregon. Those agreements have all since expired and it is time to formally sign a new agreement that follows the published rental rates.

The State and Polk Emergency Management have spent countless hours documenting what each entity has at each other's tower locations and have followed the rental rate sheet to come up with this new agreement going forward. This agreement for the Bald Mt Site will cost the County \$11,289.96 for year 1 with an automatic 3% increase each year going forward. This additional cost will be passed along to the Polk County system users of our system.

### ALTERNATIVE:

1. Decline lease agreement which would have a negative impact to our first responder agencies (Law, Fire, and PW) being served by tower location by removing our equipment from this site.



# INTERGOVERNMENTAL COLOCATION AND CIRCUIT USE AGREEMENT

## Bald Mountain

**THIS INTERGOVERNMENTAL COLOCATION AND CIRCUIT USE AGREEMENT** ("Agreement") is effective as of January 1, 2026 ("Effective Date"), by and between the STATE OF OREGON, acting by and through its Department of Transportation, Wireless Communications Section ("ODOT") and the Polk County, a political subdivision of the State of Oregon, acting by and through its elected, appointed, designated or delegated officials, hereinafter referred to as ("Polk"), each a "Party" and, collectively, the "Parties".

### 1. RECITALS

- A. By the authority granted in Oregon Revised Statute (ORS) 190.110 and 283.110, a unit of local government or a state agency of this state may cooperate for any lawful purpose, by agreement or otherwise, with a unit of local government or a state agency of this or another state, or with the United States, or with a United States governmental agency, or with an American Indian tribe or an agency of an American Indian tribe. State agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform..
- B. ODOT owns a tower and adjacent improvements including buildings, and related structures ("ODOT Facilities") on property it leases from Hampton Lumber ("Hampton") ("Master Lease") located at;  
Bald Mountain located at Latitude 44.797100, Longitude 123.543170 Section SE ¼, Section 9, Township 9 South, Range 7 West, Willamette Meridian, County of Polk, State of Oregon ("Site").
- C. Polk desires to colocate in a portion of the Site and ODOT Facilities for its communications purposes, and ODOT is willing to authorize the right to colocate in a portion of the Site and ODOT Facilities ("Authorized Space") as identified in the Colocation and Circuit Authorization, (Exhibit A), and in accordance with this Agreement.
- D. Polk desires circuit use on the State microwave network for public safety interoperability and ODOT is willing to provide this circuit use as identified in the Colocation and Circuit Authorization ("Authorized Circuit"), (Exhibit A), and in accordance with this Agreement.
- E. ODOT and Polk are currently parties to the following agreements ("Existing Agreement(s)") related to this Site:
  - 1. Intergovernmental Agreement and Site Lease Agreement dated October 27, 2010.
  - 2. Master Intergovernmental Agreement to Collocate At Multiple Wireless Communications Sites agreement dated June 10, 2013.
- F. ODOT and Polk desire to terminate the Existing Agreements. This Agreement shall supersede and replace Existing Agreements, and their exhibits, addendums and subsequent amendment(s), in their entirety. Existing Agreements will terminate as of the Effective Date, upon the execution of this Agreement.

**NOW THEREFORE**, the premises being generally as in the foregoing Recitals and in consideration of the mutual obligations provided in this Agreement, the Parties hereby agree as follows:

### 2. TERM OF AGREEMENT

The term of this Agreement shall commence as of the Effective Date and expires on **December 31, 2031** ("Initial Term"), on which date this Agreement automatically terminates unless terminated earlier in accordance with Section 11 or renewed by a fully executed amendment.

Polk may request that this Agreement be extended for up to two (2) additional five (5) year terms ("Renewal Term") by providing written request to ODOT at least sixty (60) days prior to the expiration of this Agreement.

Polk must not be in default or in breach of any of the Agreement terms. Fee amount applicable to each Renewal Term will be established at the time of renewal based on current ODOT rates. Renewal of the Agreement is dependent on securing any necessary authorizations related to the agreement or lease between ODOT and the landowner or facility owner. Any Renewal Term shall be on the same terms as the then current Term or Renewal Term. The Initial Term and the Renewal Term are jointly referred to as the "Term".

Notwithstanding the Term of this Agreement, the authorization for Polk's equipment in ODOT Facilities at the Site, and all the rights of the Parties under it are subject and subordinate to the Master Lease.

### **3. COMPENSATION AND PAYMENT TERMS**

- A. Polk shall pay ODOT an annual fee (January 1 through December 31) in the amount of Seven Thousand Seven Hundred Seventy Five and 44/100 Dollars (\$7,775.44) ("Base Rent"). Base Rent is comprised of the sum total, excluding the Authorized Circuit, of all fees on Exhibit A which represents reimbursement of operations and maintenance, including electricity and diesel attributable to Polk equipment, of the Site and Authorized Space. Base Rent shall be pro-rated beginning the Effective Date. Base Rent shall be amended and/or prorated as necessary for revised Colocation and Circuit Authorizations amending Exhibit A as specified in Section 8.
- B. Polk shall pay ODOT an annual fee (January 1 through December 31) for use of Authorized Circuit in the amount of Three Thousand Five Hundred Fourteen and 52/100 Dollars (\$3,514.52) ("Circuit Fee"). The Circuit Fee shall be pro-rated beginning the first day of the month following the Effective Date. The Circuit Fee shall be amended and/or prorated as necessary for revised Colocation and Circuit Authorizations amending Exhibit A as specified in Section 8.
- C. The Base Rent and Circuit Fee annual total shall be Eleven Thousand Two Hundred Eighty Nine and 96/100 Dollars (\$11,289.96) and each shall increase annually by three percent (3%).
- D. Polk agrees to reimburse ODOT for any and all fees or other costs and expenses assessed upon ODOT which are attributable solely to Polk's equipment or uses at the Site ("Other Charges"). ODOT shall send an invoice to Polk for Other Charges, if any, due and owing within forty five (45) days of receipt of invoice from ODOT.
- E. Polk shall send all payments required under this Agreement to the address shown on the invoice from ODOT and sent within forty five (45) days of receipt of invoice. Any delay or failure of the Polk in invoicing for Circuit Fee, Base Rent, or Other Charges shall not constitute a waiver of or in any way impair the obligation of the Polk to pay Circuit Fee, Base Rent, or Other Charges.

### **4. AUTHORIZED USE**

Pursuant to the Master Lease, Polk is authorized:

- A. Use of Authorized Space for the installation, maintenance, operation, and repair of Polk owned communications equipment and use of the Authorized Circuit to support its public safety wireless communications that has been authorized by ODOT as shown on Exhibit A. Exhibit A cannot be amended, modified, or revised unless done in writing, submitted for review by ODOT and signed by the ODOT Wireless Communications Manager and an authorized agent of Polk with the appropriate authority. Such signed authorizations shall then be incorporated as an amended Exhibit A to this Agreement as provided in Section 8.
- B. Authorized Circuit does not constitute an assignment or transfer of ODOT microwave licenses. The Authorized Circuit is subject to the Communications Act of 1934, as amended, and the rules and regulations of the Federal Communications Commission ("FCC").
- C. Reasonable access twenty-four (24) hours per day, seven (7) days per week so that Polk or their contractor may perform authorized activities. Polk will make a best effort to provide ODOT with reasonable advance notice prior to accessing the Site by either calling the Network Operations Center at (503) 986-2911, or via e-mail at [WirelessWorkOrderDesk@odot.oregon.gov](mailto:WirelessWorkOrderDesk@odot.oregon.gov). In accordance with Section 22, Polk will be responsible for the acts or omissions of all who access

the Site on Polk's behalf. ODOT does not warrant any access to the Site and Polk acknowledges its responsibility to arrange for access across property owned by others. Any right of access ODOT has by permit, license, easement or lease may or may not be extended to other parties.

- D. Use of Authorized Space without interference with ODOT, other occupants or anyone authorized at the Site. Any use of unmanned aerial systems (UAS) at the Site shall be in accordance with all applicable regulations and requires notification by Polk to ODOT, including but not limited to when use is near or within the path of any ODOT owned communications equipment at the Site. Notification shall be given by calling the Network Operations Center at (503) 986-2911, or via e-mail at [WirelessWorkOrderDesk@odot.oregon.gov](mailto:WirelessWorkOrderDesk@odot.oregon.gov).
- E. Subject to ODOT approval, perform or obtain studies, tests or reports for the purpose of determining whether the Authorized Space meets the requirements of Polk for use in accordance with (1) Polk's submitted design, engineering, operations and maintenance specifications, and (2) applicable existing or proposed governmental approvals. Such studies, tests or reports may include without limitation, surveys, engineering procedures, environmental investigations or other tests or reports on, and over, the Authorized Space. Polk is responsible for applicable or proposed governmental licenses and approvals of its Microwave System at Polk's sole expense.
- F. If upgrades or other changes to the Site and/or ODOT Facilities are to be completed, including but not limited to power systems, the Parties will work cooperatively. Upgrades or other changes will include analysis of equipment and power that may result in required changes to equipment and/or power sources. Should such changes be required ODOT will assess and amend associated fees. The upgrades will be completed by ODOT at ODOT's expense unless the upgrades were requested by Polk.

## **5. RESPONSIBILITIES OF THE PARTIES**

In addition to any other responsibilities of the Parties provided in this Agreement, each Party shall:

- A. Agree that it will not, by its act or omission to act, cause a default under the Master Lease. In furtherance of the foregoing, the Parties confirm, each to the other, that it is not practical in this Agreement to enumerate all of the rights and obligations of the various parties under the Master Lease and to specifically allocate those rights and obligations in this Agreement.
- B. To the extent permitted by Oregon law, be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating related to that Party's activity conducted in or on the Site. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by the Parties.

### **C. Polk's Responsibilities**

In addition to any other responsibilities of Polk provided in this Agreement, Polk shall:

1. Use the Authorized Space in compliance with the terms and conditions in the Master Lease (Exhibit D) as it may be amended.
2. Pay charges invoiced by ODOT as described in Section 3.
3. Comply with Oregon Department of Transportation Wireless Communications Section - Communication Site Antenna and Tower Mounted equipment Installation Standards (Exhibit B) the ODOT WCS Site Shelter Equipment Installation Standards (Exhibit C), , as may be amended, and test any new equipment installed by Polk to ensure there is not interference with other existing user's equipment at the Site.
4. Restrict use of the Authorized Circuit to permissible activities allowed under FCC rules.
5. Provide a copy of the FCC license for frequencies described in Exhibit A to the ODOT, upon request.

6. Responsible for correcting radio interference problems if such interference is created by its equipment. Upon written or electronic notice by ODOT, the Polk will be required to shut down offending equipment and start corrections within fifteen (15) days or suspend use of offending equipment if interference cannot be resolved.
7. Responsible for removal of unused equipment, cable and other personal property or improvements from Authorized Space during the Term of this Agreement, at Polk's sole expense. Removal is expected within thirty (30) days of discontinued use but shall be completed within thirty (30) days of the date of any notice from ODOT.
8. Acquire and pay all costs associated with all governmental licenses, permits, approvals or other relief, including without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits ("Government Approvals") required by any regulatory body or deemed necessary or appropriate by Polk for its use of the Authorized Space pursuant to Section 4. Polk's use of Authorized Space is contingent upon its suitability and Polk's ability to obtain and maintain Government Approvals.
9. Polk will be fully responsible for and will assume all risk of loss of its equipment, personal property, furniture, fixtures, equipment, and furnishings located in Authorized Space.
10. Maintain and repair Polk's communications equipment as authorized in Exhibit A at Polk's expense. Once approved, installation shall be at the discretion and option of Polk, at its sole expense. Such installation shall be completed as to avoid hazard or damage to the Site and ODOT Facilities or injury to ODOT employees, agents, suppliers or the public. Any necessary additional protective devices will be provided by Polk, at its sole expense.
11. Keep Authorized Space and Polk communications equipment in good order, repair and condition throughout the Term of this Agreement and to promptly and completely repair all damage beyond excepted reasonable wear and tear to the Site, ODOT Facilities, or both, caused by Polk.
12. At the expiration or earlier termination of this Agreement, Polk will remove its communications equipment and personal property from the Authorized Space in a neat and orderly manner, and repair all damage caused by such removal at Polk's sole expense. Any equipment or other property not so removed within thirty (30) days after the expiration or termination will be deemed abandoned and the property of ODOT. Polk will be liable for all costs incurred by ODOT from removing the Polk's communications equipment and repairing the Site, ODOT Facilities, or both as a result thereof.

D. ODOT's Responsibilities

In addition to any other responsibilities of ODOT provided in this Agreement, ODOT shall:

1. ODOT shall not be held responsible for electric service interruption.
2. Provide Polk with thirty (30) day advance notice of any planned construction activities that ODOT is aware of at the Site. .
3. ODOT agrees to permit Polk use of Authorized Circuit to support its public safety wireless communications as identified in the Colocation and Circuit Authorization ("Authorized Circuit"), (Exhibit A), and in accordance with this Agreement.
4. Subject to the limitations in the Master Lease, ODOT authorizes Polk to prepare, execute and file all required applications to obtain Governmental Approvals for Polk's Authorized Use under this Agreement and agrees to reasonably assist Polk with such applications and with obtaining and maintaining the Government Approvals.
5. Maintain the Site and ODOT Facilities in good condition, reasonable wear and tear, and damage from the elements excepted. ODOT shall maintain and repair the access within its control thereto, in good condition, subject to reasonable wear and tear and damage from the elements.

## **6. REPRESENTATIONS AND WARRANTIES**

- A. Polk and ODOT each acknowledge and represent to the other that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the authorized individual set forth as signatory for the Party below.

A. Polk represents and warrants to ODOT that:

1. Polk is a duly organized, validly existing, in good standing and has the power and authority to enter into and perform the obligations of this Agreement.
2. Polk certifies that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Polk, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Polk.
3. The making and performance by Polk of this Agreement (a) have been duly authorized by Polk, (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Polk's charter or other organizational document and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Polk is party or by which Polk may be bound or affected. No authorization, consent, license, approval of, or filing or registration with, or notification to any governmental body, or regulatory, or supervisory authority is required for the execution, delivery or performance by Polk of this Agreement, other than those that have already been obtained.
4. This Agreement has been duly executed and delivered by Polk and constitutes a legal, valid and binding obligation of Polk enforceable in accordance with its terms.
5. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Polk.

B. ODOT represents and warrants to Polk that:

1. ODOT represents and warrants that: (i) it controls the Site by lease, license or other legal agreement; (ii) as long as Polk is not in default, then ODOT grants to Polk quiet enjoyment of the Authorized Space from the lawful claims of all persons claiming by or through ODOT, subject to the provisions of this Agreement; and (iii) ODOT's execution and performance of this Agreement does not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on ODOT.
2. To the best of ODOT's knowledge, the Site is in full compliance with applicable state and federal environmental laws and regulations affecting it.
3. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by each Party.
4. ODOT certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure within ODOT's current appropriation or limitation of the current biennial budget at levels sufficient, in ODOT's reasonable administrative discretion to perform its obligations under this Agreement.

## **7. NOTICES, AUTHORIZED REPRESENTATIVES AND CONTACT INFORMATION**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by

the recipient's email system.

A. Polk's Authorized Representative is:

Dean Bender, Emergency Manager  
850 Main Street  
Dallas, OR 97338  
503-623-9251  
Bender.dean@co.polk.or.us

**24 HOUR EMERGENCY CONTACT:**

Dan Apperson  
RadioDan LLC  
dan@radiodanllc.com  
(503) 807-3036

B. ODOT's Authorized Representative is:

ODOT Wireless Communications Section Manager, or designee  
455 Airport Rd. SE, Building C  
Salem, OR 97301-5375

**24 HOUR EMERGENCY CONTACT:**

WCS Network Operations Center  
WirelessWorkOrderDesk@odot.oregon.gov  
(503) 986-2911

A Party may designate a new Authorized Representative by written notice to the other Party.

## 8. AMENDMENTS

Except as provided in this Section, this Agreement cannot be amended, modified, or revised unless done in writing and signed by an authorized agent of ODOT and an authorized agent of Polk. No provision may be waived except in writing signed by both Parties.

ANY changes to equipment listed in Exhibit A shall be done on the Colocation and Circuit Authorization Form and submitted for review and approval by ODOT PRIOR to installation of equipment. Once approved by ODOT and signed by the ODOT Wireless Communications Manager and an authorized agent of Polk with the appropriate authority it shall amend Exhibit A, replacing the previous related authorization, and shall be incorporated into this Agreement.

## 9. INSURANCE

Each Party shall provide insurance or self-insurance as described below:

- A. ODOT is self-insured under ORS 30.282(2) up to the limits described in ORS 30.269 to 30.273. In addition, the ODOT has qualified for self-insurance under ORS 806.130 of the Oregon Vehicle Code up to the limits as set forth in ORS 806.070. Upon request by the Polk, the ODOT shall provide written proof of self-insurance to Polk.
- B. Polk shall, at its own cost and expense, either (1) secure and maintain a policy of insurance from a qualified insurance company(s) through the term of this Agreement, or (2) provide similar type protection through an Administrative Trust commonly known as City County Insurance Services or Special Districts of Association of Oregon (SDAO) insurance. In either case, Polk shall secure liability protection with respect to its operations and operations of its officers, employees, and agents including volunteers acting within the scope of their employment or duties arising out of a governmental or proprietary function, equivalent to the limits identified in the Oregon Tort Claims Act, ORS 30.260 through 30.300.

- C. All employers, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Both Parties shall ensure that each of its contractors or subcontractors complies with these requirements.
- D. The insurance certificates will be located in each Party's files and will be made available upon request by any of the Parties.

## **10. CONTRIBUTION**

- A. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or Polk with respect to which the other Party may have liability, the notified Party shall promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and a meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's contribution obligation under this Section and that Party's liability with respect to the Third Party Claim.
- B. With respect to a Third Party Claim for which ODOT is jointly liable with Polk (or would be if joined in the Third Party Claim ), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Polk in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of Polk on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of Polk on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
- C. With respect to a Third Party Claim for which Polk is jointly liable with ODOT (or would be if joined in the Third Party Claim), Polk shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of Polk on the one hand and of ODOT on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Polk on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Polk's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
- D. The Parties shall attempt to resolve any dispute arising out of this Agreement in good faith. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

## **11. TERMINATION**

This Agreement may be terminated without penalty or further liability, as follows:

- A. Upon sixty (60) days prior written notice, if the other Party remains in default under Section 15 of this Agreement after the applicable cure periods.

- B. Upon ninety (90) days prior written notice by either Party to the other Party, for any reason.
- C. Immediately upon written notice to the other Party, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Party sending notice performance under this Agreement is prohibited or that Party is prohibited from paying for such performance from the planned funding source.
- D. Immediately upon written notice to the other Party, if that other Party fails to perform or to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may authorized in writing.
- E. If for any reason the Master Lease or any other agreement affecting control of the Site is terminated; however, good faith efforts shall be used to keep such agreements in effect.
- F. Immediately upon written notice to the other Party, if that other Party fails to provide payment of Base Rent or Other Charges outlined in Section 3 of this Agreement.
- G. By written consent of both Parties at any time.
- H. As otherwise expressly provided in this Agreement.

Polk's property listed in Exhibit A, may be removed by Polk, at its option, at any time during the Term with notification to ODOT. Within forty-five (45) days of the expiration or earlier termination of this Agreement, the Master Lease or any other authorization related to ODOT's control of the Site, Polk shall remove its communications equipment from the Authorized Space shall be done in a neat and orderly manner, reasonable wear and tear and loss by casualty or other causes beyond its control excepted. Polk shall repair all damage caused by such removal at Polk's sole expense. Any property not so removed within forty-five (45) days after the expiration or termination will be deemed abandoned and the property of ODOT. Polk will be liable for all costs incurred by ODOT from removing the Polk's communications equipment and repairing the Site, ODOT Facilities, or both as a result thereof.

Notwithstanding anything contained herein, ODOT shall have no obligation to refund prepaid fees should Polk exercise any rights granted in this Agreement.

Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

## **12. NONAPPROPRIATION**

ODOT's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of ODOT.

## **13. GOVERNING LAW, CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws. Any claim, action, suit or proceeding (collectively, "Claim") between the ODOT and Polk that arises from or relates to the Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Polk HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of the ODOT's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon. This provision survives termination of the Agreement.



## **14. DISPUTE RESOLUTION**

The Parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Agreement. In addition to other processes to resolve disputes arising under the Agreement, either Party may notify the other that it wishes to engage in a more guided dispute resolution process. Upon such notification, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute. If the Parties do not reach agreement as a result of the non-binding discussion, the Parties may agree to consider further appropriate dispute resolution processes, including binding arbitration. The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies at law or in equity.

## **15. DEFAULT AND REMEDIES**

A. The following shall be deemed a default by Polk and a breach of this Agreement:

1. Non-payment of amounts invoiced if such remains unpaid for more than thirty (30) days after the date of written notice from ODOT of such failure to pay.
2. Failure to perform, and/or to correct such failures, of any other term or condition under this Agreement within forty-five (45) days after the date of written notice from ODOT, or such longer period as ODOT may authorize in writing.
3. If Polk remains in default beyond any applicable cure period.
4. Any representation, warranty or statement made by Polk in this Agreement or in any documents or reports relied upon by ODOT is proven untrue in any material respect.
5. Polk (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing.

B. The following shall be deemed a default by ODOT and a breach of this Agreement:

1. ODOT fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement within forty-five (45) days after the date of written notice from Polk.
2. If ODOT remains in default beyond any applicable cure period.
3. Any representation, warranty or statement made by ODOT in this Agreement or in any documents or reports relied upon by Polk is untrue in any material respect.

C. In the event a Party is in default, the other Party may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:

1. Termination of this Agreement.
2. Initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief related to the Project or Site.
3. These remedies are cumulative to the extent the remedies are not inconsistent, and Parties may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by

either Party of any right or remedy does not preclude the exercise of any other rights or remedies at law or in equity.

This provision survives termination of the Agreement.

## **16. LIMITATION OF LIABILITY**

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

## **17. SURVIVAL**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 6, 9, 10, 11, 12, 13, 15, 17 and 20 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

## **18. SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## **19. COUNTERPARTS**

This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original. This provision survives termination of the Agreement.

## **20. COMPLIANCE WITH LAW**

The Polk shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, the Parties expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

## **21. INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Polk is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise. Each Party shall remain solely responsible for its own employees and related benefits. At no time will Polk's employees who provide services under this Agreement be considered an employee of ODOT, nor will any ODOT employee who provides services under this Agreement be considered an employee of Polk.

## **22. CONTRACTORS**

- A. Polk shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Polk's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the contractor and subcontractor from and against any and all Claims.
- B. Any such indemnification shall also provide that neither Polk's contractor and subcontractor nor any attorney engaged by Polk's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Polk's contractor is prohibited from defending the State of Oregon, or that Polk's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Polk's contractor if the State of Oregon elects to assume its own defense.
- C. Polk may contract any portion of installation, maintenance or repair of its colocated communications equipment contemplated by this Agreement to an approved entity competent to perform such work. If either Party's communications equipment is damaged or disrupted by a third party permitted at the Site by the other Party ("Authorizing Party"), the Authorizing Party shall: (a) require the third party to indemnify the other Party for the work performed by the third party; (b) ensure the third party is insured for the contractual indemnity required hereunder; and (c) cause the third party to mitigate the damages or disruption and ensure the equipment is restored to its condition prior to the damage or disruption.
- D. ODOT consent to any subcontract (or other delegation of duties) does not relieve Polk of any of its duties or obligations under this Agreement.

## **23. FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. ODOT may terminate this Agreement upon written notice to Polk after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

## **24. RECORDS MAINTENANCE AND ACCESS**

Polk shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Polk shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Polk, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Polk's performance. All financial records, books, documents, papers, plans, records of shipments and payments, writings and other records of Polk, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records."

Polk acknowledges and agrees that ODOT and the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to all Records specific Agreement for

the purpose of making audit, examination and make excerpts and transcripts. Polk shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment, completion of Project, and/or termination of this Agreement as applicable, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Polk shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

## **25. INTENDED BENEFICIARIES**

ODOT and Polk are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement. This provision survives termination of the Agreement.

## **26. ASSIGNMENT AND SUCCESSORS IN INTEREST**

Polk may not assign or transfer its interest in this Agreement without the prior written consent of ODOT and any attempt by Polk to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. ODOT's consent to Polk's assignment or transfer of its interest in this Agreement will not relieve Polk of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

## **27. SUBLEASE**

Polk shall not, without ODOT's prior written consent, enter into any subleases for use of the Site or ODOT Facilities. ODOT's consent to any sublease will not relieve Polk of any of its duties or obligations under this Agreement.

## **28. MERGER, WAIVER**

This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

## **29. HEADINGS**

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

## **30. COUNTERPARTS**

This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

## **31. AGREEMENT DOCUMENTS**

This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified

herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

[The remainder of this page is intentionally left blank]

*(SIGNATURE PAGE FOLLOWS)*

## SIGNATURES

Electronic Signatures. The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. ODOT reserves the right at any time to require the submission of the hard copy originals of any documents.

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

**Polk County, a political subdivision of the State of Oregon, acting by and through its elected, appointed, designated or delegated officials**

**STATE OF OREGON, by and through its Department of Transportation**

By \_\_\_\_\_

By \_\_\_\_\_

Joe Messman, ODOT Wireless Section Manager

\_\_\_\_\_  
Printed name, Title

Date \_\_\_\_\_

Date \_\_\_\_\_

Reviewed: \_\_\_\_\_

Dianne Majors,, Lands & Administration Manager

APPROVED FOR LEGAL SUFFICIENCY

  X   NA Does not meet threshold ORS 291.047,  
OAR 137-045-0030(3)

**List of Exhibits which are attached hereto and by this reference made a part of this Agreement.**

- Exhibit A – ODOT WCS Colocation and Circuit Authorization Form
- Exhibit B – ODOT WCS - Communication Site Antenna and Tower Mounted equipment Installation Standards
- Exhibit C – ODOT WCS Minimum Site Shelter Equipment Installation Standards
- Exhibit D – Master Lease – Hampton Lease (Radio Communications Site Lease – Bald Mountain dated August 11, 2006, Intent to Renew dated June 3, 2024, and General Assignment and Assumption Agreement dated August 16, 2023)

**EXHIBIT A**  
**ODOT WCS COLOCATION AND CIRCUIT AUTHORIZATION FORM**



# ODOT WCS COLOCATION AND CIRCUIT AUTHORIZATION FORM

If authorized, this form will be used as a site specific supplemental or exhibit to agreements/leases

Complete the entire form indicating "N/A" in spaces where appropriate. Your installation must conform to the standard engineering practices and must be R-56 compliant. An inter-modulation analysis will be performed prior to installation of any new equipment which requires accurate frequency information and modulation bandwidths. Please contact us for guidance if you have any questions.

**BOLD revisions if amending a prior authorization**

|                      |                             |                           |                           |
|----------------------|-----------------------------|---------------------------|---------------------------|
| Date Of Request      | 3/12/2025                   | Agency Name               | Polk County               |
| 24 hour Contact Info | Dan Apperson - RadioDan LLC | Address                   | 820 SW Ash St             |
| Email Address        | Dan@radiodanllc.com         | City, State, Zip          | Dallas, OR, 97338         |
| Cell Phone           | 503-807-3036                | Authorized Representative | L. Dean Bender            |
|                      |                             | Email Address             | Bender.Dean@co.polk.or.us |
|                      |                             | Cell Phone                | 503-632-6071              |

Check appropriate box

New  
Revision

## SITE INFORMATION

|                                                  |                          |           |                |
|--------------------------------------------------|--------------------------|-----------|----------------|
| Site Name                                        | Bald Mountain            | Landowner | Hampton Timber |
| Latitude & Longitude                             | 44.47.49.5 / 123.32.85.3 | County    | Polk County    |
| Power Source at Site (Applicant mark x if known) | Commercial X Solar       |           | Other          |

## FREQUENCIES

List ALL Transmit (TX) and Receive (RX) frequencies and attach a copy of any pertinent FCC licenses to this form. An inter-modulation analysis will be performed prior to installation of any new equipment which requires accurate frequency information and modulation bandwidths.

**BOLD revisions if amending a prior authorization**

| Call Sign: (if any) | Frequency | TX       | RX | Both | Bandwidth | Power Output (Watts) | Power ERP (Watts) |
|---------------------|-----------|----------|----|------|-----------|----------------------|-------------------|
| 1                   | WQFP332   | 151.1375 | X  |      | NAR       | 50                   | 75                |
| 2                   | WQFP332   | 153.8800 | X  |      | NAR       | 10                   | 15                |
| 3                   | WQFP332   | 154.2350 | X  |      | NAR       | 10                   | 15                |
| 4                   | WQFP332   | 154.8750 | X  |      | NAR       | 10                   | 15                |
| 5                   | WPXH36    | 155.0325 | X  |      | NAR       | 10                   | 15                |
| 6                   | WPXH36    | 155.2500 | X  |      | NAR       | 10                   | 15                |
| 7                   | WQFP332   | 155.8050 |    | X    | NAR       | 10                   | 15                |
| 8                   |           | 155.6700 |    | X    | NAR       |                      |                   |
| 9                   |           | 155.9850 |    | X    |           |                      |                   |
| 10                  |           | 156.2100 |    | X    |           |                      |                   |
| 11                  |           | 158.8800 |    | X    |           |                      |                   |
| 12                  |           | 158.9825 |    | X    |           |                      |                   |
| 13                  |           | 159.4725 |    | X    | NAR       |                      |                   |

## TOWER EQUIPMENT

Complete ALL information. Be as descriptive as possible with equipment, antenna, feed line/waveguide, ice shield and dipole details. If necessary, attach additional installation details, drawings and/or pictures. **IMPORTANT:** Include the azimuth for antenna installation.

**BOLD revisions (equipment additions and replacements) if amending a prior authorization.**

| Manufacturer | Model Number | Size  | Description | Leg           | Height | Azimuth (0-360°) | Feedline Type |
|--------------|--------------|-------|-------------|---------------|--------|------------------|---------------|
| 1            | Sinclair     | SC281 | 22'         | Big Collinear | NW     | 50               | 1/2" LDF      |
| 2            | Sinclair     | SC281 | 22'         | Big Collinear | NW     | 70               | 1/2" LDF      |
| 3            |              |       |             |               |        |                  |               |

## SHELTER EQUIPMENT

Complete ALL information. All equipment must be rack mountable. Equipment cabinets are not space efficient and will not be allowed.

**BOLD revisions (equipment additions and replacements) if amending a prior authorization.**

| Manufacturer | Model Number | Description      | Power Draw (Volts / Amps) | Heat Load (BTU / Watts) |
|--------------|--------------|------------------|---------------------------|-------------------------|
| 1            | Tall         | TB9400           | 2 Ch Base Station         | 48 / 5 max              |
| 2            | Tall         | TB9401           | 2 Ch Base Station         | 48 / 5 max              |
| 3            | Tall         | TB9402           | 2 Ch Base Station         | 48 / 5 max              |
| 4            | Tall         | TB9403           | 2 Ch Base Station         | 48 / 2.5 max            |
| 5            | Spectracom   | Secure Sync 2400 | Masler Oscillator         | 48 / 1 amp              |
| 6            |              |                  |                           |                         |

## SHELTER AND RACK SPACE

Be specific about the amount of rack space requested. Include power and backup power sources for proposed equipment. If necessary, provide additional installation details below and attach drawings and/or pictures. NOTE: A standard 7 foot rack has a total of 48 units, half a rack would take up 24 rack units.

2 Racks @ East End of Rack Row

## Annual Power & Emergency Generator Fee

## Colocation Subtotal

## STATE MICROWAVE NETWORK CIRCUIT

| Circuit Information - Provided by ODOT to Polk County | Circuit Type | Bandwidth | Hops | Originating Site | Terminating Site |
|-------------------------------------------------------|--------------|-----------|------|------------------|------------------|
|                                                       | Ethernet     | 1.544     | 1    | Eagle Crest      | Bald Mtn         |

## Circuit Subtotal

## ADDITIONAL INFORMATION RELATED TO THIS REQUEST

## AUTHORIZATION: ODOT Technical Review Summary - Completed by ODOT WCS

NOTICE: ODOT has an 80% tower load maximum. ODOT is converting power systems to ZeroBase at sites yet to be determined over the next several years. ODOT will provide notice and coordinate with any affected partners as sites are identified.

KS Notes: Prior IGA provided for \$0 colo fee for 10 years due to contribution which has elapsed. 3/25/25 Email John K confirmed solar. Previous Auth: DS1 Circuit with diversity between Eagle Crest and Bald Mtn. See Exhibit B of Amend 1 Lease: Hampton Timber - No specific sublease criteria License: NA Site Mgmt Plan: NA

REVIEWED BY: John Kessinger-the information on the attached Colo Authorization form is accurate and I have no changes. Jonathan Howarth-No issues that I can see.

AUTHORIZATION: Listed equipment, two rack spaces, AC Power. ODOT will pass thru to Polk any Masler Lease fee related to this colocation charged to ODOT.

## Total Annual Payment:

\$11,289.98

## Signatures

|                           |                                                           |      |
|---------------------------|-----------------------------------------------------------|------|
| ODOT Approval:            | Joe Messman, ODOT Wireless Communications Section Manager | Date |
| Agency Authorized Signor: |                                                           | Date |

Reviewed

Dianne Majors

Type Name and Title

Date



## **EXHIBIT B**

### **Oregon Department of Transportation Wireless Communications Section - Communication Site Antenna and Tower Mounted equipment Installation Standards**

The purpose of this document is to adopt standards for the installation of antennas or other equipment on Communication site towers and facilities. All ODOT and OSP equipment is required to be installed to this standard. Any other agency, cooperator, or tenant that has equipment installed at an ODOT owned communications facility is also required to meet this standard.

For the purposes of this document, “**approved**” means reviewed and confirmed as acceptable by an authorized member of the ODOT Wireless Communications Section.

#### **Coordination of Installations:**

- Installations will be scheduled with the Wireless Area Radio Specialist and coordinated through the ODOT Wireless Work Order Desk.
- All tower work will be coordinated with the Wireless Area Radio Specialist and the Wireless Work Order Desk, at least 2 regular business days prior to the scheduled work, to allow for proper notification of radio system users that could be affected by the work.
- Emergency work requests will be handled on a case-by-case basis.
- A Wireless Area Radio Specialist will be assigned as a Project Liaison and Quality Control point for a specific installation location.
- Installs requiring antenna or coax replacements that will disrupt functionality or operations of a state-owned radio system will require a developed work plan prior to beginning work, to minimize the out of service time for the affected radio system. The Wireless Section will participate in developing the work plan.
- Installs requiring antenna or coax replacements that will disrupt functionality or operations of a state-owned radio system will require coordination with ODOT Wireless, at least two regular business days prior to work beginning, to allow for notification to system users.

#### **Land Mobile Radio:**

##### **Antenna and Equipment Mounting:**

- Antenna(s) and mounts shall be installed per manufacturer instructions using the manufacturer’s recommended brackets.
- Re-use of old mounting hardware is not allowed.
- All mounts, brackets, hardware, and braces shall be hot galvanized, stainless steel, or other approved rust resistant materials.
- All antennas will be mounted in the vertical polarity unless otherwise stated and will be plumb in all planes.
- Excluding top mounted antennas, any antenna exceeding fifteen feet in length shall have an RF-transparent top brace (such as CommScope DB5004s-MTD) installed, unless antenna manufacturer indicates use of top support is unnecessary. Sites with extreme weather conditions may require top bracing of antennas, regardless of manufacturer’s recommendation. These sites will be identified as such in the Statement of Work.
- Omni directional antennas mounted below the top of a tower shall be mounted on a minimum 3’ standoff mount with stiff-arm attachment. All standoff mounts shall be rated to exceed the antenna weight, wind, and ice load ratings of the antenna(s) being installed.
- Antennas located on a sloping leg shall be installed with a tapered pipe mount to allow for vertical mounting.

- All hardware shall be tightened to manufacturers torque specifications.
- All antennas, brackets, and mounting hardware shall be mounted in a manner that ice or wind loading will not twist the mounting system.
- If ice shields are required, then manufacturer specifications for installation are to be adhered to.

#### **Coaxial Cable support and grounding:**

- All exterior coaxial cable shall be 100% shielded construction such as Andrew Heliax or approved equivalent.
- RF connectors will be DIN type unless specified otherwise by ODOT Wireless.
- All coaxes will be supported by rubber cushions using proper hardware (i.e. Valmont cushions with stainless steel hose clamps and hardware).
- Round (i.e., stainless steel hose clamps), angle clamps, or other required adapters will be used where cables cannot be routed on the cable ladder.
- Maximum distance between hangers shall be 4 feet. Shorter spacing may be required for smaller coax to prevent drooping or sagging.
- All vertical runs of coax on the tower will be on cable ladder, unless specified by Wireless Section.
- The portion of coax runs not on a cable ladder shall be located on the **underside** of tower members, or in a manner to provide maximum protection from icfall, falling items, being stepped on, abrasions, and other hazards.
- All coaxes shall be hoisted with the use of a cable hoist grip or similar method. In no event shall a coax be hoisted by a connector.
- Radius bends exceeding manufactures specifications, kinks, dents, and compromised coax jacketing are not acceptable.
- Cushions that support multiple runs of coax are recommended for all installs.
- Coax shall be grounded near the antenna, where the line sweeps to the horizontal at the base of the tower, and at the building entry port.
- If the vertical run of coax is longer than seventy feet, additional ground kits shall be installed at regular intervals. Maximum distance between grounds is 70 feet.
- The coax ground kit at the antenna and any mid-point of the coax run shall be connected to the tower by a stainless steel or galvanized angle adapter.
- The coax ground kit at the tower base will be connected to a copper bus bar if equipped or by a stainless steel or galvanized angle adapter.
- The ground kits at the building entry port will be connected to the copper entry port ground bus.
- All ground bus wiring shall be routed towards the ground (downwards) with no sharp corners, bends, or loops.
- All coax between the tower and the building will be routed under and protected by an ice bridge.
- Any site where the tower is bolted to or directly adjacent to the building without an ice bridge will have a "Drip Loop" to allow moisture to drain before the entry port.
- Any threaded rod, bolts, or strut material (uni-strut) used shall be galvanized or stainless steel. All associated hardware will be stainless steel, nylon, aluminum, or hot-dip galvanized steel.
- All transmission line and antenna grounding shall be in compliance with the Harris Site Grounding and Lightning Protection Guidelines.
- All ground kits on the building entry port will use 3/8" two-hole lugs with no-ox compound between the lug and copper bus bar. Polyolefin heat-shrink tubing will be installed over the

crimp area and extend one inch past exposed wire onto the insulation.

- All ground kits on the tower will have single-hole 3/8 lug with polyolefin heat-shrink tubing over the crimp area extending one inch over the insulated wire.
- All lugs used on ground kits will be tin-plated copper.
- Ground kits shall be Andrew CSG78-12B2U or CSG12-12B2U, or approved equivalent.
- Any vertical wraps of electrical tape should be applied so the final outer layer covers the entire area, starting from the bottom and ending at the top.
- Cable ties, or Ty-Raps, are only approved for securing jumper cables from antennas to the main coax. All cable ties shall be UV rated, and have a minimum breaking strength of 150 lbs.

### **Microwave Antenna Systems:**

#### **Antenna and Equipment Mounting:**

- Microwave dishes shall be installed in accordance with manufacturer specifications.
- Hurricane brace/stiff arm mounted in a horizontal plane will be installed on all dish antennas. Large antennas may require additional bracing.
- All microwave antenna bracing shall be connected to a horizontal girt or opposing tower leg. If a horizontal girt is not available, a girt shall be added. Diagonal tower members **shall not** be used for microwave antenna bracing.
- Re-use of old mounting hardware is not allowed.
- All mounts, brackets, hardware, and braces shall be hot galvanized, stainless steel, or other approved rust resistant materials.
- All antenna feedhorns shall be mounted in the specified polarity, ensuring the feedhorn is level.
- Antennas located on a tapered leg shall be installed with a tapered pipe mount to create a plumb antenna mounting pipe.
- All hardware shall be tightened to manufacturers torque specifications.
- All antennas, brackets, and mounting hardware shall be mounted in a manner that ice or wind loading will not twist the mounting system.
- Microwave antenna ice shields, when specified, shall be assembled, and installed, to ice shield manufacturer's specifications.
- Ice shield cabling shall be installed in a manner that prevents ice shield rotation and/or excessive rotational stress on the mount or tower leg.
- Upper ice shield cables shall be attached to appropriate leg anchors and/or horizontal girts to provide a minimum 45-degree cable angle for support.

#### **Waveguide support and grounding:**

- All Waveguide shall be jacketed.
- Waveguide shall be supported using Valmont Structures P/N: SREW63-K, UPC: 888063450525 waveguide cushions (6GHz) or specific Valmont waveguide cushions for other frequency waveguides (11 GHz, 18 GHz, etc.). No clips or snap-ins allowed.
- Round (i.e., stainless steel hose clamps), angle clamps, or other required adapters shall be used where waveguides cannot be routed on the cable ladder.
- Maximum distance between hangers shall be 4 feet for waveguide.
- All vertical runs of Waveguide on the tower shall be on cable ladder, unless specified by Wireless Section.

- The portion of waveguide runs not on a cable ladder shall be located on the **underside** of tower members, or in a manner to provide maximum protection from icefall, falling items, being stepped on, abrasions, and other hazards.
- The portion of waveguide extending from the tower leg to the antenna feedhorn shall be protected from icefall damage by installing shielding above waveguide.
- All Waveguide shall be hoisted with the use of a cable hoist grip or similar method. In no event shall a waveguide be hoisted by a connector.
- Radius bends exceeding manufactures specifications, kinks, dents, and compromised Waveguide jacketing are not acceptable.
- Cushions that support multiple runs of Waveguide are recommended for all installs.
- Waveguide shall be grounded near the antenna, where the line sweeps to horizontal at the base of the tower, and at the building entry port.
- If the vertical run of coax is longer than seventy feet, additional ground kits shall be installed at regular intervals. Maximum distance between grounds is 70 feet.
- The waveguide ground kit at the antenna and any mid-point of the waveguide run shall be connected to the tower by a stainless steel or galvanized angle adapter.
- The waveguide ground kit at the tower base will be connected to a copper bus bar if equipped or by a stainless steel or galvanized angle adapter.
- The ground kits at the building entry port will be connected to the copper entry port ground bus.
- All ground bus wiring shall be routed towards the ground (downwards) with no sharp corners, bends, or loops. Any threaded rod, bolts, or strut material (uni-strut) used shall be galvanized or stainless steel. All associated hardware will be stainless steel, nylon, aluminum, or hot-dip galvanized steel.
- All ground kits on the building entry port will use 3/8" two-hole lugs with no-ox compound between the lug and copper bus bar. Polyolefin heat-shrink tubing will be installed over the crimp area and extend one inch past exposed wire onto the insulation.
- All ground kits on the tower will have single-hole 3/8 lug with polyolefin heat-shrink tubing over the crimp area extending one inch over the insulated wire.
- All lugs used on ground kits will be tin-plated copper.
- All waveguide between the tower and the building shall be routed under and protected by an ice bridge.

#### **Other Tower mounted equipment:**

##### **Equipment Mounting:**

- Equipment shall be installed in accordance with manufacturer specifications.
- Re-use of old mounting brackets is not allowed.
- All mounts, brackets, hardware, and braces shall be hot galvanized, stainless steel, or other approved rust resistant materials.

##### **Miscellaneous Cabling support and grounding:**

- All exterior cabling (Ethernet, POE, Power, fiber, etc.) shall be rated for exposed outdoor environmental conditions. For special installations, the Wireless Section will provide additional specifications.
- Shielded cable is recommended where practical.
- All cable will be supported by rubber cushions using proper hardware.

- Maximum distance between hangers shall be 4 feet. Shorter spacing may be required for smaller coax to prevent drooping or sagging.
- All vertical runs of cable on the tower shall be on cable ladder, unless specified by Wireless Section.
- The portion of coax runs not on a cable ladder shall be located on the underside of tower members, or in a manner to provide maximum protection from icefall, falling items, being stepped on, abrasions, and other hazards.
- All cable shall be hoisted with the use of a cable hoist grip or manufacturer approved method. In no event shall a cable be hoisted by a connector.
- Radius bends exceeding manufactures specifications, kinks, dents, and compromised cable jacketing are not acceptable.
- Shielded cabling will be grounded near the device connection, where the cable sweeps to the horizontal at the base of the tower, and at the building entry port.
- AC cabling over 75 volts shall be run in metal conduit and supported by proper mounts.
- Electrical tape, ty-raps, and hose clamps are NOT allowed for securing cable to towers.

## EXHIBIT C

### Oregon Department of Transportation Wireless Communications Section MINIMUM SITE SHELTER EQUIPMENT INSTALLATION STANDARDS

**DISCLAIMER:** The Site Standards described below are minimum standards and are intended to provide guidance for proposed installations. Actual site conditions may necessitate additional restrictions.

#### General Requirements

- Post a copy of the FCC license or National Telecommunications and Information Agency (NTIA) authorization on each transmitter. Include the name, address, and telephone number of the person responsible for the operation of that transmitter. Indicate transmit and receive frequencies as well as tone control frequencies.
- Control stations and “inverted pairs” on FCC-designated repeater channels are generally not allowed at sites.
- Install only FCC type-accepted transmitters for the station type being used (for example: base station, control station, etc.) at a site. Where applicable, only equipment type accepted per FCC Part 15 for RF radiation and noise is acceptable for installation at a site.

#### Cabling and Connectors

- **Table 1, below**, contains specifications for cabling and connectors used at sites.

| • APPLICATION                                                                                    | • CABLING OR CONNECTOR TYPE                                                                                          |
|--------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| • RF cabling between equipment <b>within a rack</b> .                                            | • Double-shielded (such as RG-214, RG-142, or RG-400) or solid outer conductor coaxial cable.                        |
| • RF cabling <b>between racks</b> to connect combining equipment and antenna feed-through ports. | • Solid outer conductor coaxial cable or double shielded coaxial cable providing a minimum of 98.5% shield coverage. |
| • Receive lines <b>within</b> the shelter.                                                       | • ¼ in. diameter solid-shield flexible cable, similar to Andrews FSJ1-50A.                                           |
| • Transmit lines <b>within</b> the shelter.                                                      | • ½ in. diameter solid-shield flexible cable, similar to Andrews FSJ4-50B.                                           |
| • Feed lines <b>outside</b> the shelter.                                                         | • ½ in. diameter (or larger as needed) solid-shield cable similar to Andrews LDF4-50A HELIAX.                        |

| • APPLICATION                            | • CABLING OR CONNECTOR TYPE                                                                                                                                                          |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| • RF connectors on transmit cables.      | • Use type “N” connectors wherever possible. If the manufacturer’s equipment has another type of connector installed, that connector is acceptable. Adapters are discouraged.        |
| • RF connectors on receive cables.       | • Type “BNC” is allowed, however type “N” is recommended. Again, use the same type connector as the manufacturer’s equipment if another type is installed. Adapters are discouraged. |
| • Connectors for braided coaxial cables. | • Silver-plated connector bodies and, where available, gold-plated contact pins. <b>Do not</b> use other types of plated connectors or adapters.                                     |

**Table 1**

### **IM Suppression**

- Notch-type duplexers must include a band-pass cavity (BPC) in the transmit leg that meets the requirements in **Table 2, below**. The BPC must be between the transmitter output and the duplexer input port.
- Additional filters, BPCs, isolators, and other hardware may be required at the tenant’s expense to correct site problems as a result of the tenant’s installation.
- Each transmitter operating within the band limits in **Table 2, below**, require the use of a protective isolator, low-pass harmonic filter, and a BPC that meets the minimum attenuation levels shown **below** in **Table 2**. The isolator and harmonic filter must precede the BPC in the transmit path. The low-pass filters must provide a minimum of 30-dB attenuation above 70 MHz. The low-pass filter used must be a true low pass filter. Do not use harmonic notch filters, which certain vendors manufacture and claim to be “low-pass filters.” These filters do not meet the intent of this specification.

| FREQUENCY BAND | ISOLATOR<br>REVERSE ISOLATION | BPC ATTENUATION AT FREQUENCY<br>FROM CARRIER |
|----------------|-------------------------------|----------------------------------------------|
| 29.7–54 MHz    | 15 dB                         | 20 dB at $\pm$ 600 kHz                       |
| 72–76 MHz      | 25 dB                         | 20 dB at $\pm$ 600 kHz                       |
| 136–174 MHz    | 25 dB                         | 30 dB at $\pm$ 2 MHz                         |
| 220–225 MHz    | 25 dB                         | 30 dB at $\pm$ 3 MHz                         |
| 406–512 MHz    | 25 dB                         | 15 dB at $\pm$ 2 MHz                         |
| 806–960 MHz    | 25 dB                         | 20 dB at $\pm$ 10 MHz                        |

**Table 2**

- Microwave equipment operating above 960 MHz does not require the use of an isolator, harmonic filter, and band pass cavity. Transmitters operating below 29.7 MHz must include a low-pass filter with an attenuation level of at least 70 dB at 54 MHz.

### ***Lightning, Surge Suppression and Grounding***

- Most sites have lightning and surge protection systems installed, including lightning arrestor mounting panels. Newer systems may have a pass-through plate with a provision for placement of a lightning suppressor just inside of the plate. All transmission lines must enter and exit the building via one of these entry panels or an approved entry (see ***Antennas, Feed Lines and Cable Entries***)
- Connect equipment to the site's ground system using compression fittings, bolted joints or Cadwelding (exterior or in-ground) for connection. Do not use "split-bolt" connectors as junctions. Cable runway trays above the equipment rack usually include a ground pigtail.
- Remove from the site all coaxial cable that serves no purpose or is abandoned. Properly terminate and protect all coaxial cables that are spare equipment or dedicated but inactive. Terminate both ends of the cable with, at least, a 2 watt 47-ohm resistor (only inside the building if the antenna has not been removed).

### ***Inside Equipment***

- Use only transmitters, receivers, and related equipment designed for use in a high-RF, multi-user environment. This includes power supply equipment, rectifiers, control equipment, alarm units, etc. This generally means that equipment must have additional filtering on input and output leads, and has additional physical shielding installed on the equipment. The equipment specifications will usually be higher than those encountered for use in a mobile radio or desktop base station environment.
- In the event Radio Interference occurs and the above standards are complied with, additional isolators, filters, cavities, etc. may be required to correct specific problems. The need for additional filtering equipment will be determined on a case-by-case basis.
- Systems involved, not in full compliance with these standards, will be asked to comply immediately. Users, who remain non-compliant with these standards, after formal notification, are at risk of having their site use agreement(s) terminated.
- Sites are designed to accommodate equipment housed in 7' (84") racks.
- Fasten racks to the floor with an approved anchor. Also, use an approved method to connect racks to an overhead cable runway tray. For example, using a 14-inch length of Chatsworth 11450-001 framing channel and "J-bolt" kits to fasten a rack to the cable runway tray is acceptable. ***Do not drill holes into existing cable runway trays.***
- Install seismic bracing on equipment and mounting frames.
- All cables/wires are to be securely and neatly routed, bypassing any potentially hazardous areas such as heat, sharp objects or human interference. All wires are to be labeled or have written documentation on site that identifies the use of the cable/wire.

### ***Antennas, Feed Lines and Cable Entries***

- All antennas to tower mounting hardware shall be purchased from the tower manufacturer.
- Feed lines shall be no less than ½" heliax (See Table 1 above).



- Feed line ground kits shall be installed at antenna, transition from tower to ice bridge, and at entry port.
- Microfect cushion assemblies shall be used to attach feed lines to the tower (Leg clamps may be required on some towers).
- Use the provided cable entry or, if none available, use a Microfect B220 entry.
- All installations shall be cleared by the ODOTWireless Group and installations shall be performed with ODOTpersonnel present.
- Feed-through lightning protectors should be used on all coaxial cable connections to equipment enclosures. Gas, Gap and MOV (Metal Oxide Varistor) protectors should be used on Control, Audio, Telephone and Power connections. All feed line entering the building must be terminated, even when not in use.
- Transmission lines between the equipment building and tower structure shall be secured to a messenger wire or anchored to an approved ice bridge. If it becomes necessary to bury a transmission line it shall be placed inside PVC conduit, with a minimum diameter of 3" and buried to a depth of no less than 12" below the surface of the ground. The ends, where the transmission line enters and/or exits, shall be sealed in a manner that prevents moisture from entering and being trapped within the PVC conduit.
- All loose wire or metal objects are to be removed from the tower and site. This is to include unused antennas and transmission lines.

### ***Miscellaneous Requirements***

- In no case shall 120 VAC power equipment come into contact with ODOT racks containing microwave or base band equipment.
- Extension cords are not permissible as a permanent power connection.
- A system interference test (desense) shall be performed before and after the installation of new equipment to ensure the existing ODOT radio system(s) integrity.
- All books and spare parts are to be kept in neat order, floors clean, and all debris removed after each site visit.
- Each site will have a site log, with the following minimum information logged during each visit: Date and arrival time, names and contact information of all persons at the site, purpose of visit, time left site.

### ***General Site Lease Guidelines***

- Amateur radios will be allowed only if sponsored by a governmental entity.
  - Preferably any amateur radios allowed will be associated with either R.A.C.E.S (Radio Amateur Communications Emergency Service) or A.R.E.S. (Amateur Radio Emergency Service).
  - Initial request and subsequent agreements will be with the governmental entity.
  - Keys will be issued to and controlled by the governmental entity.
- "For Profit" entities are generally not allowed space in ODOT shelters.
  - Private "not-for-profit" entities may be considered.
  - Sites are to be used primarily for Public Safety services.

- Maintaining site security is a major consideration in decision making process.
- Site Use Requirements:
  - Equipment installation must meet or exceed ODOT Site Installation Standards.
  - All antennas are to be mounted on the tower structure in the assigned locations. No antennas will be mounted to the buildings without prior written approval from ODOT.
  - Radio equipment must be rack mounted. Equipment cabinets are no allowed.
  - Key use and control must comply with ODOT Key Issuance requirements. Keys are issued to governmental entities and they hold the responsibility for proper use and control.
  - Current site fee charges will apply to all users.
  - A Technical Data Sheet is to be submitted for each RF unit.
  - A prior intermodulation/frequency analysis must be completed and approved.
  - Infrastructure of site must be robust enough to support the additional equipment.
  - Space for one (1) rack must be reserved for ODOT expansion.
  - Any sharing of ODOT battery power will only be with State agencies. Non-state users must supply their own battery power.
- Other considerations:
  - User may be asked to pay for a tower loading and/or intermodulation study
  - The initial request is to be made on an ODOT co-location application which will be reviewed and is subject to approval before proceeding with a lease agreement
  - ODOT may own radio facilities that it does not occupy but reserves the right to lease these facilities to any entity deemed appropriate.

**EXHIBIT D**

**MASTER LEASE**

**RADIO COMMUNICATIONS SITE LEASE  
BALD MOUNTAIN**

THIS LEASE, dated August 11, 2006, is made by and between MERIWETHER NORTHWEST OREGON LAND & TIMBER LLC, a Delaware limited liability company ("Lessor") and the STATE OF OREGON acting by and through its Department of State Police ("Lessee"). Contact persons for the parties, changeable with notice to the other party, are as follows:

**Parties:** LESSOR: Meriwether Northwest Oregon Land and Timber LLC  
c/o Forest Capital Partners LLC  
450 Pacific Avenue North  
Monmouth, Oregon 97361  
ATTN: Land Use Specialist  
Phone: 503-838-6938, Fax: 503-838-6907

LESSEE: Department of State Police  
255 Capitol Street NE 4<sup>th</sup> Floor  
Salem, OR 97301  
ATTN: Carla Ploederer or successor  
Phone: 503 378-3725; Fax: 503 378-2360

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Site together with any appurtenances thereto, described as follows:

**Site:** Approximately 40 feet by 40 feet in size, to be fenced by Lessee, located in the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 9, Township 9 South, Range 7 West, Willamette Meridian, situated in Polk County, Oregon, in the approximate location shown on the attached map marked Exhibit A ("Site").

The terms of this Lease are as follows:

1. **Grant of Use.** Lessor hereby grants to Lessee the exclusive right, subject only to Lessor's retained rights under Paragraph 7, to use a portion of the Site for radio and microwave communications facility and microwave communications equipment and other uses incidental thereto which consists of one building containing electronic equipment, emergency diesel generator in the building, fuel tank, one self-standing antenna tower structure about 100 feet in height, including microwave antennas, and all necessary appurtenances (Equipment) located in the center of the site, and other lawful purposes including but not limited to functions related to the conduct of Lessee's business as a state agency for the purpose of operating thereon the Equipment, subject to all terms conditions, and limitations contained in this Lease. No additional equipment shall be placed on the Site by Lessee nor shall any other structures be built on the Site by the Lessee without the express, prior written consent of Lessor, such consent not to be unreasonably withheld.

Lessee shall be responsible for obtaining any necessary consent of third parties for use of the power source to which Lessee intends to connect the Equipment.

2. **Term.** The term of this Lease shall commence on the date this Lease is fully executed, and shall terminate August 10, 2008 unless otherwise extended.

3. **Rent.** Lessee shall pay Base Rent annually in advance by the 10th day of August each year. The Base Rent for any partial year shall be prorated on a per diem basis. The annual Base Rent shall be per the following rent schedule:

| <u>LEASE PERIOD</u>                     | <u>ANNUAL BASE RENT</u> |
|-----------------------------------------|-------------------------|
| August 11, 2006 through August 10, 2007 | \$ [REDACTED]           |
| August 11, 2007 through August 10, 2008 | \$ [REDACTED]           |

4. **Option to Extend.** If Lessee is not in default, Lessee shall have the option to extend this Lease for three (3) additional extension terms of five (5) years each. Notice exercising the extension option shall be delivered to Lessor in writing not less than sixty (60) days prior to the expiration of the then current term. Unless otherwise agreed in writing, if such notice is given, all terms and conditions of this Lease, other than the rent, shall apply during the extension term.

5. **Road, Gate and Site Access.** Lessee shall have unlimited access to the Site, Lessee's buildings, tower, antennas, wires, communications lines and other equipment, subject to the rules Lessor establishes for the Site from time to time, which rules shall be consistent with applicable federal, State and local regulations. No change in such rules shall be effective as to Lessee until Lessor notifies Lessee in writing of such change. Lessor shall provide Lessee with a key or combination to the locked gate(s) on the access road to the Site. Lessee shall have no responsibility for maintaining access to the Site. Lessee shall always secure the gate upon entering and/or exiting the Site.

Lessee shall have the right to use Lessor's road network 24 hours a day, seven days per week, 365 days a year for ingress and egress, whether currently existing or subsequently constructed, and construct and use an access road from said Lessor's road network to Lessee's site on a route approved by Lessor. The foregoing grant of rights is subject to any restriction or prohibition contained in any easements, permits, or licenses granting Lessor the right to utilize such roadways, including but not limited to absolute prohibition against assignment, if any, hauling fees, traffic regulations, maintenance costs, construction costs, or other restrictions.

Lessee shall not construct any additional roads on Lessor's lands without prior written consent of Lessor, such consent not to be unreasonably withheld.

6. **Termination.** In the event Lessee is unable to secure the necessary approvals, permits, licenses, or funds necessary to install and maintain the desired radio and microwave communications facilities, or if such approvals, permits, licenses, or funds are otherwise withdrawn or terminated by governmental authority so that Lessee will be unable to use the Site for its intended purpose, Lessee shall have the right to terminate this Lease. Notice of the right to terminate shall be given to Lessor in writing by certified mail, return receipt requested, and shall be effective fourteen (14) days from receipt of such notice. Any advance rents paid by Lessee shall be refunded on a pro rata basis for the then current term. Upon termination, this Lease shall become null and void, and all the parties shall have no further obligations to the other, provided, however, this Lease shall not be terminated until Lessee has completed removal of its equipment and restored the Site to as good condition as existed prior to this Lease, reasonable wear and tear excepted, as follows:

Lessee, upon termination of this Lease, shall within 30 days remove its personal property and fixtures and restore the Site to its original condition, reasonable wear and tear excepted, unless Lessor allows Lessee's personal property or fixtures to be left behind. If such time for removal causes Lessee to remain on the Site after termination of this Lease, Lessee shall pay rent at the annual rate set for the last annual payment before termination, on a month to month basis, until such time as the removal of personal property and fixtures is completed.

Lessor may terminate this Lease with a thirty (30) day written notice to Lessee in the event Lessee fails to perform any of its obligations hereunder; provided, however, Lessor may not terminate this Lease if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for cure and Lessee commences such cure within the 30 day period and diligently pursues such cure to completion.

7. **Construction by Lessor.** Lessor hereby expressly reserves the right to attach non-interfering communication antennas for Lessor's own use, and to install, build, erect, or construct radio equipment, cables, telephone lines, power lines, or other facilities over and across the Site. Lessor shall not use the Site for any purpose inconsistent with the use made by Lessee under this Lease. With respect to any access easements or power line easements granted to Lessee under this Lease, Lessor may, without cost and notwithstanding the fact it may be inconsistent with the rights granted to Lessee herein, cross

and re-cross such easements for any purpose deemed reasonably necessary or desirable by Lessor, including without limitation, to use the easements in connection with the protection, administration, management, and utilization of Lessor's lands or resources now or hereafter owned or controlled by Lessor. Lessor may assign all or any part of its rights herein to third parties or permit third parties to exercise the rights of Lessor herein.

8. **Parking.** Lessee, its employees, and contractors shall have the right to park in the parking area at the Site in connection with installation, maintenance, operation, and removal of Lessee's equipment.

9. **Lessor's Covenants.** Lessor covenants that Lessor has the right to make this Lease and to lease the Site to Lessee; that possession of the Site will be delivered to Lessee free of other tenants and of conflicting claims; and on paying the rent and performing its covenants of this Lease, Lessee may enjoy the rights granted by this Lease free from rightful interference by any third party. Lessor further covenants that: (i) the Site is served by a public road; or (ii) an unqualified right of access from a public road to the Site in the form of an easement or irrevocable license has been granted to Lessor and which easement or irrevocable license authorizes use of such access by Lessee during the term of this Lease free from rightful interference by any third party. Lessor shall provide a copy of any easement or license granting such access, if requested by Lessee.

10. **Improvements and Alterations.** Lessee may place and maintain personal property, including, but not limited to, the Equipment, at Lessee's expense, in and on the Site. Lessee may place wires or communication lines on the tower and building to connect equipment on the tower to Lessee's equipment located in the building. Lessee will retain ownership of all personal property placed in the Site by Lessee.

11. **Maintenance.** Lessor shall perform, at Lessor's sole cost and expense, all necessary ordinary maintenance of the access roads to the Site. Each party will be responsible for their share of above-ordinary maintenance and repairs of the access roads to the Site in proportion to their having created the need for such above-ordinary maintenance and repairs. For purposes of this paragraph, ordinary maintenance is described as that maintenance necessary to put a road in condition for hauling and to protect said road from winter weather. Lessee, at its sole cost and expense shall repair and maintain its Equipment in good working order and condition and shall keep the Site and any power line or access easements provided for herein free from rubbish or other debris caused by Lessee's use.

12. **Operation by Lessee/Lessor.** Lessor warrants that all communications equipment Lessor installs on the Site will conform to all applicable government rules and regulations, including but not limited to those of the Federal Communication Commission (FCC) and Federal Aviation Administration (FAA). Lessor shall install, coordinate, operate and maintain its radio communications equipment in accordance with applicable laws and regulations so as not to interfere with the operations of Lessee. Lessee shall install, operate and maintain its radio communications equipment in accordance with applicable laws and regulations and in a manner so as not to cause interference with any other radio or television transmitting or receiving equipment located adjacent to the Site. Lessor will not allow any third party to locate equipment in or on the Site without a non-interference clause such that if the third party equipment interferes with Lessor or Lessee's equipment, the third party will cease operation and use of its equipment has satisfactory filters or other alterations made so that all interference is eliminated.

13. **Lessor's Indemnification.** Lessor shall indemnify, defend and hold harmless Lessee, including its officers, divisions, agents and employees, from all claims, suits, or actions of any nature resulting from the negligent acts or omissions of Lessor, its officers, contractors, employees or agents under this Lease.

14. **Lessee's Liability Coverage.** Lessee shall be responsible for any damage or third party liability which may arise from Lessee's occupancy and use of the Site, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7, to the extent of liability arising out of the negligence of the State. The State shall not be required to indemnify or defend Lessor from any liability arising out of the wrongful acts of officers, employees, contractors, or agents of Lessor.

**15. Statement of Self-Insurance.** The State of Oregon is self-insured for its property and liability exposures, as subject to the Oregon Tort Claims Act, ORS 30.260 through 30.300.

**16. Casualty Damage.** If the Site or improvements thereon are damaged or destroyed by fire or other casualty to such a degree that the Site is unsuitable for the purpose leased, and if repairs cannot reasonably be made within 90 days, either party may elect to cancel this Lease. If this occurs, any prepaid rent must be refunded to Lessee on a pro rata basis.

**17. Assignment and Subletting.** Lessee shall not assign or allow any third party to utilize any of Lessee's rights under this Lease without first providing to Lessor a copy of any proposed assignment or sublease document and obtaining the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned, or delayed. Lessor is not required to consent to any sublease or assignment that does not require the sub-lessee or assignee, as the case may be, to indemnify Lessor against claims arising from the sub-lessee's or assignee's negligence. If Lessee enters into an approved sublease of all or a portion of the Site, Lessee shall pay to Lessor 30% of the excess of the gross receipts received by Lessee for the sublease over the Base Rent. Lessee will not allow "free" third party use nor will Lessee allow third party use in exchange for like-kind work.

**18. Funding.** Lessor acknowledges that rental and other charges to Lessee under this Lease are to be paid only from funds derived by legislative appropriation or budget limitation. The parties mutually understand that this Lease is made by Lessee in its official capacity as a state agency and not by its officers as individuals.

**19. Non-appropriation.** If sufficient funds have not been provided in the legislatively approved budget of Lessee, State of Oregon, acting by and through its Department of State Police, to permit Lessee in the exercise of its reasonable administrative discretion to continue this Lease, Lessee may terminate this Lease without further liability to Lessor with not less than one hundred twenty (120) days prior written notice to Lessor. During such termination notice period, Lessee may negotiate with Lessor for continued occupancy in a portion of the Site at a reduced rent. If continued occupancy is not feasible on mutually acceptable terms, then the Lease shall terminate as notified. In determining the availability of funds to Lessee, Lessee will use the budget approved by the Oregon State Legislature or acts of the Legislative Emergency Board.

If by a specific legislative act, Lessee as named herein is abolished or its functions absorbed into other state agency or agencies, Lessee may terminate this Lease, without further liability to Lessor except for site clean up and restoration, with not less than 120 days prior written notice to Lessor.

If any of the foregoing occurs with respect to an agency/division occupying only a portion of the Site, Lessee shall have the right to terminate as to that portion of the Site. Rent will not be proportionately reduced or refunded.

**20. Taxes.** Lessee shall pay, prior to delinquency, all taxes assessed upon trade equipment, and all other personal property of Lessee maintained on the Site or elsewhere. Lessor shall pay when due all real property taxes and all other fees and assessments attributable to the Site. However, Lessee shall pay, as additional rent, any increase in real property taxes levied against the Site which is directly attributable to Lessee's use of the Site, and Lessor agrees to furnish proof of such increase to Lessee.

**21. Subordination/Attornment Lease.** Lessee will respond to Lessor's reasonable request for subordination or attornment Lease, provided such document shall clearly state that any successor in interest to Lessor under this Lease shall assume and perform all the responsibilities and obligations of Lessor under this Lease.

**22. Notices.** Notices between the parties shall be in writing, effective when personally delivered to the address specified herein under "Parties" on Page 1, or if mailed, effective forty-eight (48) hours following mailing to the address for such party specified herein or such other address as either party may specify by notice to the other.



**23. COMPLIANCE WITH APPLICABLE LAW:**

**(1). Certificate of Compliance With Oregon Tax Laws.**

(a) I, the undersigned, hereby certify under penalty of perjury that I am authorized to act in behalf of Lessor named herein, that I have authority and knowledge regarding the payment of taxes, and that Lessor is, to the best of my knowledge, not in violation of any Oregon tax laws.

(b) For the purposes of this certificate, "Oregon tax laws" means the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, Elderly Rental Assistance Program and local taxes administered by the Department of Revenue (Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan Transit District Self-Employment Tax).

(c) If this Lease is amended, Lessor shall execute a "Certificate of Compliance with Oregon Tax Laws." Such a form is attached to this Lease for the Lessor's use. Lessor may make copies of this form as needed.

**(2). Property Taxes.** Lessor certifies that Lessor is not currently delinquent on any applicable property taxes levied on the Site and that Lessor will during the term of this Lease pay all such taxes before the taxes become delinquent by law, or by May 15th of each year, whichever comes sooner. Notwithstanding any other provisions of this Lease, in case Lessor is found delinquent on property taxes, Lessee may at its sole option terminate this Lease with thirty (30) days prior written notice to Lessor.

**(3). State Workers' Compensation Act.** If either party employs any "subject worker," as defined in ORS 656.005(28), to perform any work required under this Lease, the employing party shall comply with the Workers' Compensation Law, ORS 656.001, et seq. Either party, to the extent it employs such "subject worker(s)," and any contractors or subcontractors, if any, and any employers providing work, labor or materials under this Lease are "subject employers" under the Workers' Compensation Law and shall comply with ORS 656.017, which requires "subject employers" to provide Oregon workers' compensation coverage that conforms to Oregon law for all of their "subject workers", unless exempt under ORS 656.126.

**24. NO PRESUMPTION AGAINST DRAFTER.** Lessor and Lessee understand, acknowledge, and agree that: (a) this Lease has been freely negotiated by both parties; and (b) in any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this Lease or any portion thereof.

**25. MERGER.**

This Lease constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Lease will bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, will be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified in the Lease regarding this Lease. Lessor and Lessee, by the signatures below by the respective, authorized representative, hereby acknowledge that each party has read this Lease, understands it, and agrees to be bound by its terms and conditions.

Lessor and Lessee agree to comply with all federal, state, and local laws, rules, regulations, executive orders and ordinances applicable to this Lease, which are incorporated herein by reference.

This Lease shall not become effective and shall not be binding upon the State of Oregon or any agency of the State until this Lease has been executed, in the signature spaces provided below, by all parties to this Lease, including those whose approval is required.

**26. PARAGRAPH TITLES.** Paragraph titles are added for convenience only and are not intended to



limit interpretation of any provision of this Lease.

The parties have executed this Lease the 29 day of January, 2007.

LESSOR:  
MERIWETHER NORTHWEST OREGON LAND & TIMBER LLC,  
a Delaware limited liability company

By   
Tax ID Number 20-1626787

LESSEE:  
STATE OF OREGON acting by and through its  
Department of State Police

By 

Attachments:

Exhibit A – Map showing location of the Site

TO: Oregon State Police  
255 Capitol St NE 4<sup>th</sup> Floor  
Salem, OR 97301  
Attn: Facilities Specialist

RE: Lessee: Department of State Police

Site: Bald Mountain, Polk County, Oregon

Pursuant to the Lease provisions on "CERTIFICATE OF COMPLIANCE WITH OREGON TAX LAWS" and as required by the Oregon Department of Revenue's Administrative Rule, OAR 150-305.385(6)-(B), the following Certificate is submitted on the annual basis on or about the anniversary date of this Lease. This Certificate is for the lease year beginning 8/11, 2006 to ~~2007~~ August 10, 2007.

#### CERTIFICATE OF COMPLIANCE WITH OREGON TAX LAWS

I, the undersigned, hereby certify under penalty of perjury: (Check one)

☐ that I am, to the best of my knowledge, not in violation of any Oregon tax laws.

☒ that I am authorized to act in behalf of the Lessor, as named below, that I have authority and knowledge regarding the payment of taxes, and that Lessor is, to the best of my knowledge, not in violation of any Oregon tax laws.

For the purposes of this certificate, "Oregon tax laws" means the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, Elderly Rental Assistance Program and local taxes administered by the Department of Revenue (Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan Transit District Self-Employment Tax).

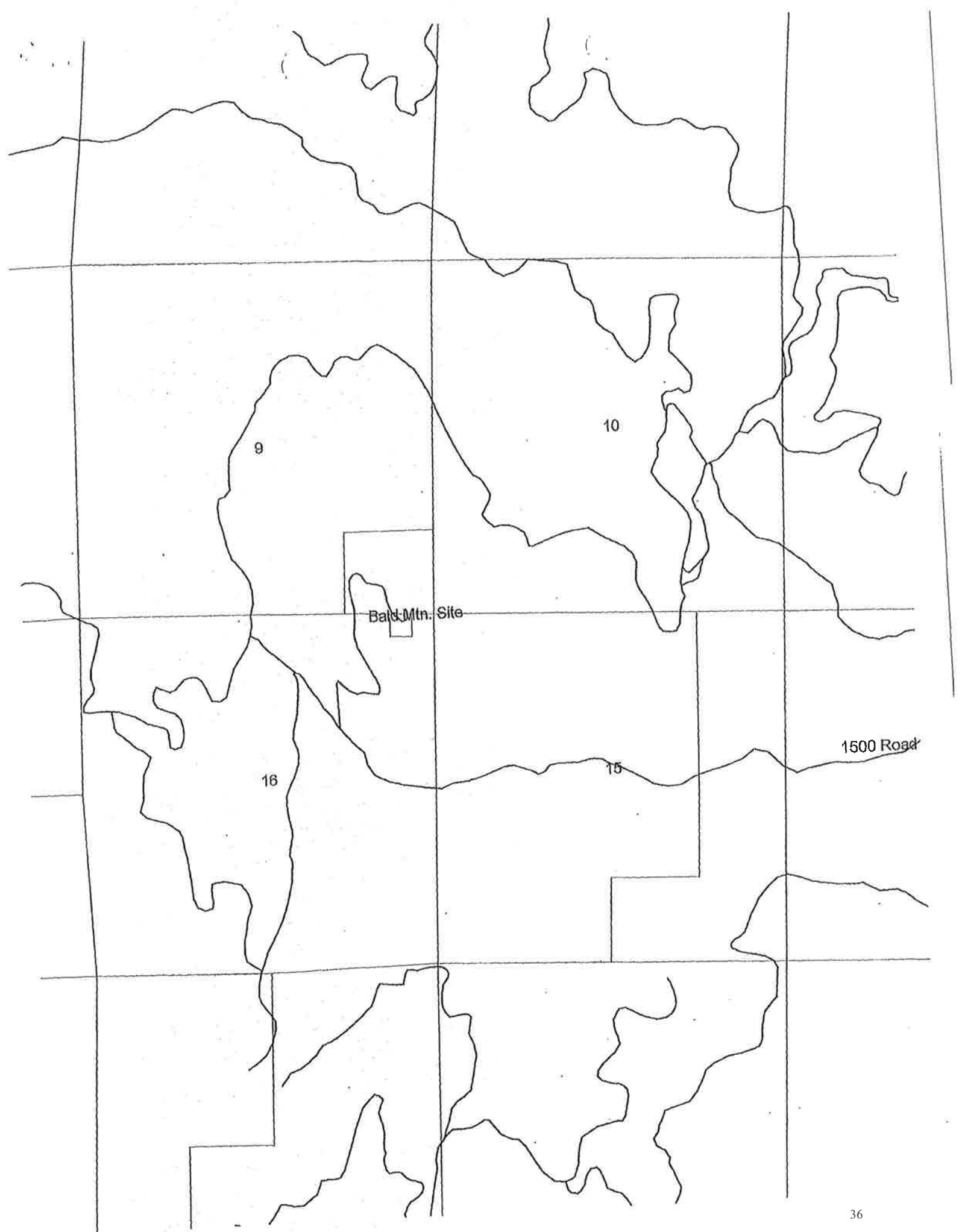
Lessor: Meriwether Northwest Oregon Land & Timber LLC

Signature: Janet Runkle

Printed Name: Janet Runkle

Title: Land Use Specialist

Date: January 24, 2007



June 3, 2024

Hampton Timber, LLC  
PO Box 2315  
Salem, OR 97308-2315

Subject: BALD MTN COMMUNICATIONS SITE INTENT TO RENEW

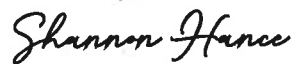
To: Amy Davidson, Corporate Council

Please accept the undersigned, as the State of Oregon, by and through its Department of Transportation, under a certain Lease known as the Radio Communications Site Lease Dated August 11, 2006, as amended on March 2, 2011; October 13, 2011; and May 12, 2015 (Lease), for the lease of a portion of the property located at Bald Mountain, and more particularly described as: Approximately 40 feet by 40 feet in size, to be fenced by Lessee, located in the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 9, Township 9 South, Range 7 West, Willamette Meridian, situated in Polk County, Oregon

We, the Oregon Department of Transportation, hereby seeking to extend the term of the said Agreement for the first of two, five-year extensions, commencing on August 11, 2024, and running thorough and including August 11, 2029.

It is further provided, however, that all other terms of the Lease shall continue during this extended term as if set forth herein.

Sincerely,



Shannon Hance  
Realty Program Coordinator  
Oregon Department of Transportation  
Wireless Communications Section  
[Shannon.Hance@odot.oregon.gov](mailto:Shannon.Hance@odot.oregon.gov)  
971.301.3283



EXECUTIVE OFFICE  
**HAMPTON LUMBER**

9600 SW Barnes Road  
Suite 200  
Portland, Oregon 97225-6666  
Telephone 503.297-7691  
Fax 503.203-6618  
[www.HamptonLumber.com](http://www.HamptonLumber.com)

August 31, 2023

Leah Homer, Assistant Director, Operations  
Oregon Department of Transportation  
State of Oregon  
Wireless Communications Section  
455 Airport Road, Building C  
Salem, Oregon 97301

Re: Radio Communications Site Lease Dated August 11, 2006, as amended  
Bald Mountain, Polk County, Oregon

Dear Ms. Homer:

I write to inform you that Hampton Timber, LLC (Hampton) is the new Lessor of the Radio Communications Site Lease Dated August 11, 2006, as amended on March 2, 2011; October 13, 2011; and May 12, 2015 (Lease), for the lease of a portion of the property located at Bald Mountain, and more particularly described as:

Approximately 40 feet by 40 feet in size, to be fenced by Lessee, located in the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 9, Township 9 South, Range 7 West, Willamette Meridian, situated in Polk County, Oregon

Enclosed for your information is the Special Warranty Deed recorded on August 16, 2023, which transferred ownership of the property from AP Timber, LLC to Hampton. The parcel of property subject to the Lease is included as parcel 8 in the deed. Also enclosed is a copy of the General Assignment and Assumption Agreement, dated August 16, 2023, in which AP Timber, LLC transferred all of its interests in real property leases (including this Lease) to Hampton.

All of the terms and conditions of the Lease remain in full force and effect. The rights and obligations of the State of Oregon, by and through the Oregon Department of Transportation, as Lessee are unchanged.

Please direct all future lease payments to this address:

Hampton Timber, LLC  
Po Box 2315  
Salem, OR 97308-2315

Should you have any questions, please contact me at (503) 297-7691 or at  
[amydavidson@hamptonlumber.com](mailto:amydavidson@hamptonlumber.com).

Sincerely,



Amy Davidson  
Corporate Counsel

Enclosures

## **GENERAL ASSIGNMENT AND ASSUMPTION AGREEMENT**

THIS GENERAL ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is made and entered into as of August 16, 2023, by and between AP TIMBER, LLC, a Delaware limited liability company ("Assignor"), and HAMPTON TIMBER, LLC, an Oregon limited liability company ("Assignee"). This Assignment is entered into as required to effectuate the closing of the purchase and sale transaction pursuant to that certain Purchase and Sale Agreement dated June 23, 2023 ("Purchase Agreement"), by and between Assignor, as Seller, and Assignee, as Purchaser. Unless otherwise defined herein, capitalized terms used in this Assignment shall have the meanings ascribed to them in the Purchase Agreement.

### **SECTION 1. ASSIGNMENT AND ASSUMPTION**

To the extent transferable under applicable law and applicable to the Property, Assignor hereby transfers, sells and assigns to Assignee all of Assignor's right, title and interest in and to the Personal Property, Unrecorded Agreements, Real Property Leases, Forestry Permits, Assumed Condemnations, and the Continuing Obligations (the "Assigned Interests"). To the extent transferable under applicable law and applicable to the Property, Assignee hereby accepts the foregoing transfer and assignment and agrees to assume and perform all of the obligations of Assignor under the Assigned Interests first occurring and arising from and after the Effective Date.

### **SECTION 2. INDEMNITY**

Assignor hereby agrees to defend, indemnify, and hold Assignee harmless from and against any and all losses, claims, demands, liabilities, damages, costs, and expenses (including, without limitation, reasonable attorneys' and accountants' fees, court costs, and expert witnesses' fees) first occurring and arising under any of the Assigned Interests prior to the date of this Assignment. Assignee hereby agrees to defend, indemnify, and hold Assignor harmless from and against any and all losses, claims, demands, liabilities, damages, costs, and expenses (including, without limitation, reasonable attorneys' and accountants' fees, court costs, and expert witnesses' fees) first occurring and arising under any of the Assigned Interests on or after the date of this Assignment.

### **SECTION 3. MISCELLANEOUS**

This Assignment shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns and may be executed in multiple counterparts, each of which when so executed shall be deemed an original, but all such counterparts shall constitute one and the same instrument. This Assignment and the Purchase Agreement contain the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements with respect thereto. This Assignment shall be governed by and construed in accordance with the laws of the State of Oregon (without regard to the principles thereof relating to conflicts of laws).

*[Signatures on following page(s).]*



IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first above written.

**ASSIGNOR:**

AP TIMBER, LLC,  
a Delaware limited liability company

By: Manulife Investment Management  
Timberland and Agriculture Inc, a Delaware  
corporation, its Advisor

By:   
Name: Derek K. Solmie  
Title: Director

**ASSIGNEE:**

HAMPTON TIMBER, LLC,  
an Oregon limited liability

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first above written.

**ASSIGNOR:**

APTIMBER, LLC,  
a Delaware limited liability company

By: Manulife Investment Management  
Timberland and Agriculture Inc, a Delaware  
corporation, its Advisor

By: \_\_\_\_\_  
Name: Derek K. Solmie  
Title: Vice President

**ASSIGNEE:**

HAMPTON TIMBER, LLC,  
an Oregon limited liability

By:   
Name: Brian Vetrone  
Title: Vice President – Finance & Treasurer

After Recording Return To:

Hampton Timber, LLC  
c/o Hampton Resources, Inc.  
9600 SW Barnes Road, Suite 200  
Portland, Oregon 97225

UNTIL A CHANGE IS REQUESTED,  
ALL TAX STATEMENTS SHALL BE  
SENT TO:

Hampton Timber, LLC  
c/o Hampton Resources, Inc.  
9600 SW Barnes Road, Suite 200  
Portland, Oregon 97225

RECORDED IN POLK COUNTY  
Valerie Unger, County Clerk

2023-006222

08/16/2023 12:12:01 PM

REC-WD Cnt=1 Stn=7 V. UNGER  
\$90.00 \$11.00 \$10.00 \$60.00 \$5.00

\$176.00

### SPECIAL WARRANTY DEED

AP TIMBER, LLC, a Delaware limited liability company ("**Grantor**"), with an address at c/o Manulife Investment Management Timberland and Agriculture Inc, 197 Clarendon Street, C-08-99, Boston, Massachusetts, 02116-5010, conveys and specially warrants to HAMPTON TIMBER, LLC, an Oregon limited liability company ("**Grantee**"), with an address at c/o Hampton Resources, Inc., 9600 SW Barnes Road, Suite 200, Portland, Oregon 97225 the real property described on Exhibit A attached hereto (the "**Property**"), free of liens and encumbrances created or suffered by Grantor.

The Property is conveyed by Grantor and accepted by Grantee subject to those matters described on Exhibit B attached hereto.

The true consideration for this conveyance is \$108,624,605.77.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF

NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

[Remainder of Page Intentionally Left Blank; Signature and Acknowledgement Appear on the  
Following Page]

DATED effective as of August 10, 2023.

GRANTOR:

AP TIMBER, LLC,  
a Delaware limited liability company

By: Manulife Investment Management  
Timberland and Agriculture Inc, a Delaware  
corporation, its Advisor

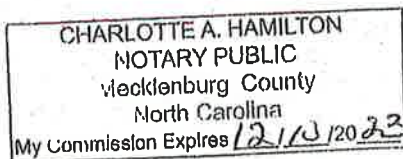
By: [Signature]  
Name: Derek K. Solmie  
Title: Director

STATE OF NORTH CAROLINA )

COUNTY OF MECKLENBURG )

On this 10~~th~~ day of August, 2023, before me, the undersigned, a Notary Public in and for the state of North Carolina, duly commissioned and sworn, personally appeared Derek K. Solmie, known to be the Director of Manulife Investment Management Timberland and Agriculture Inc, a Delaware corporation and advisor to AP Timber, LLC, a Delaware limited liability company, the company that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of that company for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the instrument on behalf of the company.

WITNESS my hand and official seal hereto affixed the day and year first above written.



[Signature]  
Print Name: CHARLOTTE A HAMILTON  
NOTARY PUBLIC for the State of North Carolina  
My Commission Expires: 12/10/2023

## **EXHIBIT A**

### **Legal Description of the Property**

PARCEL 1: (ACCOUNT NO.: 319490, MAP NO.: 087000003501)

BEGINNING AT THE QUARTER CORNER BETWEEN SECTIONS 22 AND 27, TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON; THENCE WEST TO THE CENTER OF THE LITTLE LUCKIAMUTE RIVER; THENCE NORTHEASTERLY ALONG THE CENTER LINE OF SAID RIVER TO THE NORTH-SOUTH CENTER LINE OF SECTION 22; THENCE SOUTH ALONG SAID CENTER LINE TO THE PLACE OF BEGINNING.

PARCEL 2: (ACCOUNT NO.: 319825, MAP NO.: 088000001501)

THE NORTH HALF OF THE SOUTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

TOGETHER WITH A PERPETUAL NON-EXCLUSIVE EASEMENT OVER THE EXISTING ACCESS ROAD, AS IT IS NOW LOCATED, OR MAY BE RELOCATED FROM TIME TO TIME, SERVING THE PROPERTY OVER LANDS OWNED BY MERIWETHER NORTHWEST OREGON LAND & TIMBER, LLC AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED APRIL 30, 2008 IN DOCUMENT NO. 2008-005597, BOOK OF RECORDS FOR POLK COUNTY, OREGON.

PROPERTIES BURDENED BY THE EASEMENT ARE LOCATED IN SECTIONS 31, 32 AND 33, TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, SECTIONS 22, 27, 28, 34 AND 35, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, SECTION 6, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, AND SECTIONS 1 AND 2, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO TOGETHER WITH RIGHTS OF ACCESS CREATED BY THE EASEMENT AGREEMENT FOR RIGHT OF WAY AND ROAD USE CREATED BY INSTRUMENT, INCLUDING THE TERMS AND PROVISIONS THEREOF, BETWEEN BOISE CASCADE CORPORATION, WILLAMETTE INDUSTRIES, AND RICHARDSON COMPANY OF OREGON, RECORDED JULY 18, 1985 IN BOOK 188, PAGE 380, BOOK OF RECORDS FOR POLK COUNTY OREGON AND RIGHT OF WAY AND ROAD USE AGREEMENT, INCLUDING THE TERMS AND PROVISIONS THEREOF, BETWEEN UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT, AND BOISE CASCADE CORPORATION, RECORDED JULY 15, 1973 IN BOOK 39, PAGE 720, BOOK OF RECORDS FOR POLK COUNTY, OREGON.

ALSO TOGETHER WITH A RIGHT OF WAY TO USE ALL EXISTING ROADS AS SET FORTH IN RECIPROCAL RIGHT OF WAY AGREEMENT RECORDED NOVEMBER 18, 2008 IN DOCUMENT NO. 2008-013540, BOOK OF RECORDS IN POLK COUNTY, OREGON.

PARCEL 3: (ACCOUNT NO.: 319838, MAP NO.: 088000001502)



THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

TOGETHER WITH A PERPETUAL NON-EXCLUSIVE EASEMENT OVER THE EXISTING ACCESS ROAD, AS IT IS NOW LOCATED, OR MAY BE RELOCATED FROM TIME TO TIME, SERVING THE PROPERTY OVER LANDS OWNED BY MERIWETHER NORTHWEST OREGON LAND & TIMBER, LLC AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED APRIL 30, 2008 IN DOCUMENT NO. 2008-005597, BOOK OF RECORDS FOR POLK COUNTY, OREGON.

PROPERTIES BURDENED BY THE EASEMENT ARE LOCATED IN SECTIONS 31, 32 AND 33, TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, SECTIONS 22, 27, 28, 34 AND 35, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, SECTION 6, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, AND SECTIONS 1 AND 2, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 4: (ACCOUNT NO.: 298685, MAP NO.: 088000002500)

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 5: (ACCOUNT NO.: 453248, MAP NO.: 096190000200)

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 6: (ACCOUNT NO.: 184692, MAP NO.: 096300000300)

THE DONATION LAND CLAIM OF EDWARD B WATERS AND SARAH WATERS, HIS WIFE, BEING NOTIFICATION NO 5420, DESCRIBED AS THE NORTHWEST QUARTER AND THE NORTH HALF (N1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

SAVE AND EXCEPT THEREFROM THE FOLLOWING:

BEGINNING 80 RODS NORTH OF THE SOUTHWEST CORNER OF SAID SECTION 30, TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN; THENCE RUNNING NORTH 42 RODS AND 7 LINKS; THENCE SOUTH 87-3/4° EAST, 29 RODS AND 16 LINKS; THENCE SOUTH 19-1/2° EAST 9 RODS AND 24 LINKS; THENCE NORTH 75-3/4° EAST 64 RODS AND 3 LINKS; THENCE SOUTH 47 RODS AND 13 LINKS; THENCE WEST 95 RODS AND 1 LINK TO THE PLACE OF BEGINNING.

ALSO EXCEPT:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 30 IN TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON, AND

RUNNING THENCE NORTH 0° 27' EAST 798.3 FEET TO AN IRON PIN; THENCE NORTH 75° 52' EAST 326.8 FEET TO A POINT IN THE COUNTY ROAD; THENCE SOUTH 20° 36' EAST 426.2 FEET; THENCE SOUTH 10° 12' EAST 381.6 FEET; THENCE SOUTH 21° 39' EAST 117.3 FEET TO THE SOUTH LINE OF SAID NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 30; THENCE NORTH 89° 26' WEST 548.8 FEET TO THE PLACE OF BEGINNING.

ALSO SAVE AND EXCEPT:

BEGINNING AT A POINT 793.0 FEET EAST FROM THE NORTHWEST CORNER OF SECTION 30 IN TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON, AND RUNNING THENCE EAST 469.0 FEET TO A POINT IN THE COUNTY ROAD; THENCE SOUTH 182.0 FEET; THENCE SOUTH 60° WEST 250.0 FEET; THENCE NORTH 39° 26' WEST 397.5 FEET TO THE PLACE OF BEGINNING EXCEPTING A RIGHT OF WAY EASEMENT OVER THE EXISTING AND PRESENTLY TRAVELED ROADWAY.

ALSO SAVE AND EXCEPT:

BEGINNING AT A POINT 793.0 FEET EAST FROM THE NORTHWEST CORNER OF SECTION 30 IN TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, AND RUNNING THENCE SOUTH 39° 26' EAST 397.5 FEET; THENCE NORTH 60° EAST 250 FEET; THENCE SOUTH 72 FEET; THENCE SOUTH 65° WEST 300 FEET; THENCE NORTH 30° WEST 452 FEET TO THE PLACE OF BEGINNING.

ALSO EXCEPTING THEREFROM:

BEGINNING AT A POINT WHICH IS NORTH 44° 50' 45" EAST, 1306.50 FEET FROM THE WEST QUARTER (W1/4) CORNER OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON; THIS POINT BEING AN OLD TRUCK AXLE DRIVEN INTO THE GROUND; THENCE NORTH 78° 47' EAST 807.6 FEET TO A TRUCK AXLE AT THE EDGE OF BURBANK COUNTY ROAD RIGHT OF WAY; THENCE ALONG RIGHT OF WAY NORTH 21° 40' WEST 186.2 FEET; THENCE STILL ALONG RIGHT OF WAY NORTH 02° 47' EAST 143.5 FEET TO A TRUCK AXLE; THENCE SOUTH 79° 25-1/2' WEST 735.6 FEET TO A TRUCK AXLE; THENCE SOUTH 01° 20' WEST, 338.50 FEET TO THE POINT OF BEGINNING.

ALSO SAVE AND EXCEPT:

BEGINNING AT A POINT WHICH IS NORTH 54° 18' 56" EAST 1,808.6 FEET FROM THE WEST QUARTER CORNER SECTION 30, TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON; THIS POINT BEING THE INTERSECTION OF A FENCE LINE AND A CREEK, MARKED BY A 1" IRON PIPE DRIVEN INTO THE GROUND; THENCE SOUTH 01° 49' 13" WEST 1,092.6 FEET WHICH IS A POINT IN THE CENTER OF THE CREEK; THENCE SOUTH 71° 47' 42" WEST 23.7 FEET ALONG THE CENTER LINE OF THE CREEK; THENCE SOUTH 27° 12' 41" WEST 91.2 FEET ALONG THE CENTER LINE OF THE CREEK; THENCE SOUTH 23° 05' 48" EAST 450.2 FEET TO A POINT ON THE FENCE LINE NORTH OF THE ROAD MARKED BY A 1" IRON PIPE, AND HENCEFORTH FOLLOWING AN EXISTING FENCE LINE MORE PARTICULARLY DESCRIBED AS FOLLOWS: NORTH 85° 15' 39" EAST 135.6



FEET; THENCE NORTH 76° 17' 25" EAST 217.6 FEET WHICH IS A FENCE CORNER WORKED BY A 1" IRON PIPE; THENCE NORTH 5° 14' 00" EAST 107.4 FEET; THENCE NORTH 14° 14' 00" EAST 162.3 FEET; THENCE NORTH 01° 12' 27" WEST 132.9 FEET; THENCE NORTH 18° 32' 42" EAST 164.4 FEET; THENCE NORTH 15° 42' 15" EAST 274.1 FEET, THENCE NORTH 00° 03' 37" WEST 95.0 FEET; THENCE NORTH 12° 15' 10" WEST 40.5 FEET, THENCE NORTH 36° 09' 29" WEST 35.4 FEET; THENCE NORTH 30° 05' 42" WEST 572.4 FEET; THENCE NORTH 26° 38' 47" WEST 94.8 FEET WHICH IS A TRUCK AXLE DRIVEN INTO THE GROUND; THENCE SOUTH 76° 47' 00" WEST 244.9 FEET TO THE POINT OF BEGINNING, ALL IN SECTION 30, TOWNSHIP 9 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO SAVE AND EXCEPT:

A PORTION OF THAT TRACT OF LAND CONVEYED TO BOISE CASCADE CORPORATION PER VOLUME 217, PAGE 455, POLK COUNTY BOOK OF RECORDS, LYING IN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 6 WEST, WILLAMETTE MERIDIAN, POLK COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A 1" IRON PIPE AT THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO GERALD P. WEISENSEE AND JEAN M. WEISENSEE, TRUSTEES UNDER THE GERALD P WEISENSEE LIVING TRUST DATED APRIL 6, 1990 PER POLK COUNTY BOOK OF RECORDS 324, PAGE 1409, SAID PIPE LYING SOUTH 71° 15' 18" EAST 1600.66 FEET FROM AN ALUMINUM PIPE AT THE WEST QUARTER CORNER OF SAID SECTION 30; THENCE ALONG THE SOUTH LINE OF SAID WEISENSEE TRACT NORTH 85° 24' 37" EAST 135.25 FEET; THENCE CONTINUING ALONG SAID SOUTH LINE NORTH 76° 26' 23" EAST 217.04 FEET TO A 1" PIPE AT THE SOUTHEAST CORNER THEREOF; THENCE LEAVING SAID SOUTH LINE, SOUTH 68° 21' 59" EAST 28.58 FEET TO THE NORTHEAST CORNER OF THAT TRACT OF LAND CONVEYED TO EUGENE J. AND BETTY L. MAY PER VOLUME 134, PAGE 331, SAID BOOK OF RECORDS, SAID NORTHEAST CORNER LYING IN THE CENTERLINE OF COUNTY ROAD NO 965 (BURBANK ROAD); THENCE LEAVING SAID CENTERLINE ALONG THE NORTH LINE OF SAID MAY TRACT SOUTH 75° 58' 09" WEST 328.61 FEET TO THE NORTHWEST CORNER THEREOF, LYING ON THE EAST LINE OF THAT TRACT OF LAND CONVEYED TO WEISENSEE/ GRAHAM, INC PER VOLUME 235, PAGE 2005, SAID BOOK OF RECORDS, THENCE ALONG SAID EAST LINE NORTH 0° 05' 05" WEST 12.04 FEET TO THE NORTHEAST CORNER OF SAID WEISENSEE/GRAHAM TRACT, THENCE ALONG THE NORTH LINE OF SAID WEISENSEE/GRAHAM TRACT SOUTH 75° 18' 23" WEST 55.37 FEET TO A 5/8" IRON ROD; THENCE LEAVING SAID NORTH LINE NORTH 00° 05' 05" WEST 30.70 FEET TO THE POINT OF BEGINNING.

ALSO SAVE AND EXCEPT:

THAT PORTION CONVEYED TO MICHAEL A. SCHOLZ AND JONI O. SCHOLZ BY DEED RECORDED DECEMBER 15, 2008, DOCUMENT NO. 2008-14251 AND RE-RECORDED SEPTEMBER 9, 2009, DOCUMENT NO. 2009-10664 AND RE-RECORDED NOVEMBER 19, 2009, DOCUMENT NO. 2009-13349.

ALSO SAVE AND EXCEPT:

Special Warranty Deed (Polk County, Oregon)

Exhibit A – Page 4

A PORTION OF THAT TRACT CONVEYED TO BOISE NORTHWEST OREGON LAND & TIMBER, LLC PER DOCUMENT 2005-001610, POLK COUNTY RECORDS, LYING IN THE WEST HALF OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 6 WEST, WILLAMETTE MERIDIAN, POLK COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 16" DOUGLAS FIR TREE WITH A 5/8" IRON ROD WITNESS CORNER NORTH 65°43'57" EAST 3.00 FEET, SAID TREE LYING SOUTH 89° 16' 03" EAST 793.00 FEET, SOUTH 29° 16' 03" EAST 452.00 FEET AND SOUTH 8° 58' 06" WEST 71.73 FEET FROM A BRASS CAPPED MONUMENT AT THE NORTHWEST CORNER OF SAID SECTION 30; THENCE NORTH 65° 43' 57" EAST 413.40 FEET TO THE CENTERLINE OF COUNTY ROAD NO. 9605 (BURBANK ROAD); THENCE ALONG SAID CENTERLINE BY THE FOLLOWING COURSES: SOUTH 50° 41' 34" EAST 173.57 FEET; THENCE SOUTH 6° 39' 22 EAST 136.91 FEET; THENCE SOUTH 5° 18' 30" WEST 251.13 FEET; THENCE SOUTH 9° 24' 03" EAST 146.03 FEET; THENCE SOUTH 18° 41' 19" EAST 244.59 FEET; THENCE LEAVING SAID CENTERLINE, SOUTH 76° 42' 05" WEST 765.08 FEET TO A1-1/2" AXLE; THENCE NORTH 8° 58' 06" EAST 888.69 FEET TO THE POINT OF BEGINNING, CONTAINING 12.03 ACRES, MORE OR LESS.

ALSO SAVE AND EXCEPT:

A PORTION OF THAT TRACT CONVEYED TO BOISE NORTHWEST OREGON LAND & TIMBER, LLC PER DOCUMENT 2005-001610, POLK COUNTY RECORDS, LYING IN THE WEST HALF OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 6 WEST, WILLAMETTE MERIDIAN, POLK COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A1-1/2" AXLE AT THE SOUTHWEST CORNER OF THAT TRACT CONVEYED TO MICHAEL A. SCHOLZ AND JOAN M. SCHOLZ PER VOLUME 280, PAGE 1593, POLK COUNTY BOOK OF RECORDS, LYING SOUTH 89° 16' 03" EAST 793.00 FEET, SOUTH 29° 16' 03" EAST 452.00 FEET, SOUTH 8° 58' 06" WEST 960.43 FEET, AND SOUTH 2° 13' 56" EAST 345.82 FEET FROM A BRASS CAPPED MONUMENT AT THE NORTHWEST CORNER OF SAID SECTION 30, THENCE ALONG THE SCHOLZ SOUTH LINE, NORTH 76° 56' 36" EAST 562.56 FEET TO A POINT IN CLAYTON CREEK AT THE NORTHWEST CORNER OF THAT TRACT CONVEYED TO GERALD P. WEISENSEE AND JEAN M. WEISENSEE PER VOLUME 324, PAGE 1409, SAID BOOK OF RECORDS, LYING NORTH 1° 52' 32" EAST 6.00 FEET FROM A 5/8" IRON ROD WITNESS CORNER; THENCE ALONG THE WEISENSEE WEST LINE BY THE FOLLOWING COURSES: SOUTH 1° 52' 32" WEST 1091.42 FEET; THENCE SOUTH 71° 50' 03" WEST 23.70 FEET; THENCE SOUTH 27° 15' 02" WEST 91.20 FEET; THENCE SOUTH 23° 03' 00" EAST 450.36 FEET TO A1" IRON PIPE AT THE WEISENSEE SOUTHWEST CORNER; THENCE LEAVING SAID WEST LINE, NORTH 52° 50' 56" WEST 91.79 FEET TO A 5/8" IRON ROD; THENCE NORTH 37° 46' 47" WEST 787.89 FEET TO A 5/8" IRON ROD; THENCE NORTH 6° 08' 42" WEST 172.49 FEET TO A 5/8" IRON ROD; THENCE NORTH 14° 15' 26" WEST 312.80 FEET TO A 5/8" IRON ROD; THENCE NORTH 4° 55' 02" EAST 314.95 TO THE POINT OF BEGINNING, CONTAINING 13.14 ACRES, MORE OR LESS.

PARCEL 7: (ACCOUNT NO.: 153856, MAP NO.: 097000000700)

GOVERNMENT LOTS 3 AND 4 AND THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 8: (ACCOUNT NO.: 153872, MAP NO.: 097000001200)

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO:

ALL OF SECTION 16, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

SAVE AND EXCEPT THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 16.

PARCEL 9: (ACCOUNT NO.: 302470, MAP NO.: 097000002400)

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 10: (ACCOUNT NO.: 302483, MAP NO.: 097000002700)

THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 11: (ACCOUNT NO.: 153939, MAP NO.: 097000003300)

THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 12: (ACCOUNT NO.: 153942, MAP NO.: 097000003400)

THE EAST ONE-HALF OF THE EAST ONE-HALF OF SECTION 26, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 13: (ACCOUNT NO.: 185714, MAP NO.: 097000003500)

THE NORTHEAST QUARTER AND THE SOUTH ONE-HALF OF SECTION 24, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 14: (ACCOUNT NO.: 153955, MAP NO.: 097000003900)

THE EAST ONE-HALF OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.



PARCEL 15: (ACCOUNT NO.: 298713, MAP NO.: 097000004200)

GOVERNMENT LOT 4 IN SECTION 30, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 16: (ACCOUNT NO.: 153971, MAP NO.: 097000004500)

GOVERNMENT LOTS 4 AND 5 IN SECTION 32, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 17: (ACCOUNT NO.: 302496, MAP NO.: 097000004800)

THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 18: (ACCOUNT NO.: 153984, MAP NO.: 097000005000)

THE SOUTHEAST QUARTER, THE EAST ONE-HALF OF THE SOUTHWEST QUARTER, THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 35, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 19: (ACCOUNT NO.: 185602, MAP NO.: 097250000100)

THE EAST ONE-HALF OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 20: (ACCOUNT NO.: 185615, MAP NO.: 097250000400)

THE NORTHWEST QUARTER AND THE WEST ONE-HALF OF THE NORTHEAST QUARTER IN SECTION 25, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 21: (ACCOUNT NO.: 185628, MAP NO.: 097250000500)

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON; RUNNING THENCE EAST 100 FEET; THENCE NORTH 436 FEET; THENCE WEST 100 FEET; THENCE SOUTH 436 FEET TO THE PLACE OF BEGINNING.

PARCEL 22: (ACCOUNT NO.: 185660, MAP NO.: 097360000300)

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 36, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON, AND RUNNING NORTH ALONG THE SECTION LINE 25.00 CHAINS; THENCE EAST 16.00

CHAINS; THENCE SOUTH 16.13 CHAINS TO THE SOUTH BOUNDARY OF COUNTY ROAD NO 976; THENCE IN AN EASTERLY DIRECTION ALONG THE SOUTH BOUNDARY OF SAID ROAD TO A POINT WHICH IS 6.78 CHAINS NORTH AND 38.31 CHAINS WEST OF THE SOUTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH

6.78 CHAINS TO A POINT ON THE SOUTH LINE OF SAID SECTION 36; THENCE WEST ALONG THE SECTION LINE 41.69 CHAINS TO THE POINT OF BEGINNING.

SAVE AND EXCEPT:

BEGINNING AT A POINT ON THE SOUTH BOUNDARY OF COUNTY ROAD 976, SAID POINT BEING 6.78 CHAINS NORTH AND 38.31 CHAINS WEST OF THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 9 SOUTH, RANGE 7 WEST, WILLAMETTE MERIDIAN; THENCE SOUTH 6.78 CHAINS TO A POINT ON THE SOUTH LINE OF SECTION 36; THENCE WEST 11.69 CHAINS; THENCE NORTH TO THE SOUTH BOUNDARY OF COUNTY ROAD 976; THENCE EAST ALONG SOUTH BOUNDARY OF COUNTY ROAD 976 TO POINT OF BEGINNING.

ALSO:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE EAST ALONG THE SECTION LINE 3630 FEET (55 CHAINS) TO AN IRON PIPE; THENCE SOUTH 2468.4 FEET (37.40 CHAINS) TO AN IRON PIPE AT THE NORTHWEST CORNER OF THE JOSEPH EDWARDS DONATION LAND CLAIM NO. 37; THENCE 468 FEET WEST TO AN IRON PIPE; THENCE SOUTH 29°45' WEST 855 FEET TO AN IRON PIPE WHICH IS 3 FEET NORTHEASTERLY FROM THE EASTERLY EDGE OF THE EAST FORK OF THE OLD SIMPSON LOGGING ROAD; THENCE ALONG EDGE OF SAID ROAD SOUTH 40° 15' EAST 406 FEET TO A POINT WHICH IS 3 FEET NORTHEASTERLY OF SAID EASTERLY EDGE OF ROAD; THENCE CONTINUING ALONG SAID ROAD SOUTH 55° EAST 200 FEET TO A POINT WHICH IS 3 FEET NORTHEASTERLY FROM THE EASTERLY EDGE OF SAID ROAD; THENCE SOUTH 49°30' EAST 265 FEET ALONG SAID ROAD TO AN IRON PIPE WHICH IS 33 FEET NORTHEASTERLY FROM THE EASTERLY EDGE OF SAID ROAD AND APPROXIMATELY 40 FEET SOUTH OF A JUNCTION OF EAST AND WEST FORKS OF SAID ROAD; THENCE SOUTH 12° 30' EAST 126 FEET TO A POINT WHICH IS 27 FEET EASTERLY FROM EASTERLY EDGE OF SAID ROAD; THENCE SOUTH 8° 45' WEST 159 FEET TO A POINT WHICH IS 21 FEET EASTERLY FROM THE EASTERLY EDGE OF SAID ROAD; THENCE SOUTH 16° EAST 346 FEET TO A POINT WHICH IS 19 FEET EASTERLY FROM THE EASTERLY EDGE OF SAID ROAD; THENCE SOUTH 36° EAST 138 FEET TO AN IRON PIPE WHICH IS 20 FEET NORTH FROM THE CENTERLINE OF POLK COUNTY ROAD NO. 976 AND APPROXIMATELY 22 FEET EAST FROM THE JUNCTION OF THE CENTERLINE OF SAID COUNTY ROAD AND THE OLD SIMPSON LOGGING ROAD; THENCE WESTERLY ALONG THE NORTH BOUNDARY OF THE RIGHT OF WAY OF SAID COUNTY ROAD NO. 976 FOR A DISTANCE OF APPROXIMATELY 2650 FEET TO A POINT AT THE JUNCTION OF SAID RIGHT OF WAY WITH THAT PROPERTY OWNED BY LEADBETTER LOGGING & LUMBER CO., THENCE NORTH 1014.42 FEET (15.37 CHAINS) ALONG SAID LEADBETTER BOUNDARY TO A POINT; THENCE WEST 1056 FEET (16 CHAINS) ALONG THE LEADBETTER BOUNDARY TO A POINT ON THE WEST SECTION LINE OF SAID SECTION 36 (SAID POINT IS 25 CHAINS NORTH OF THE SOUTHWEST CORNER OF SAID SECTION); THENCE NORTH 3630 FEET (55 CHAINS) ALONG THE SECTION LINE TO THE POINT OF BEGINNING.

PARCEL 23: (ACCOUNT NO.: 298841, MAP NO.: 098000001900)

ALL OF SECTION 25, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO:

THE NORTH ONE-HALF OF THE NORTH ONE-HALF OF SECTION 36, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 24: (ACCOUNT NO. 576008, MAP NO.: 098000000101)

GOVERNMENT LOTS 1, 2, 3 AND 4 AND THE SOUTH ONE-HALF OF THE NORTH ONE-HALF OF SECTION 1, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 25: (ACCOUNT NO. 576009, MAP NO.: 098000000201)

THE SOUTH ONE-HALF OF SECTION 1, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 26: (ACCOUNT NO. 576010, MAP NO.: 098000000503)

THE EAST ONE-HALF OF SECTION 19, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO:

THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER, OF SECTION 20, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO:

THE NORTH ONE HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 27: (ACCOUNT NO. 574926, MAP NO.: 097000001001)

THE SOUTHEAST ONE-QUARTER OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, IN POLK COUNTY, OREGON.

PARCEL 28: (ACCOUNT NO. 576000, MAP NO.: 088000001406)

SECTION 27, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

EXCEPTING THEREFROM THE SOUTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER.

ALSO:

THE WEST HALF OF THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22,

TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

TOGETHER WITH A PERPETUAL NON-EXCLUSIVE EASEMENT OVER THE EXISTING ACCESS ROAD, AS IT IS NOW LOCATED, OR MAY BE RELOCATED FROM TIME TO TIME, SERVING THE PROPERTY OVER LANDS OWNED BY MERIWETHER NORTHWEST OREGON LAND & TIMBER, LLC AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED APRIL 30, 2008, IN DOCUMENT NO. 2008-005597, BOOK OF RECORDS FOR POLK COUNTY, OREGON.

PROPERTIES BURDENED BY THE EASEMENT ARE LOCATED IN SECTIONS 31, 32 AND 33, TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, SECTIONS 22, 27, 28, 34 AND 35, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, SECTION 6, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, AND SECTIONS 1 AND 2, TOWNSHIP 9 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO TOGETHER WITH RIGHTS OF ACCESS CREATED BY THE EASEMENT AGREEMENT FOR RIGHT OF WAY AND ROAD USE CREATED BY INSTRUMENT, INCLUDING THE TERMS AND PROVISIONS THEREOF, BETWEEN BOISE CASCADE CORPORATION, WILLAMETTE INDUSTRIES AND RICHARDSON COMPANY OF OREGON, RECORDED JULY 18, 1985, IN BOOK 188, PAGE 380, BOOK OF RECORDS FOR POLK COUNTY, OREGON, AND RIGHT OF WAY AND ROAD USE AGREEMENT, INCLUDING THE TERMS AND PROVISIONS THEREOF, BETWEEN UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT, AND BOISE CASCADE CORPORATION, RECORDED JULY 15, 1973, IN BOOK 39, PAGE 720, BOOK OF RECORDS FOR POLK COUNTY, OREGON.

ALSO TOGETHER WITH A RIGHT OF WAY TO USE ALL EXISTING ROADS AS SET FORTH IN RECIPROCAL RIGHT OF WAY AGREEMENT RECORDED NOVEMBER 18, 2008, IN DOCUMENT NO. 2008-013540, BOOK OF RECORDS IN POLK COUNTY, OREGON.

PARCEL 29: (ACCOUNT NOS. 574927, 576003 AND 576004, MAP NOS.: 097000001002, 097000001003 AND 097000001004)

THE NORTHWEST QUARTER AND THE SOUTH ONE-HALF OF SECTION 20, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO:

THE EAST ONE-HALF OF THE EAST ONE-HALF, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE WEST ONE HALF OF THE SOUTHEAST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER ALL IN SECTION 30, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

SAVE AND EXCEPT THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY,



OREGON.

PARCEL 30: (ACCOUNT NOS. 576001 AND 576002, MAP NOS.: 097000000603 AND 097000000604)

GOVERNMENT LOTS 1 AND 2, THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER AND THE SOUTH ONE-HALF, ALL IN SECTION 4, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO:

GOVERNMENT LOTS 1, 2 AND 3, THE EAST ONE-HALF OF THE NORTHWEST QUARTER, AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, ALL IN SECTION 30, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 31: (ACCOUNT NOS. 576006 AND 576007, MAP NOS.: 097000002005 AND 097000002006)

THE WEST ONE-HALF OF THE EAST ONE-HALF, THE EAST ONE-HALF OF THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE WEST ONE-HALF OF THE SOUTHWEST QUARTER, ALL IN SECTION 26, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO:

GOVERNMENT LOTS 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 AND 16, IN SECTION 32, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

ALSO:

THE NORTH ONE-HALF OF THE NORTH ONE-HALF, THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 33, TOWNSHIP 9 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

PARCEL 32: (ACCOUNT NO. 575996, MAP NO. 087000004003)

THE SOUTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 22, IN TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON.

ALSO:

THE NORTH ONE-HALF AND THE SOUTHWEST QUARTER OF SECTION 26, IN TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON.

ALSO:

ALL OF SECTION 27, IN TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON.



ALSO:

THE NORTHWEST QUARTER, AND THE NORTH ONE-HALF OF THE SOUTHWEST QUARTER OF SECTION 34, IN TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON.

ALSO:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, THE NORTH ONE HALF OF THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE NORTH ONE-HALF OF THE SOUTHWEST QUARTER, AND THE SOUTHEAST QUARTER, ALL IN SECTION 23, IN TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON.

SAVE AND EXCEPT THAT CERTAIN TRACT OF LAND CONVEYED TO WILLAMETTE VALLEY LUMBER COMPANY BY DEED RECORDED JULY 12, 1920 IN VOLUME 70, PAGE 500, DEED RECORDS FOR POLK COUNTY, OREGON.

ALSO, SAVE AND EXCEPT THAT PORTION OF THE ABOVE DESCRIBED TRACT LYING NORTHERLY AND WESTERLY OF THE CENTERLINE OF THE LITTLE LUCKIAMUTE RIVER, POLK COUNTY, OREGON.

ALSO: THE SOUTH ONE-HALF OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 8 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON.

SAVE AND EXCEPT THAT PORTION OF THE ABOVE DESCRIBED TRACT LYING NORTHERLY AND WESTERLY OF THE CENTERLINE OF THE LITTLE LUCKIAMUTE RIVER, POLK COUNTY, OREGON.

PARCEL 33: (ACCOUNT NO. 575998, MAP NO. 88000000606)

GOVERNMENT LOTS 1, 2, 3 AND 4; THE SOUTH HALF; AND THE SOUTH HALF OF THE NORTH HALF, ALL IN SECTION 5, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, IN POLK COUNTY, OREGON.

ALSO:

GOVERNMENT LOTS 1, 2, 3, 4, 5, 6, 7, 8, AND 9; THE SOUTHEAST QUARTER; AND THE SOUTH HALF OF THE NORTHEAST QUARTER, ALL IN SECTION 6, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, IN POLK COUNTY, OREGON.

ALSO:

ALL OF SECTION 8, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, IN POLK COUNTY, OREGON.

PARCEL 34: (ACCOUNT NO. 575977, MAP NO. 88000000603)

THE EAST HALF OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE WILLAMETTE MERIDIAN, IN POLK COUNTY, OREGON.

PARCEL 35: (ACCOUNT NO. 575999, MAP NO. 088000002102)

THE SOUTH HALF AND THE SOUTHWEST QUARTER OF THE NORTHEAST  
QUARTER OF SECTION 35, TOWNSHIP 8 SOUTH, RANGE 8 WEST OF THE  
WILLAMETTE MERIDIAN, IN POLK COUNTY, OREGON.

**END OF EXHIBIT A**

**EXHIBIT B**  
**Title Exceptions**

- (a) Restrictions on the ability to build upon or use the Property imposed by any current or future development standards, building or zoning ordinances or any other law;
- (b) Any subdivision or similar restriction arising under applicable law
- (c) To the extent a tract included in the Property is bounded or traversed by a river, stream, branch, lake or other water source:
  - (i) the rights, if any, of upper and lower riparian owners and the rights of others to navigate such river or stream;
  - (ii) the right, if any, of neighboring riparian owners and the public or others to use any public waters, and the right, if any, of the public to use the beaches or shores for recreational purposes or to gain access thereto;
  - (iii) any claim of lack of title to the Property formerly or presently comprising the shores or bottomland of navigable waters or as a result of the change in the boundary due to accretion or avulsion; and
  - (iv) any portion of the Property which is sovereignty lands or any other land that may lie within the bounds of navigable rivers as established by law;
- (d) To the extent any portion of the Property is bounded or traversed by a public road or maintained right of way, the rights of others, if any (whether owned in fee or by easement), in and to any portion of the Property that lies within such road or maintained right of way;
- (e) Railroad tracks and related facilities, if any (whether owned in fee or by easement), and related railroad easements or rights of way, if any, traversing the Property and the rights of railroad companies to any tracks, siding, ties and rails associated therewith;
- (f) Any restriction on the use of the Property due to environmental laws or conservation easements, provided that such conservation easements do not limit, prohibit, or restrict in any way commercial forestry, surface mining, and customary appurtenant uses;
- (g) Ad valorem property and other taxes (other than income taxes) that are not delinquent;
- (h) Any potential compensating, "roll back," additional or supplemental taxes that may result from a redesignation or reclassification of the Property by the applicable county tax assessor's office resulting (1) from the consummation of the transaction contemplated by the agreement pursuant to which this Deed is being recorded, or (2) any act or omission of Grantee at or after the closing pursuant to which this Deed is being recorded;

- (i) Liens for taxes not yet due and payable;
- (j) Easements, discrepancies or conflicts in boundary lines, shortages in area, vacancies, excesses, encroachments or any other facts that a current and accurate survey of the Property would disclose;
- (k) All oil, gas and other minerals or other substances of any kind or character as may have been previously reserved by or conveyed to others in instruments of record, and any leases of record concerning any of such oil, gas, other minerals or other substances in, on or under the Property;
- (l) Rights, if any, relating to the construction and maintenance in connection with any public utility of wires, poles, pipes, conduits and appurtenances thereto, currently located on, under, above or across the Property;
- (m) Reservations in federal patents and acts authorizing the same;
- (n) Indian treaty or aboriginal rights, including easements and equitable servitudes;
- (o) Matters affecting title that are disclosed to Grantee and deemed accepted by Grantee under the terms of any written agreement between Grantor and Grantee;
- (p) Rights of others under unrecorded agreements and real property leases that are expressly assumed by Grantee in writing upon the making of this Deed;
- (q) Rights of parties in possession of the Property;
- (r) Any claim of lack of access rights to fewer than 640 total acres within the Property where (i) permission to access has been granted orally or in writing or (ii) Grantor has otherwise historically enjoyed access;
- (s) Any condemnation in respect of the Property;
- (t) The following matters affecting the Property:
  - (i) The property lies within and is subject to the levies and assessments of the Polk Soil and Water Conservation District; and
  - (ii) Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing and the terms and conditions thereof: Grantor: AP Timber, LLC, a Delaware limited liability company, Trustee: First American Title Insurance Company, Beneficiary: Metropolitan Life Insurance Company, a New York corporation, dated: October 30, 2019, recorded: October 31, 2019, recording No.: 2019-012774.

**END OF EXHIBIT B**



# CONTRACT REVIEW SHEET

Staff Contact: Rosana Rivera Phone Number (Ext): 2550  
Department: Health Services Consent Calendar Date:  
Contractor Name: Yamhill County Care Organization, Inc.  
Address: 807 NE Third Street  
City, State, Zip: McMinnville, OR 97128  
Effective Dates - From: January 01, 2026 Through: December 31, 2026  
Contract Amount: \$353,298.24

## Background:

Yamhill County Care Organization, Inc. (YCCO) and Polk County have partnered to give Safety Net Services from BH and PH to YCCO members who are residents of Polk County. YCCO reimburses Polk County on PMPM encounter rate for said safety net services and FFS basis at DMAP rates+30% for other billable services.

## Discussion:

Third Amendment to Agreement No. 23-40 with Yamhill County Care Organization (YCCO) for service access to their enrolled members extends the current agreement an additional 12 months and sets a new term date of 12/31/26. This amendment also lessens the annual budget due to decreased membership in the Polk County area that went from 2508 to 2382 for a total budget decrease of \$18,688.32. No PMPM rate change or other language change noted.

## Fiscal Impact:

This amendment awards \$353,298.24 for the next calendar year. It is expected that revenue from this amendment will cover expenses incurred to provide Safety Net Services to YCCO members living in Polk County.

## Recommendation:

It is recommended that Polk County sign this third amendment with Yamhill County Care Organization, Inc.

Copies of signed contract should be sent to the following:

Name: Rosana Rivera E-mail: hs.contracts@co.polk.or.us  
Name: E-mail:

**THIRD AMENDMENT TO THE LOCAL MENTAL HEALTH AUTHORITY,  
LOCAL PUBLIC HEALTH AUTHORITY COORDINATED CARE ORGANIZATION  
AGREEMENT**

This Third Amendment to the Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement (this “Third Amendment”) dated this January 1<sup>st</sup>, 2026, is entered by and between Yamhill County Care Organization, Inc. dba Yamhill Community Care (“YCCO”) and Polk County, acting by and through its Department of Health and Human Services (“County”).

**RECITALS:**

- A. YCCO and the County entered into a Local Mental Health Authority; Local Public Health Authority Coordinated Care Organization Agreement dated January 1<sup>st</sup>, 2023.
- B. The purpose of this Third Amendment is to amend the Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement effective January 1<sup>st</sup>, 2026.
- C. Capitalized terms used in this Third Amendment, but not otherwise defined in this Third Amendment, shall have the same meaning as those in the Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement (and corresponding amendments) and the CCO Contract, in that order of priority.

NOW THEREFORE, for good and valuable consideration, the parties agree as follows:

- 1. Effective Date. The Effective Date of this Third Amendment shall be January 1<sup>st</sup>, 2026.
- 2. Term. The Term of this Third Amendment shall be December 31<sup>st</sup>, 2026.
- 3. Modifications. The original Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement is hereby amended, modified, and supplemented as set forth in this Third Amendment and incorporated herein by this reference.
- 4. Ratification. Except as expressly amended in writing and signed by both parties, the Local Mental Health Authority, Local Public Health Authority Coordinated Care Organization Agreement is hereby ratified and affirmed and shall remain in full force and effect according to its terms.

## Attachment C Compensation

**Rates below reflect the amounts YCCO is to pay to Polk County effective 1/1/2026. Payment structure shall be a flat monthly rate for Polk County residents only. These amounts include:**

| Category                                                                                                       | PMPM           | Membership | Annual Budget       | Monthly Payment    |
|----------------------------------------------------------------------------------------------------------------|----------------|------------|---------------------|--------------------|
| LMHA/CMHP Safety Net (ORS 430.630 and 414.153 (4) LMHA/CMHP required functions and outlined in this agreement) | \$10.27        | 2,382      | \$293,557.68        | \$24,463.14        |
| Mobile Crisis                                                                                                  | \$0.60         |            | \$17,150.40         | \$1,429.20         |
| Peer/Community Services                                                                                        | \$0.52         |            | \$14,863.68         | \$1,238.64         |
| Public Health                                                                                                  | \$0.59         |            | \$16,864.56         | \$1,405.38         |
| CHA/CHIP                                                                                                       | \$0.19         |            | \$5,430.96          | \$452.58           |
| Administration fee                                                                                             | \$0.19         |            | \$5,430.96          | \$452.58           |
| <b>Total</b>                                                                                                   | <b>\$12.36</b> |            | <b>\$353,298.24</b> | <b>\$29,441.52</b> |

The above stated monthly rate does not prohibit the Fee-For-Service billing of covered outpatient services, provided to YCCO members, that fall outside the activities and programs outlined above.

**Behavioral Health Services Rates** – Reimbursement will be at one hundred percent (100%) of the current Oregon Medicaid Fee-for-Service (FFS) Schedule.

### **Increased Payments for Team-Based High Acuity Medicaid Providers:**

Subject to the criteria below, YCCO will reimburse Participating Provider at ten percent (10%) above current Oregon Medicaid fee-for-service (FFS). Note that Healthier Oregon Program (HOP) members are excluded from the increased payments listed below.

Participating Provider will be deemed to be a Team-Based High Acuity Medicaid Provider (“TBHA Medicaid Provider”) provided it meets one of the following criteria:

- A. A Community Mental Health Program providing one or more of the following services or programs: Assertive Community Treatment (ACT), Early Assessment and Support Alliance, and Intensive In-Home Behavioral Health Treatment; or



B. A Provider that meets all three of the following requirements:

- i. Has a Certificate of Approval from OHA; and
- ii. Derives at least fifty percent (50%) of its annual BH revenue from services provided to individuals enrolled in Oregon's Medicaid program; and
- iii. Offers integrated, team-based care consisting of any combination of the following:  
On-staff psychiatric provider; integrated peer support; case management services;  
and individual, family, group, and community-based services, as clinically indicated.

**Co-Occurring Disorder (COD)** – Services payment increase is applicable for BH Participating Providers approved by OHA for provision of integrated treatment of Co-Occurring Disorders (COD) pursuant to OAR 309-019- 0145.

Payment will be calculated as follows:

For BH Participating Provider of non-residential services who are Qualified Mental Health Associates, Peers, or Substance Use Disorders Treatment Staff as defined in OAR 309-019-0105, the payment increase is equal to ten percent (10%) of the applicable Behavioral Health Oregon Medicaid fee-for-service (FFS) payment rate in effect on the date of service.

For BH Participating Provider of non-residential services who are Qualified Mental Health Professionals, or Licenses Health Care Professionals or Mental Health Interns as defined in OAR 309-019-0105, the payment increase is equal to twenty percent (20%) of the applicable Behavioral Health Oregon Medicaid fee-for-service (FFS) payment rate in effect on the date of service.

For BH Participating Provider of Substance Use Disorders (SUD) residential services, the payment increase is equal to fifteen percent (15%) of the applicable Behavioral Health Oregon Medicaid fee-for-service (FFS) payment rate in effect on the date of service.

Payments for this Tier shall be made effective the beginning date of the current calendar quarter following confirmation of OHA documented approval as a COD provider.

**Culturally and Linguistically Specific Services (CLSS)** – is applicable for BH Participating Provider who meet OHA established criteria for delivery of CLSS. Payment level shall vary based on whether the provider is designated as Non-rural or Rural as defined in OAR Chapter 309, Division 65.

Non-Rural BH Participating Provider will be paid an additional amount equal to twenty-two percent (22%) of the applicable Behavioral Health Oregon Medicaid fee-for-service (FFS) payment rate that is in effect on the date of the CLSS eligible service.

Rural BH Participating Provider will be paid an additional amount equal to twenty-seven percent (27%) of the applicable Behavioral Health Oregon Medicaid fee-for-service (FFS) payment rate that is in effect on the date of the CLSS eligible service.

Payments for this Tier shall be made effective the beginning date of the current calendar quarter following confirmation of OHA certification as a CLSS provider. Provider is responsible for submitting claims for CLSS eligible services with required payment related modifier.

Applicable for BH Providers of SUD residential services, Applied Behavior Analysis (ABA), and Wraparound. Eligible Providers will be paid at no less than the applicable Behavioral Health Oregon Medicaid fee-for-service (FFS) payment rate in effect on the date of service.

***Additional Provisions:***

- Service codes not encompassed by QDP requirements and/or Medicaid fee-for-service (FFS) maximum allowable rates will be priced, at YCCO's discretion, by applying a comparable rate. The most current code sets will be recognized by YCCO in accordance with HIPAA regulations. Services lacking a relative value weight, an established price, or YCCO determined rate, will be paid at thirty-five percent (35%) of covered charges.
- Revisions to fee schedules to accommodate quarterly and off-cycle updates will occur regularly and in a reasonable timeframe, given revisions to claims adjudication software.
- All payments under this Compensation Exhibit are subject to the terms and conditions set forth in the Agreement, the Provider Manual and any applicable billing manual.

IN WITNESS, WHEREOF, the parties hereto have executed this Agreement as of the Execution Date set forth below.

| <b>POLK COUNTY<br/>BOARD OF COMMISSIONERS</b> | <b>YAMHILL COUNTY CARE<br/>ORGANIZATION, INC.</b>                    |
|-----------------------------------------------|----------------------------------------------------------------------|
|                                               |                                                                      |
|                                               | Seamus McCarthy, CEO<br>807 NE Third Street<br>McMinnville, OR 97128 |
| Date: _____                                   | Date: _____                                                          |



# CONTRACT REVIEW SHEET

Staff Contact: Rosana Rivera Phone Number (Ext): 2550  
Department: Health Services: Public Health Consent Calendar Date: \_\_\_\_\_  
Contractor Name: Oregon Health Authority  
Address: 500 Summer Street NE, E-03  
City, State, Zip: Salem, OR 97301  
Effective Dates - From: April 01, 2025 Through: March 31, 2026  
Contract Amount: \$15,000

## Background:

The Oregon Health Authority provided a funding opportunity for certified Reproductive Health Programs (RH Program) to fill the gaps in access to clinical reproductive health services, education or counseling in correctional facilities. Polk County Public Health applied in collaboration with Corrections and this IGA 186882 is that award from the state.

## Discussion:

This RHCare Corrections grant is one time funding that will be used to offset costs for salaries and benefits of current staff providing medical services in the Jail, as well as the provision of other reproductive care clinical services, which may include education, rapid STI tests, labs, condoms, and other clinical supplies.

## Fiscal Impact:

The total for this award is \$15,000 as expected for FY 25-26. Funding will be used to support current staff providing medical services in the Jail and does represent expansion at this time.

## Recommendation:

It is recommended that Polk County sign this IGA 186882 with the Oregon Health Authority.

Copies of signed contract should be sent to the following:

Name: Rosana Rivera E-mail: hs.contracts@co.polk.or.us  
Name: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Grant Agreement Number 186882**



**STATE OF OREGON  
INTERGOVERNMENTAL GRANT AGREEMENT**

You can get this document in other languages, large print, braille, or a format you prefer free of charge. Contact the Agreement Administrator at the contact information found below. We accept all relay calls.

This Agreement is between the State of Oregon, acting by and through its Oregon Health Authority, hereinafter referred to as “**OHA**,” and

**Polk County**  
**850 Main Street**  
**Dallas, Oregon 97338**  
**Attention: Kari Wilhite**  
**Telephone: 503-623-9289**

**E-mail address: [hs.contract@co.polk.or.us](mailto:hs.contract@co.polk.or.us) and [wilhite.kari@co.polk.or.us](mailto:wilhite.kari@co.polk.or.us)**

hereinafter referred to as “**Recipient**.”

The program to be supported under this Agreement relates principally to OHA’s

**Adolescent, Screenwise & Reproductive Health**  
**800 NE Oregon Street, Suite 805**  
**Portland, Oregon 97232**  
**Agreement Administrator: Lisa Ritchie-Martinez**  
**Telephone: 503-440-9627**

**E-mail address: [lisa.m.ritchie-martinez@oha.oregon.gov](mailto:lisa.m.ritchie-martinez@oha.oregon.gov)**

- 1. Effective Date and Duration.** This Agreement shall become effective on **April 1, 2025** once all required signatures in Section 6., below have been obtained. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **March 31, 2026**. Agreement termination shall not extinguish or prejudice OHA’s right to enforce this Agreement with respect to any default by Recipient that has not been cured.
- 2. Agreement Documents.**
  - a.** This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:
    - (1) Exhibit A, Part 1: Program Description
    - (2) Exhibit A, Part 2: Disbursement and Financial Reporting
    - (3) Exhibit B: Standard Terms and Conditions
    - (4) Exhibit C: Subcontractor Insurance RequirementsThere are no other Agreement documents unless specifically referenced and incorporated into this Agreement.
  - b.** In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits B, A, and C.
- 3. Grant Disbursement Generally.** The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **\$15,000.00**. OHA will not disburse grant to

Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. OHA will disburse the grant to Recipient as described in Exhibit A.

4. **Subrecipient Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, OHA's determination is that:

☐ Recipient is a subrecipient ☒ Not applicable

Assistance Listings number(s) of federal funds to be paid through this Agreement: Not applicable

5. **Recipient Information and Certification.**

- a. **Recipient Information.** Recipient shall provide the information set forth below.

**PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION**

**Recipient Name (exactly as filed with the IRS):** Polk County

Street address: 850 Main Street

City, state, zip code: Dallas, OR 97338

Email address: hs.contracts@co.polk.or.us

Telephone: ( 503 ) 623-9289 Fax: (503) 623-2731

**Recipient Proof of Insurance.** Recipient shall provide the following information upon submission of the signed Agreement. All insurance listed herein must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company: SAIF

Policy #: 100034815 Expiration Date: 07/01/2026

- b. **Certification.** Without limiting the generality of the foregoing, by signature on this Agreement, the undersigned hereby certifies under penalty of perjury that:

- (1) Recipient acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. The Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Recipient, in addition to any remedies that may be available to OHA under this Agreement;
- (2) The information shown in Section 5.a. "Recipient Information", is Recipient's true, accurate and correct information;
- (3) To the best of the undersigned's knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;

- (4) Recipient and Recipient's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (5) Recipient is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" found at: <https://www.sam.gov/SAM>;
- (6) Recipient is not subject to backup withholding because:
  - (a) Recipient is exempt from backup withholding;
  - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding.
- (7) Recipient's Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided to OHA is true and accurate. If this information changes, Recipient is required to provide OHA with the new FEIN or SSN within 10 days.

**RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

6. **Signatures.** This Agreement and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Agreement and any amendments so executed shall constitute an original.

**Polk County**

**By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**State of Oregon, acting by and through its Oregon Health Authority**

**By:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Approved for Legal Sufficiency:**

*Not required per OAR 137-045-0030(1)(b)*



**EXHIBIT A**  
**Part 1**  
**Program Description**

**1. Purpose**

OHA recognizes that people detained in corrections facilities often do not have access to clinical reproductive health services, education, or counseling. This Agreement funds RHCare agencies that have formal agreements with their local corrections facilities to provide these services.

Services must be provided using a trauma-informed, inclusive, culturally responsive, and client-driven approach that helps clients clarify their needs and wants, promotes personal choice and risk reduction, and takes into account the cultural and socioeconomic factors of the client and psychosocial aspects of reproductive health.

**2. Program Activities**

Funding must be used for the purposes of ensuring access to clinical reproductive health services for individuals in a correctional facility.

- a. Allowable activities must include the provision of face-to-face counseling and education and clinical reproductive health services at a correctional facility.
- b. **Clinical reproductive health services must include:**
  - pregnancy testing with all options counseling;
  - preconception health services;
  - STI screening and treatment services in accordance with the 2022 Oregon STI Screening Recommendations and CDC's STI Treatment Guidelines 2021; and/or
  - contraceptive services.
- c. **Recipient must provide supplies in accordance with the services offered and in alignment with RHCare Reimbursement Supply List. This may include:**
  - either a limited or full range of contraceptive method
  - folic acid, and
  - STI treatment medications.
- d. Recipient must evaluate activities provided and include client input and correctional facility partners.

**3. Allowable Expenditures**

- Costs to start the project (e.g. staff time, medical supplies for exams)
- Staff time spent on counseling, education, and provision of clinical services
- Educational materials
- Indirect rate related to the above (max 10% of the above)
- Contraceptive methods, folic acid, STI tests, treatment medications, and other supplies related to clinical services provided.

**4. Unallowable Expense**

Funding may not be used for:

- Abortion-related services.

**5. Additional Project Requirements:**

- Payment will be based on submission of quarterly invoices.
- Recipient must submit a final report at the end of the project period. This report will need to incorporate an evaluation component that includes input from clients and corrections facility partners.

## **EXHIBIT A**

### **Part 2**

#### **Disbursement and Financial Reporting**

##### **1. Disbursement of Grant Funds.**

- a.** During the period specified in **Section 1., “Effective Date and Duration”**, of this Agreement, OHA will disburse to Recipient, a maximum not-to-exceed amount as specified in **Section 3., “Grant Disbursement Generally”** of this Agreement, to be disbursed as follows:
- b.** OHA will fund Recipient as follows:
  - (1)** Recipient must submit quarterly reimbursement requests.
  - (2)** OHA will disburse funds quarterly upon OHA approval of quarterly reimbursement requests.
  - (3)** Recipient must submit a final report 30 days after the close of the project period. This report must incorporate an accumulation of all evaluations from clients and corrections facility partners.
  - (4)** Failure to submit reimbursement requests will result in non-reimbursement.

##### **2. Travel Expense**

No travel expenses are authorized or approved under this Agreement.

**EXHIBIT B**  
**Standard Terms and Conditions**

1. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, “Claim”) between OHA or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Agreement.
2. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.
3. **Independent Parties.** The parties agree and acknowledge that their relationship is that of independent parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
4. **Grant Funds; Disbursements.**
  - a. Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that OHA’s participation in this Agreement is contingent on OHA receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow OHA, in the exercise of its reasonable administrative discretion, to participate in this Agreement.
  - b. **Disbursement Method.** Disbursements under this Agreement will be made by Electronic Funds Transfer (EFT). Upon request, Recipient shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT disbursement. Recipient shall maintain at its own expense a single financial institution or authorized disbursement agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all disbursements under this Agreement. Recipient shall provide this designation and information on a form provided by OHA. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any disbursement made using EFT procedures, the Recipient shall provide the changed information or designation to OHA on an OHA-approved form. OHA is not required to make any disbursement under this Agreement until receipt of the correct EFT designation and disbursement information from the Recipient.
5. **Recovery of Overpayments.** Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement “Misexpended Funds” or that remain unexpended on the earlier of termination or expiration of this Agreement “Unexpended Funds” must be returned to OHA. Recipient shall return all Misexpended Funds to OHA promptly after OHA’s written demand and no later than 15 days after OHA’s written demand. Recipient shall return all Unexpended Funds to OHA within 14 days after the earlier of termination or expiration of this Agreement. OHA, in its sole discretion, may recover Misexpended or Unexpended Funds by withholding from payments due to Recipient such amounts, over such periods of time, as are necessary

to recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify OHA that it wishes to engage in dispute resolution in accordance with Section 14 of this Exhibit.

**6. Ownership of Work Product.** Reserved.

**7. Contribution.**

- a. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (“Third Party Claim”) against a party (the “Notified Party”) with respect to which the other party (“Other Party”) may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party’s liability with respect to the Third Party Claim.
- b. With respect to a Third Party Claim for which the State is jointly liable with the Recipient (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Recipient on the other hand shall be determined by reference to, among other things, the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- c. With respect to a Third Party Claim for which the Recipient is jointly liable with the State (or would be if joined in the Third Party Claim), the Recipient shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the Recipient on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Recipient on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Recipient’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

This Section shall survive expiration or termination of this Agreement.

- 8. Indemnification by Subcontractors.** Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient’s

contractor or any of the officers, agents, employees or subcontractors of the contractor (“Claims”). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims. This Section shall survive expiration or termination of this Agreement.

## **9. Default; Remedies; Termination.**

**a.** Default by Recipient. Recipient shall be in default under this Agreement if:

- (1) Recipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein;
- (2) Any representation, warranty or statement made by Recipient herein or in any documents or reports relied upon by OHA to measure compliance with this Agreement, the expenditure of disbursements or the desired outcomes by Recipient is untrue in any material respect when made;
- (3) Recipient (1) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (2) admits in writing its inability, or is generally unable, to pay its debts as they become due, (3) makes a general assignment for the benefit of its creditors, (4) is adjudicated a bankrupt or insolvent, (5) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (6) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (7) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (8) takes any action for the purpose of effecting any of the foregoing; or
- (4) A proceeding or case is commenced, without the application or consent of Recipient, in any court of competent jurisdiction, seeking (1) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Recipient, (2) the appointment of a trustee, receiver, custodian, liquidator, or the like of Recipient or of all or any substantial part of its assets, or (3) similar relief in respect to Recipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Recipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

**b.** OHA’s Remedies for Recipient’s Default. In the event Recipient is in default under Section 9.a., OHA may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:

- (1) termination of this Agreement under Section 9.c.(2);
- (2) withholding all or part of monies not yet disbursed by OHA to Recipient;
- (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- (4) exercise of its right of recovery of overpayments under Section 5. of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and OHA may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a

court determines that Recipient was not in default under Section 9.a., then Recipient shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 9.c.(1).

**c. Termination.**

- (1) **OHA's Right to Terminate at its Discretion.** At its sole discretion, OHA may terminate this Agreement:
  - (a) For its convenience upon 30 days' prior written notice by OHA to Recipient;
  - (b) Immediately upon written notice if OHA fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to continue supporting the program; or
  - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that OHA's support of the program under this Agreement is prohibited or OHA is prohibited from paying for such support from the planned funding source.
  - (d) Immediately upon written notice to Recipient if there is a threat to the health, safety, or welfare of any person receiving funds or benefitting from services under this Agreement "OHA Client", including any Medicaid Eligible Individual, under its care.
- (2) **OHA's Right to Terminate for Cause.** In addition to any other rights and remedies OHA may have under this Agreement, OHA may terminate this Agreement immediately upon written notice to Recipient, or at such later date as OHA may establish in such notice if Recipient is in default under Section 9.a.
- (3) **Mutual Termination.** The Agreement may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
- (4) **Return of Property.** Upon termination of this Agreement for any reason whatsoever, Recipient shall immediately deliver to OHA all of OHA's property that is in the possession or under the control of Recipient at that time. This Section 9.c.(4) survives the expiration or termination of this Agreement.
- (5) **Effect of Termination.** Upon receiving a notice of termination of this Agreement or upon issuing a notice of termination to OHA, Recipient shall immediately cease all activities under this Agreement unless, in a notice issued by OHA, OHA expressly directs otherwise.

10. **Insurance.** All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require subcontractors to maintain insurance as set forth in Exhibit C, which is attached hereto.
11. **Records Maintenance, Access.** Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that OHA and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to all Records to

perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longest of:

- a. Six years following final disbursement and termination of this Agreement;
- b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
- c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.

**12. Information Privacy/Security/Access.** If this Agreement requires or allows Recipient or, when allowed, its subcontractor(s), to access or otherwise use any OHA Information Asset or Network and Information System in which security or privacy requirements apply, and OHA grants Recipient, its subcontractor(s), or both access to such OHA Information Assets or Network and Information Systems, Recipient shall comply and require its subcontractor(s) to which such access has been granted to comply with the terms and conditions applicable to such access or use, including OAR 943-014-0300 through OAR 943-014-0320, as such rules may be revised from time to time. For purposes of this Section, “Information Asset” and “Network and Information System” have the meaning set forth in OAR 943-014-0305, as such rule may be revised from time to time.

**13. Assignment of Agreement, Successors in Interest.**

- a. Recipient shall not assign or transfer its interest in this Agreement without prior written consent of OHA. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by OHA. No approval by OHA of any assignment or transfer of interest shall be deemed to create any obligation of OHA in addition to those set forth in this Agreement.
- b. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

**14. Resolution of Disputes.** The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. This Section shall survive expiration or termination of this Agreement.

**15. Subcontracts.** Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without OHA’s prior written consent. In addition to any other provisions OHA may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that OHA will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 8, 10, 11, 12, 13, 15, 16, and 17 of this Exhibit B. OHA’s consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.

**16. No Third Party Beneficiaries.** OHA and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This Section shall survive expiration or termination of this Agreement.

**17. Severability.** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Agreement.



- 18. Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, e-mail, or mailing the same, postage prepaid to Recipient or OHA at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed by regular mail shall be deemed received and effective five days after the date of mailing. Any communication or notice delivered by e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile shall be deemed received and effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the Recipient, or on the next business day if transmission was outside normal business hours of the Recipient. Notwithstanding the foregoing, to be effective against the other party, any notice transmitted by facsimile must be confirmed by telephone notice to the other party. Any communication or notice given by personal delivery shall be deemed effective when actually delivered to the addressee.

**OHA:** Office of Contracts & Procurement  
 500 Summer Street NE, E-03  
 Salem, OR 97301  
 Telephone: 503-945-5818  
 Fax: 503-378-4324

This Section shall survive expiration or termination of this Agreement.

- 19. Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.
- 20. Amendments; Waiver; Consent.** OHA may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement shall bind either party unless it is in writing and signed by both parties and when required, approved by the Oregon Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Agreement.
- 21. Merger Clause.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Agreement.
- 22. Limitation of Liabilities.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT OR ANY PART HEREOF IN ACCORDANCE WITH ITS TERMS.

## **EXHIBIT C**

### **Subcontractor Insurance Requirements**

Local Government shall require its first-tier Contractor(s) (Contractor) that are not units of local government as defined in ORS 190.003, if any, to:

- i) obtain the insurance specified under TYPES AND AMOUNTS and meet the requirements under ADDITIONAL INSURED, CONTINUOUS CLAIMS MADE COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the Contractor(s) perform under contracts between Local Government and the Contractors (the "Subcontracts"), and
- ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Agency.

Local Government shall not authorize Contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Local Government shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Local Government shall incorporate appropriate provisions in the Subcontracts permitting it to enforce Contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force, terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event, shall Local Government permit a Contractor to work under a Subcontract when the Local Government is aware that the Contractor is not in compliance with the insurance requirements. As used in this section, a "first-tier" Contractor is a Contractor with which the Local Government directly enters into a contract. It does not include a subcontractor with which the Contractor enters into a contract.

If Contractor maintains broader coverage and/or higher limits than the minimums shown in this insurance requirement exhibit, Agency requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor.

### **INSURANCE TYPES AND AMOUNTS**

#### **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY:**

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide Workers' Compensation Insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain Employers' Liability Insurance coverage with limits not less than \$500,000 each accident.

If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide Workers' compensation Insurance coverage for its employees as required by applicable workers' compensation laws including Employers' Liability Insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

As applicable, Contractor shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen's and Harbor Workers' Compensation Act.

**COMMERCIAL GENERAL LIABILITY:**

Contractor shall provide Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State of Oregon. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Contract, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000.00 per occurrence and not less than \$2,000,000.00 annual aggregate limit.

**AUTOMOBILE LIABILITY:**

☒ **Required**   ☐ **Not required**

Contractor shall provide Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000.00 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal Automobile Liability Insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

**PROFESSIONAL LIABILITY:**

☒ **Required**   ☐ **Not required**

Contractor shall provide Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under the Contract/Subcontract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000.00 per claim and not less than \$2,000,000.00 annual aggregate limit.

If coverage is provided on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability Insurance coverage, or the Contractor and subcontractors shall provide continuous claims made coverage as stated below.

**EXCESS/UMBRELLA INSURANCE:**

A combination of primary and Excess/Umbrella insurance may be used to meet the required limits of insurance. When used, all of the primary and Excess or Umbrella policies must provide all of the insurance coverages required herein, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Excess or Umbrella policies must be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying insurance. No insurance policies maintained by the Additional Insureds, whether primary or Excess, and which also apply to a loss covered hereunder, are to be called upon to contribute to a loss until the Contractor's primary and Excess liability policies are exhausted.

If Excess/Umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella insurance.

**ADDITIONAL COVERAGE REQUIREMENTS:**

Contractor's insurance shall be primary and non-contributory with any other insurance. Contractor shall pay for all deductibles, self-insured retention (SIR), and self-insurance, if any.

**ADDITIONAL INSURED:**

All liability insurance, except for Workers' Compensation, Professional Liability, Directors and Officers Liability and Network Security and Privacy Liability (if applicable), required under the Subcontract must include an Additional Insured Endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's services to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

Regarding Additional Insured status under the General Liability policy, the State of Oregon requires Additional Insured status with respect to liability arising out of ongoing operations and completed operations. The Additional Insured Endorsement with respect to liability arising out of Contractor's ongoing operations must be on or at least as broad as ISO Form CG 20 10 and the Additional Insured endorsement with respect to completed operations must be on or at least as broad as ISO form CG 20 37.

#### **WAIVER OF SUBROGATION:**

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor must obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency or State of Oregon has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

#### **CONTINUOUS CLAIMS MADE COVERAGE:**

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain Continuous Claims Made coverage, provided the effective date of the Continuous Claims Made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor's completion and Agency/Local Government's acceptance of all Services required under the Contract, or
- (ii) Agency or Contractor's termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

#### **CERTIFICATE(S) AND PROOF OF INSURANCE:**

Local Government shall obtain from the Contractor a Certificate(s) of Insurance for all required insurance before Contractor delivers any goods and performs any Services required under this Contract. The Certificate(s) must list the State of Oregon, its officers, employees, and agents as a certificate holder and as an endorsed Additional Insured. The Certificate(s) of Insurance must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If Excess/Umbrella Insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella Insurance. As proof of insurance, Agency/Local Government has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

#### **NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 30 days' written notice to Local Government before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

#### **INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by Agency/Local Government under this agreement and to provide updated requirements as mutually agreed upon by Contractor and Agency/Local Government.

#### **STATE ACCEPTANCE:**

All insurance providers are subject to Agency/Local Government acceptance. If requested by Agency/Local Government, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency/Local Government's representatives responsible for verification of the insurance coverages required under this Exhibit.