

POLK COUNTY BOARD OF COMMISSIONERS
MINUTES May 13, 2015

1. CALL TO ORDER & ATTENDANCE

At 9:00 a.m., Commissioner Ainsworth declared the meeting of the Polk County Board of Commissioners to be in session. Commissioner Wheeler was present, Commissioner Pope was excused.

Staff present: Greg Hansen, Administrative Officer
 Matt Hawkins, Administrative Services Director
 Morgan Smith, County Counsel

2. ANNOUNCEMENTS

Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. The Tuesday meeting is held in the Board of Commissioners' Office Conference Room, 850 Main Street, Dallas, Oregon. The Wednesday 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.

Department Head/staff meetings with the Board of Commissioners are held on Monday, Thursday, and Friday. The meetings are held in the Board of Commissioners' Office Conference Room and are conducted between 9:00 a.m. and 5:00 p.m. The principal subjects anticipated to be considered are on-going, upcoming, and new matters bearing on County operations. Pursuant to ORS 192.640, the Board of Commissioners may consider and take action on subjects not listed within this announcement.

The Polk County Budget and Compensation Committee will meet on Wednesday, May 20, 2015 beginning at 11 am in the Courthouse Conference Room.

The Grand Ronde Sanitary District Budget Committee will meet Wednesday, May 27, 2015 at 9:15 a.m. in the Courthouse conference room.

The Polk Extension Service District Budget Committee will meet Wednesday, May 27, 2015 at 1:30 p.m. in the Courthouse conference room.

3. COMMENTS (FOR ITEMS NOT ON THIS AGENDA)

4. APPROVAL OF AGENDA

MOTION: COMMISSIONER WHEELER MOVED, COMMISSIONER AINSWORTH SECONDED, TO APPROVE THE AGENDA.

MOTION PASSED BY A UNANIMOUS VOTE OF THE QUORUM

5. APPROVAL OF CONSENT CALENDAR

MOTION: COMMISSIONER WHEELER MOVED, COMMISSIONER AINSWORTH SECONDED TO APPROVE THE CONSENT CALENDAR.

MOTION PASSED BY A UNANIMOUS VOTE OF THE QUORUM

6. APPROVAL OF MINUTES

**MOTION: COMMISSIONER WHEELER MOVED, COMMISSIONER AINSWORTH SECONDED,
TO APPROVE THE MINUTES OF MAY 6, 2015.**

MOTION PASSED BY A UNANIMOUS VOTE OF THE QUORUM

7. LENGTH OF SERVICE AWARDS

The following employees were recognized for their length of service to the County:
20 Years – Fred Lowe, Public Works

At 9:02 a.m., Commissioner Ainsworth asked if there was need for an Executive Session. Staff answered that there was not and the meeting was adjourned.

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

(a) PERSONNEL

Re-adopt the revised Affirmative Action Plan and Equal Opportunity Employer Policy.

POLK COUNTY BOARD OF COMMISSIONERS

Mike Ainsworth, Chair

Jennifer Wheeler, Commissioner

Craig Pope, Commissioner

Minutes: Heather Merrill
Approved: May 20, 2015

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5 **BEFORE THE BOARD OF COMMISSIONERS**
6 **FOR THE COUNTY OF POLK, STATE OF OREGON**
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8 In the Matter of Enacting a Temporary)
9 Moratorium on Medical and Recreational)
10 Marijuana Facilities within the Jurisdiction)
11 Of Polk County, Oregon and Declaring an)
12 Emergency)

13
14 **ORDINANCE NO. 15-01**
15

16 THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:
17

18 **Section 1. Authority.** This Ordinance is adopted pursuant to the powers of Polk
19 County under ORS 197.520, ORS 203.035, the Oregon Constitution, and the federal Controlled
20 Substances Act, 21 U.S.C. § 801 *et seq.*
21

22 **Section 2. Purpose.** The purpose of this Ordinance is to impose a temporary
23 moratorium in accordance with ORS 197.520 on the establishment of new and expansion of
24 existing marijuana facilities in any area within the jurisdiction of Polk County. The purpose of
25 the temporary moratorium is to delay development of County land use regulations for
26 recreational and medical marijuana until the state regulations have been adopted. The
27 moratorium will therefore allow the County to develop comprehensive zoning regulations that
28 are consistent with state regulations for both recreational and medical marijuana. Furthermore, by
29 waiting until the state regulations are adopted, the County seeks to avoid adopting land use
30 regulations that would have to be immediately revisited to comply with state regulations.
31

32 **Section 3. History.** In the coming months, Oregon will gain a second regulatory
33 program for marijuana. The first is an existing program for medical marijuana, which was
34 approved by the voters in 1998 and is governed by the Oregon Medical Marijuana Act
35 (“OMMA”), *codified* at ORS 475.300 *et seq.* The Oregon Health Authority administers the
36 OMMA. In 2013, House Bill 3460 required the Oregon Health Authority to adopt regulations for
37 the registration of medical marijuana dispensaries. Shortly thereafter, Senate Bill 1531-C was
38 enacted, which specifically allowed local governments to adopt a temporary moratorium on the
39 operation of medical marijuana on April 9, 2014 (Ordinance No. 2014-5). That moratorium
40 expired on May 1, 2015.
41

42 Oregon’s second marijuana program was approved by the voters in November 2014 through
43 Ballot Measure 91, which legalizes recreational marijuana. The recreational marijuana program
44 will be administered by the Oregon Liquor Control Commission (“OLCC”) in accordance with

1 Measure 91. OLCC is currently developing rules to implement the program, which will go into
2 effect initially on July 1, 2015, with the allowance of personal use and possession of recreational
3 marijuana and then on January 4, 2016, when OLCC must begin accepting license applications to
4 produce and sell marijuana. OLCC's rules will thus likely be adopted by January 4, 2016. In
5 addition to OLCC's rules, the state legislature has proposed several bills, which if adopted may
6 affect state law and regulation for both the recreational and medical marijuana programs as well
7 as local government authority to regulate the programs.

8
9 In sum, Oregon's two marijuana programs will be administered by two different state agencies
10 under two separate and distinct regulatory frameworks. The regulations implementing
11 recreational marijuana are not yet developed, and regulations implementing medical marijuana
12 will likely be amended by the current state legislature. However, regulations affecting both
13 programs should be solidified in the coming months.

14
15 **Section 4. Moratorium Declared.** The establishment of new and expansion of
16 existing medical marijuana facilities and recreational marijuana facilities shall be prohibited
17 within the unincorporated boundaries of Columbia County. As used in this Ordinance,
18 "marijuana facilities" means areas indoors or outdoors used for growing, cultivating, dispensing,
19 selling, processing, producing, or wholesaling marijuana whether for medical or recreational
20 purposes.

21
22 In support of this temporary moratorium, the County adopts the findings in the Staff
23 Report dated May 20, 2015, which is attached hereto as Exhibit A and incorporated herein by this
24 reference.

25
26 **Section 5. Duration of Moratorium.** The moratorium imposed by this
27 Ordinance shall be effective until September 17, 2015. The moratorium may be extended by
28 Board Order in accordance with ORS 197.520(4) following a public hearing. The County shall
29 provide at least 14 days' notice of any hearing on an extension of this moratorium. Notice shall
30 be sent to the Department of Land Conservation and Development; to those who have testified
31 either orally or in writing at public hearing on this Ordinance; and to those who have submitted a
32 written request to receive notice. Notice shall be published in newspapers of general circulation
33 in the County as well as on the County's website.

34
35 **Section 6. Enforcement.** This Ordinance shall be enforceable under the Polk
36 County Enforcement Ordinance. Violators of this Ordinance are subject to the penalties provided
37 in the Polk County Enforcement Ordinance.

38
39 **Section 7. Remedies Not Exclusive.** The remedies available under the Polk
40 County Enforcement for a violation of the moratorium imposed by this Ordinance are not
41 exclusive of any other remedies available under any applicable federal, state or local law. The
42 County may, in its discretion, seek cumulative remedies for a violation of the moratorium
43 imposed by this Ordinance.

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Section 8. Severability. If for any reason any court of competent jurisdiction holds any portion of this Ordinance to be invalid, and such holding is upheld on any appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

Section 9. Scrivener’s Errors. Any scrivener’s errors in this Ordinance may be corrected by order of the Board of County Commissioners.

Section 10. Emergency. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance shall take effect immediately upon adoption.

Dated: May 20, 2015 at Dallas, Oregon

POLK COUNTY BOARD OF COMMISSIONERS

Mike Ainsworth, Chairman

Craig Pope, Commissioner

Jennifer Wheeler, Commissioner

Approved as to Form:

County Counsel

Recording Secretary: _____

POLK COUNTY BOARD OF COMMISSIONERS
Staff Report

Adoption of a Moratorium for
Medical and Recreational Marijuana Facilities

HEARING DATE: May 20, 2015

AUTHORIZATION: ORS 197.520 (1)(c)

BACKGROUND:

Presently, the Polk County Zoning Ordinance neither references nor specifically regulates marijuana growing, processing or dispensing facilities. However, marijuana-related land uses have impacts, and the County must decide how it will proceed with siting of medical marijuana facilities, initiated and regulated by the State, while the present moratorium expires on May 1, 2015. In addition to medical marijuana, the State will be adopting regulations on recreational marijuana by January 2016. At the same time the Oregon Legislature is currently in session, and has formed the Joint Marijuana Task Force, to promulgate new laws and regulations on both medical and recreational marijuana. The County has the following options for dealing with medical and recreational marijuana facilities: (1) do nothing; (2) adopt a moratorium under land-use statutes; (3) adopt land use regulations for medical marijuana facilities by May 1, 2015 and a few months later, adopt regulations for recreational marijuana. The Board has considered the options and has directed staff to proceed with option (2).

Accordingly, at the direction of the Board of Commissioners, staff has initiated Ordinance No. 15-01 to provide for a temporary moratorium pursuant to ORS 197.520 on construction and land development for new and expansion of existing medical marijuana facilities and recreational marijuana facilities. For the purposes of Ordinance No. 15-01, "marijuana facilities" means areas indoors or outdoors used for growing, cultivating, dispensing, selling, processing, producing, or wholesaling marijuana whether for medical or recreational purposes. In accordance with ORS 197.520, the moratorium would be effective for 120 days but could later be extended for an additional six months following a public hearing.

The intent of the moratorium is to allow the County additional time to develop land use regulations to govern the siting and development of marijuana facilities and to seek public input in doing so. Additional time is needed in light of the many unresolved regulations and the staggered effective dates of existing state regulations affecting medical and recreational marijuana and the County's desire to adopt one comprehensive zoning ordinance for both medical and recreational marijuana land uses.

To further explain the time lines, on May 1, 2015, Polk County's moratorium on medical marijuana dispensaries will expire. That moratorium was adopted through Polk County Ordinance

14-03, pursuant to Oregon Medical Marijuana Act (OMMA), as amended by House Bill 3460 and Senate Bill 1531. Medical marijuana is governed by the OMMA and regulated by the Oregon Health Authority (OHA). Although OHA regulations provide for the registration of dispensaries and set some restrictions on the location of dispensaries, the ultimate authorization for the siting of a dispensary rests with local government. The OMMA restricts marijuana dispensaries to areas zoned for commercial, industrial or mixed use agricultural land and more than 1000 feet from a school, but OHA does not substantially review this; and, its rules clearly state that registration is not a guarantee that the dispensary will be permitted by the local government. Consequently, even if a dispensary is registered with OHA, the dispensary will seek a siting permit from the County. In addition to dispensaries, the OMMA provides for medical marijuana grow sites. However, the OMMA provides little restriction on the location of grow sites, which can be located in residential areas and near schools.

Recreational marijuana, on the other hand, was recently approved by Oregon voters through Measure 91 in November 2014. Generally speaking, Measure 91 will go into effect in two stages: (1) in July 2015 for personal use and growing; and (2) on January 4, 2016 for licensing to produce and sell. The Oregon Liquor Control Commission (OLCC) is currently developing rules to implement Measure 91, and those rules will likely be adopted before January 4, 2016. The State Legislature and its Joint Marijuana Task Force is also currently looking to modify and/or add to the existing regulatory scheme for both medical and recreational marijuana, which adds additional complexity to the regulatory framework.

Through a new moratorium – a temporary delay – the County seeks to avoid duplication of efforts. The County considered adopting zoning regulations by May 1, 2015 for medical marijuana land uses. However, with OLCC’s adoption of recreational marijuana regulations a few months later in January 2016, the County would be adopting new regulations for recreational marijuana and likely revising it’s recently established regulations on medical marijuana. In addition, the state legislature is currently considering several bills, which may further affect the implementation of both medical and recreational marijuana programs. Thus, although the two programs currently operate under different statutes and under different state agencies, their land use impacts will be similar, and it makes sense to consider them together. The County’s goal is to adopt one comprehensive ordinance for both medical and recreational marijuana, which is consistent with state law and regulations, and to do it at one time.

APPLICABLE REVIEW CRITERIA:

Page

Oregon Revised Statute (ORS)

ORS 197.520 Manner of Declaring a Moratorium 3

ORS 215.503 Notice of Legislative Act by Ordinance (Measure 56 Notice)

Polk County Zoning Ordinance

115.060 Criteria for Legislative Plan Amendments 9

REVIEW CRITERIA:

Oregon Revised statute ORS 197.520

197.520 Manner of declaring moratorium.

- (1) No city, county or special district may adopt a moratorium on construction or land development unless it first:
 - (a) Provides written notice to the Department of Land Conservation and Development at least 45 days prior to the final public hearing to be held to consider the adoption of the moratorium;
 - (b) Makes written findings justifying the need for the moratorium in the manner provided for in this section; and
 - (c) Holds a public hearing on the adoption of the moratorium and the findings which support the moratorium.

Finding 1: The County mailed a 45 day written notice pertaining to this Moratorium to the Department of Land Conservation and Development (DLCD) on April 1, 2015. Findings justifying the need for the moratorium are set out below under each criterion. A public hearing before the Polk County Board of Commissioners is scheduled for May 20, 2015.

Continuing with ORS 197.520(3)(a)

- (3) A moratorium not based on a shortage of public facilities under subsection (2) of this section may be justified only by a demonstration of compelling need. Such a demonstration shall be based upon reasonably available information and shall include, but need not be limited to, findings:
 - (a) For urban or urbanizable land:
 - (A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
 - (B) That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;

- (C) Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
 - (D) That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and
 - (E) That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.
- (b) For rural land:
- (A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
 - (B) Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
 - (C) That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium; and
 - (D) That the city, county or special district proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

Finding 2: Compelling Need for Moratorium

Note: The criteria for urban/urbanizable and rural land are very similar. To avoid repetition, staff addresses them together in the findings.

ORS 197.520(3)(a)(A) [Urban or Urbanizable Land]:

- “(A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;”

ORS 197.520(3)(b)(A) [Rural Land]:

“(A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;”

Finding 2(A):

The proposed temporary moratorium is based on a compelling need. All zoned lands in Polk County’s jurisdiction are affected in some way by this moratorium. Most of the jurisdictional lands are rural; however, the County has some urbanizable lands, which are within designated Urban Growth Boundaries (UGB) of incorporated cities. The County does not have jurisdiction over lands that are within the boundaries of incorporated cities, and those areas are not subject to the proposed moratorium.

The County’s present zoning ordinance provides no guidance or regulation for the siting of either medical or recreational marijuana facilities. The Polk County Code of Ordinances 40.500 makes it clear that the use of any building, structure, location, premises or land for a medical marijuana business is not currently enumerated in the Polk County Code of Ordinances or the Polk County Zoning Ordinance as a permitted use in any zone, nor is the use enumerated as a conditional use in any zone. The impacts of marijuana facilities on neighboring properties can be significant. For instance, the strong odor associated with mature plants is offensive to many people and causes respiratory problems among other health concerns. The OMMA’s regulations do nothing to mitigate the nuisance impact of grow sites. Under the OMMA, a grower may produce marijuana for up to four patients and may grow as many as six mature plants and 18 seedlings per patient at a grow site. In July 2015, Measure 91 will allow up to four marijuana plants per household for personal use. Mature plants can grow to the size of a cargo trailer. With the OMMA’s allowance of up to 24 mature plants at one location, impacts such as odor can be significant. The legislature is currently considering legislation that would impact grow site restrictions and regulations as well, so the actual format of the grow sites is currently indeterminate. Although the impacts of grow sites can be mitigated through zoning regulations, the County’s current regulations provide no standards. Thus, the County’s current regulations are inadequate to prevent irrevocable public harm from the impacts from the establishment of new grow sites or the expansion of existing grow sites whether for medical or recreational use. Additionally, it is unknown at this time whether a County implemented regulatory scheme would be congruent with anticipated regulations from the legislature or OLCC.

Another potential impact is the increased risk to public safety from the presence of high-value plants/products. According to Polk County Sheriff’s Office, when marijuana plants are visible or when the location of large amounts of marijuana is known, there is an increased threat of criminal activity, such as break-ins, robbery and theft. This is due to the fact that medical marijuana facilities carry large amounts of cash which is enticing to the criminal element and the marijuana itself is easily sold and untraceable. Medical marijuana also poses a risk of diverting into the criminal black market, and the County has experienced this issue in the past due to the low cost of medical marijuana locally and the high price it could fetch in other jurisdictions. Most observed medical marijuana grow sites already implement extensive security measure as acknowledgment of

the risk posed by the enterprise. Moreover, children are particularly vulnerable to medical marijuana product, such as edibles marijuana products. While the OMMA currently prohibits dispensaries from locating within 1000 feet of schools, there are other locations that children frequent – such as day care centers and public parks – that could also benefit from a buffer. Moreover, the OMMA does little to regulate the permissible locations of grow sites. Thus, grow sites can be in residential areas and within 1000 feet of schools. Without zoning regulations, dispensaries and other marijuana facilities could be sited in locations that put the community at risk because of the potential criminal accoutrements already observed in the County related to medical marijuana.

For the reasons stated, current regulations are inadequate to prevent irrevocable public harm from new and expansion of existing marijuana facilities.

ORS 197.520(3)(a)(B) [For Urban or Urbanizable Land]:

“(B) That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;”

ORS 197.520(3)(b)(C) [For Rural Land]:

“(C) That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium; and”

Finding 2(B)

This moratorium is narrowly limited to the establishment of new and expansion of existing marijuana facilities. Because of its narrow application, the moratorium will not affect the supply of housing, commercial or industrial facilities in existence or planned for urbanizable lands nor will the moratorium impact parcels outside of the affected geographical area for rural lands.

ORS 197.520(3)(a)(C)[For Urban or Urbanizable Land]:

“(C) Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;”

ORS 197.520(3)(b)(B) [For Rural Land]:

“(B) Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;”

Finding 2(C)

As described, above, the County's alternatives are to: (1) do nothing (i.e., apply current regulations); (2) adopt a temporary moratorium; or (3) adopt zoning regulations for medical marijuana after the medical marijuana moratorium expires on May 1, 2015, then adopt zoning regulations for recreational marijuana after January of 2016 once OLCC's rules are known. As explained in Finding 2(A), above, Option 1 is unsatisfactory because the current zoning regulations are inadequate to address the impacts of marijuana facilities and prevent irrevocable public harm.

Option 3 is unsatisfactory because it would require a duplication of efforts within a relatively short time frame, with potential outcomes nullified by the ongoing development of state-level regulation of the industries. As explained in the Background section, above, Oregon's two marijuana programs have staggered time lines for implementation. In order to permit medical marijuana dispensaries, the County would have to adopt clear regulations for medical marijuana dispensaries since the Polk County zoning ordinance does not specifically enumerate the medical marijuana dispensary use in any zone. The County would then be revisiting those regulations around January 2016 when it implements regulations for recreational marijuana. The County's resources are too limited to duplicate the significant effort that legislative land use actions require. Further, even if a regulatory scheme were implemented, the level and extent of local regulations and the criteria thereof for both marijuana schemes are currently in flux due to pending legislation and administrative rules. The County could be obligated to once again revisit its regulations once that state level rules are cemented.

ORS 197.520(3)(a)(D) [For Urban or Urbanizable Land]:

“(D) That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and”

[No corresponding criterion for rural land]

Finding 2(D)

The adverse effects of the moratorium on other affected local governments is minimal, if any. The moratorium is very narrowly limited to marijuana facilities within unincorporated Polk County. Demand for housing, commercial, industrial, and community service space in the County and in adjacent communities will be unaffected. Because this is such a small segment of the vast array of uses allowed, it is debatable that the moratorium will have any impact on other communities. Even if other communities see a slight increase in demand for marijuana facilities, the County's moratorium is temporary and that increase will be short lived. The public harm from failing to impose the moratorium, as addressed above, far outweighs the slight increase in demand in other communities for what is a very narrow use.

ORS 197.520(3)(a)(E) [For Urban or Urbanizable Land]:

“(E) That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.”

ORS 197.520(3)(b)(D) [For Rural Land]:

“(D) That the city, county or special district proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.”

Finding 2(E)

This moratorium is only for a short period of time essentially until the State has adopted final rules and statute for the marijuana programs. The Legislative Session will be over in a few months and OLCC is in the rule making process now. Once State regulation is finalized, the County will look to draft ordinance amendments compatible with the State regulations and begin the citizen review stage which could include a Planning Commission public hearing and Board of Commissioners public hearing and decision.

Polk County has the resources and Planning Staff on board to implement the State marijuana programs by amending the Zoning Ordinance when clear and objective State rules become available.

Continuing with ORS 197.250

- (4) No moratorium adopted under subsection (3)(a) of this section shall be effective for a period longer than 120 days, but such a moratorium may be extended provided the city, county or special district adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:
 - (a) Verify the problem giving rise to the need for a moratorium still exists;
 - (b) Demonstrate that reasonable progress is being made to alleviate the problem giving rise to the moratorium; and
 - (c) Set a specific duration for the renewal of the moratorium. No extension may be for a period longer than six months.
- (5) Any city, county or special district considering an extension of a moratorium shall give the department at least 14 days' notice of the time and date of the public hearing

on the extension.

Finding 3

This moratorium will only be effective for 120 days. The ordinance would allow for an extension only in accordance with the above rules.

Polk County Zoning Ordinance:

A legislative amendment to the text of the Polk County Zoning Ordinance (PCZO) may be approved provided that the request is based on substantive information that supports the change. In amending the PCZO, Polk County shall demonstrate compliance with PCZO 115.060. The applicable review and decision criteria are listed in bold, followed by Staff's analysis and findings.

Continuing with PCZO 115.060:

- “(A) Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4;”
- “(B) Conformance with the Comprehensive Plan (PCCP) goals, policies and intent, and any plan map amendment criteria in the plan;”
 1. To provide an atmosphere conducive to economic activity with an emphasis on private sector activity. [PCCP Section 2, Element H, Goal 2]
 2. To provide for and maintain a viable economy while preserving the present sense of community and high level of environmental quality. [PCCP Section 2, Element H, Goal 5]
- “(C) That the proposed change is in the public interest and will be of general public benefit; and”
- “(D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land.”

Finding 5

Even though the County is not amending the text of the zoning ordinance at this time, the moratorium hearing is similar to a legislative hearing because there is no applicant, the area affected is large, and the review is not quasi-judicial. This request for a temporary moratorium would allow the county

to refrain from approving construction or land development of marijuana facilities until permanent ordinance guidelines can be adopted into the Zoning Ordinance. This ordinance was initiated by the County by the Board of Commissioners.

Notice of the public hearing before the Board of Commissioners was provided to DLCD on April 1, 2015 and published in the local Itemizer Observer newspaper on April 22, 2015. Staff has not received any comments as of the writing of this staff report.

Accordingly, at the direction of the Board of Commissioners, staff has initiated Ordinance No. 15-01 to provide for a temporary moratorium, pursuant to ORS 192.520, on the establishment of new and expansion of existing medical marijuana facilities and recreational marijuana facilities. For the purposes of Ordinance No. 15-01, "marijuana facilities" means areas indoors or outdoors used for growing, cultivating, dispensing, selling, processing, producing, or wholesaling marijuana whether for medical or recreational purposes. In accordance with ORS 197.520, the moratorium would be effective for 120 days but could later be extended for an additional six months following a public hearing.

The intent of the moratorium is to allow the County additional time to develop land use regulations to govern the siting and development of marijuana facilities and to seek public input in doing so. Additional time is needed in light of the staggered effective dates of state regulations affecting medical and recreational marijuana described above and the County's desire to adopt one comprehensive zoning ordinance for both medical and recreational marijuana land uses.

Through a new moratorium – a temporary delay – the County seeks to avoid duplication of efforts by addressing both medical and recreational marijuana at the same time. The County considered adopting zoning regulations by May 1, 2015 for medical marijuana land uses. However, with OLCC's adoption of recreational marijuana regulations a few months later in January 2016, the County would be adopting new regulations for recreational marijuana and likely revising its recently established regulations on medical marijuana. In addition, the state legislature is currently considering several bills, which may further affect the implementation of both medical and recreational marijuana programs. Thus, although the two programs currently operate under different statutes and under different state agencies, their land use impacts will be similar, and it makes sense to consider them together after a clear portrait of the state regulatory environment is established. The County's goal is to adopt one comprehensive ordinance for both medical and recreational marijuana, which is consistent with state law and regulations, and to do it at one time.

As discussed above, the impacts of marijuana facilities on neighboring properties and the community can be significant. When considering the Polk County Comprehensive Plan goals, policies and intent, Polk County finds that it cannot reasonably provide an atmosphere conducive to economic activity or provide for and maintain a viable economy while preserving the present sense of community and high level of environmental quality without first knowing the regulatory framework and standards for which this new marijuana economic sector will operate. The coming State rules and regulations on medical and recreational marijuana industries will provide the side bars for which to evaluate the potential externalities that could be associated with the establishment of these facilities within unincorporated Polk County. It is that understanding that could allow Polk

County to effectively regulate the time, place and manner of marijuana facilities. The proposed moratorium could afford the County needed time to consider potential land use regulations in light of State regulations. The County could then choose to apply the legislative land use process and consider further local regulatory standards and zoning restrictions on marijuana facilities. Polk County could hold public hearings and seek public input to develop and adopt legal standards for marijuana facilities and associated findings addressing the standards listed in Polk County Zoning Ordinance Chapter 115.060.

Based on these findings, Polk County concludes that it would be in the public interest and of general public benefit to wait and develop ordinances that regulate the time, place and manner in which marijuana facilities operate until such time as the State rules regulating these facilities are developed.

COMMENTS:

Oregon Department of Land Conservation and Development (DLCD): No Comment received.

STAFF COMMENTS, CONCLUSIONS AND RECOMMENDATIONS:

Based on the findings of this report in support of a moratorium pursuant to ORS 197.520 on the establishment of new marijuana facilities, the Planning Director **RECOMMENDS ADOPTION** of Ordinance 15-01.



POLK COUNTY

HUMAN RESOURCES

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338
(503) 623-1888 * FAX (503) 623-1889

MEMORANDUM

TO: Board of Commissioners
FROM: Matt Hawkins, Administrative Services Director *MH*
DATE: May 13, 2015
SUBJECT: New Job Specification and Salary Range

Wednesday – May 20, 2015 (Consent)

RECOMMENDATION:

The Board of Commissioners approve the new job specification and salary range.

ISSUE:

Shall the Board approve this new job specification and salary range?

DISCUSSION:

It is recommended the Board of Commissioners approve a new job specification for a GIS/Programmer Analyst II. This position would allow for a series of job specifications in this category. When hiring, it would provide greater options to attract potential applicants at either level in this series.

The new proposed salary range for the GIS/Programmer Analyst II will be (40E) \$3,947 - \$4,995.

FISCAL IMPACT:

No fiscal impact for FY 14-15.



POLK COUNTY CLASS SPECIFICATION
GIS PROGRAMMER/ANALYST II

Class Spec. Number: 284
Representation: AFSCME
FLSA Status: Non-Exempt
Salary Range: 40E

GENERAL STATEMENT OF DUTIES: This is a non-supervisory skilled technical Geographic Information System (GIS) class. Develops program and system alternatives for GIS implementation. Documents GIS users' needs, designs and develops application software. May produce custom products such as maps and maintain land information.

SUPERVISION RECEIVED: Works under the general supervision of the IT Director who develops direction and priorities for the County GIS.

SUPERVISION EXERCISED: Supervision of employees is not a normal responsibility of this class. However, the employee provides technical assistance, training, and coordination to GIS users. Oversees service contracts for data conversion and application development.

PRINCIPAL DUTIES: An employee in this classification may perform any of the following duties. However, these examples do not include all the specific tasks which an employee may be expected to perform.

1. Develops program and system alternatives for GIS implementation for review by the IT Director and users. Alternatives will include descriptions of final deliverables, justification, costs, benefits, pros and cons, and timelines.
2. Under the direction of the IT Director, documents GIS users' needs, designs and develops application software for input, update, and display of land information.
3. Under supervision of the IT Director, performs routine operating system administration to include but not limited to: software installation, system backups, account management, print maintenance, and purchased software management.
4. Provides basic training and technical assistance to County GIS users in the operation of standard GIS menu systems and computer desktop environment.
5. Supports development and maintenance of land information using the County GIS. May input and update taxlots, soils, land use, streams, roads, topography, zoning, comprehensive plan, and survey control points using the GIS.
6. Under supervision of the IT Director, answers inquiries from County staff, the public, and outside agencies concerning the County GIS.
7. Under supervision of the IT Director, assists in the development of cartographic and digital standards for the County Land Information System.
8. Based on discussions with GIS users, may produce custom products such as maps of land information to meet specific County GIS user needs.

9. Under the direction of the IT Director will provide programming and development support for information and software systems required by Information Services in a manner similar to development procedures used for GIS implementation.
10. Performs related duties as required.

EMPLOYMENT QUALIFICATIONS:

Knowledge of: (updated programming languages) application development methods to complete needs assessments, data modeling, and system design; cartographic principles, map production, and land records; basic cartographic principles of geographic information systems (ArcMap or Arc/Info), including entry/updates, analysis, and map production; standard programming languages (C#, PHP, PYTHON, VB.NET or ASP.NET preferred); database management systems such as INFO, ESRI Geodatabases, SDE, Microsoft Access, or SQL Server.

Ability to: develop application systems using standard programming languages such as VB.NET and SQL tools to support the Land Information Services Program in a GIS and Information Systems environment; use GIS tools for data capture, manipulation and presentation; develop computer-based mapping/GIS system application systems, design GIS data, develop application systems and GIS data structures, use COGO, computer-based mapping/GIS system (ArcMap and Arc/Info); administer personal computers to support the GIS workstation environment and answer basic operator questions; assist in development of program priorities and alternatives; train staff in basic GIS operations; establish and maintain working relations with staff, the public, and outside agencies; communicate effectively both orally and in writing.

EDUCATION, EXPERIENCE AND TRAINING: Bachelor's degree in computer science, GIS, natural sciences, or related field with two year of coursework related to Geographic Information Systems and four years GIS experience (ESRI technology preferred) with three year programming (C#, PHP, VB.NET, PYTHON, or ASP.NET preferred); or any equivalent combination of experience and training.

GIS Programmer/Analyst II - 284
Adopted 5/15



POLK COUNTY

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338
(503) 623-1888 * FAX (503) 623-1889

HUMAN RESOURCES

MEMORANDUM

TO: Board of Commissioners

FROM: Matt Hawkins, Administrative Services Director *MH*

DATE: May 15, 2015

SUBJECT: Revised Job Specification and Salary Range

Wednesday – May 20, 2015 (Consent)

RECOMMENDATION:

The Board of Commissioners approve the revised job specification and salary range.

ISSUE:

Shall the Board approve this revised job specification and salary range?

DISCUSSION:

It is recommended the Board of Commissioners approve the revised job specification for a Health Services Business Services Manager. The position has been retitled from the original title of Health Services Fiscal Manager, and supervisory duties have been added back to this position. It is expected that this position will answer directly to the Health Services Director and would exercise supervision over the Business Services Supervisor and the Business Services team for Health Services.

The new proposed salary range for the Health Services Business Services Manager will be (46D) \$5,050 - \$6,389.

FISCAL IMPACT:

No fiscal impact for FY 14-15.



POLK COUNTY CLASS SPECIFICATION
HEALTH SERVICES
~~ISCAL MANAGER~~ BUSINESS SERVICES MANAGER

Class Spec. Number: 905
Representation: Non-Represented
FLSA Status: Exempt
Salary Range: 44E46D

GENERAL STATEMENT OF DUTIES: Directs the accounting activities of Health Services. Interprets pertinent laws and departmental regulations and advises other departments within Health and Human Services. Oversees the Business Services department and the accurate and timely completion of responsibilities therein. Provides guidelines and direction to sub-contract service providers, assists Assists with budget and fiscal management to Health Services departments and works with the Health Services Director to assure fiscal compliance with program delivery. Provides staff support to the Administrative Officer and Health Services Director.

SUPERVISION RECEIVED: Works under the general supervision of the Health Services Director who reviews work for effectiveness and compliance with policy, rules and regulations.

SUPERVISION EXERCISED: Supervision of other employees is not typically a duty of this job classification, however, may be asked to provide direction for assigned staff within the Health Services fiscal team. assigned staff within admin and/or Business Services is typically a duty of this positions.

PRINCIPAL DUTIES: An employee in this classification may perform any of the following duties. However, these examples do not include all the specific tasks which an employee may be expected to perform.

~~1.1. Administers the County Health Services fiscal programs.~~

Responsible for the preparation and administration of the Health Services budget and related divisions and funds.

~~2.2. Works collaboratively with the County Treasurer or Fiscal Officer to ensure that County accounting policies and practices are followed, and state and federal regulations are met.~~

~~3.3. Prepare or assist in the preparation of the annual budget revenue and expenditure projections for program planning within the divisions of the Health Services; monitors budget expenditures in accordance with the adopted budget. Develops and monitors tracking instruments to ensure timely payment and/or receipt of contracted funds, and timely renewal of contracts and required insurance.~~

4.

Represents the Health Services Department in negotiating, developing and monitoring contracts. Composes contract wording and calculates contract payment rates and amounts.

Routes contracts and grants through the legal signature process.

~~5.5. Gathers and compiles information necessary for the formulation of operating procedures, policies, rules and regulations. Prepares varied and complex reports involving fiscal data.~~

- | 6.6. ___ Interprets pertinent OARs and departmental procedures to the public in person and through correspondence; resolves difficult public relations problems.
- | 7.7. ___ Assure accurate expense and revenue recording for Health Services departments. Interact and serve as technical liaison with internal and external auditors and financial reviewers. Assure compliance with regulatory and professional accounting and cost reporting standards.
- | 8.8. Act as technical and research resource regarding fiscal matters for the Health Services Director, Administrative Officer, County Treasurer and management team.
- | 9.9. Review plans/agreements, schedules, budgets, progress reports or other grant/contract monitoring instruments to ensure contract or grant project program compliance.
- | 10.10. Serves on the department-wide management team to assist in planning and development of the Health Services Department's integrated system.
- | 11.11. Performs related duties as required.

EMPLOYMENT QUALIFICATIONS:

Knowledge of: accounting and contracting principles, practices and methods; government organization and accounting; budgets, and budget preparation; record keeping and reporting procedures; operations, functions, policies and procedures for Health and Human Services departments; management practices.

Ability to: prepare and monitor budgets and contracts; communicate effectively both orally and in writing; prepare clear, concise and accurate financial and contractual related written reports; assemble, organize and present accurate statistical, financial, contractual, and factual information derived from a variety of sources; comprehend and interpret statutes, rules, regulations and policies; exercise resourcefulness, tact and proper perspective developing alternative procedures or problem solutions; work effectively with staff, department managers and supervisors, State, sub-contractors and the general public.

EDUCATION, EXPERIENCE AND TRAINING: Bachelor's degree with major course work in accounting/business or public administration and four (4) years of high level accounting and/or contract experience, preferably in a government or private non-profit setting; or any equivalent combination of education, experience and training.

SPECIAL QUALIFICATIONS: Must possess and maintain a valid Oregon driver's license, automobile insurance, and have access to and use of a personal automobile as a condition of employment.

- | Health Services Fiscal Business Services Manager – 905
- | Adopted 7/11
- | Revised 11/13
- | Revised 5/15



Contract Review Sheet

Staff Contact: Kalena Plath Phone Number (Ext): 2428
Department: Public Health Consent Calendar Date: 05/20/15
Contractor Name: Oregon Health Authority
Address: 250 Winter St NE
City, State, Zip: Salem, OR 97301
Effective Dates - From: 7/9/2014 Through: 06/30/15
Contract Amount: \$1,552,631.00

Background:

Intergovernmental Agreement #142026 is for the financing of Public Health Programs. The grant award may be modified from time-to-time throughout the contract term.

Discussion:

The County receives funds from the Oregon State Health Division to provide health services to County residents by way of grant. This amendment adds \$9,039 funding for PE09-Ebola- Emergency Preparedness.

Fiscal Impact:

Total of this award is \$1,552,631.00. Public Health budget was prepared in anticipation of this funding. There is no fiscal impact to FTE or County general fund.

Recommendation:

It is recommended that the Board of Commissioners sign the amendment.

Copies of signed contract should be sent to the following:

Name: Kalena Plath E-mail: plath.kalena@co.polk.or.us
Name: Katrina Rothenberger E-mail: rothenberger.katrina@co.polk.or.us
Name: Connie Thies E-mail: connie.thies@state.or.us

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

Agreement #142026

**THIRTEENTH AMENDMENT TO OREGON HEALTH AUTHORITY
2013-2015 INTERGOVERNMENTAL AGREEMENT FOR THE
FINANCING OF PUBLIC HEALTH SERVICES**

This Thirteenth Amendment to Oregon Health Authority 2013-2015 Intergovernmental Agreement for the Financing of Public Health Services, effective July 1, 2013 (as amended the "Agreement"), is between the State of Oregon acting by and through its Oregon Health Authority ("OHA") and Polk County, acting by and through its Polk County Health Department ("LPHA"), the entity designated, pursuant to ORS 431.375(2), as the Local Public Health Authority for Polk County.

RECITALS

WHEREAS, OHA and LPHA wish to modify the set of Program Element Descriptions set forth in Exhibit B of the Agreement;

WHEREAS, OHA and LPHA wish to modify the Financial Assistance Award set forth in Exhibit C of the Agreement; and,

AGREEMENT

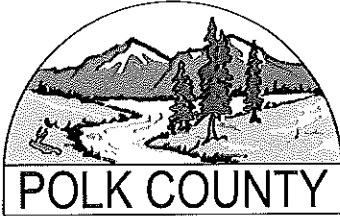
NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Exhibit B "Program Element Descriptions" is amended as follows:

Program Element #09: Public Health Emergency Preparedness Program (PHEP) Ebola Supplement 2 is hereby added as set forth in Exhibit 1 "Program Element #09: Public Health Emergency Preparedness Program (PHEP) Ebola Supplement 2" attached hereto and incorporated herein by this reference.

2. Section 1 of Exhibit C entitled "Financial Assistance Award", "Financial Assistance Award for the period July 1, 2014 to June 30, 2015" only of the Agreement is hereby superseded and replaced in its entirety by Attachment 1 attached hereto and incorporated herein by this reference. Attachment 1 must be read in conjunction with Section 4 of Exhibit C, entitled "Explanation of Financial Assistance Award" of the Agreement.

3. The current total award amount as of this Amendment is: **\$1,552,631.00.**



POLK COUNTY

BOARD OF COMMISSIONERS

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338-3174
503-623-8173 ★ FAX 503-623-0896

Commissioners
CRAIG A. POPE
MIKE AINSWORTH
JENNIFER L. WHEELER

GREGORY P. HANSEN
Administrative Officer

TO: BOARD OF COMMISSIONERS

FROM: GREG HANSEN, ADMIN. OFFICER

DATE: May 20, 2015

SUBJECT: 2015-2017 COMMUNITY DISPUTE RESOLUTION PROGRAM GRANT

RECOMMENDATION:

That County selects Community Mediation Services of Polk County as its grantee for funding under the Oregon Office of Community Dispute Resolution (OOCDR) Program's 2015-2017 biennium grant.

ISSUE:

Who should the County select as the grantee for funding in the 2015-2017 grant cycle offered by OOCDR?

BACKGROUND:

Polk County began participating in the State funded Community Dispute Resolution program in 1991. This program was designed to provide grant funds to dispute resolution providers in the odd numbered years.

On March 9, 2011, the Board approved, through Resolution 11-03, to participate in the grant process. As part of the grant process, a RFP for services was requested. The County/State received only one eligible applicant (Community Mediation Services of Polk County) for the grant proposal.

A letter from Mark Quinlan, Administrator for the Oregon Office for Community Dispute Resolution was received by the Board of Commissioners requesting that the County select Community Mediation Services of Polk County as the recipient of the grant.

ALTERNATIVES:

The following are alternatives:

1. Approve the proposal as recommended.
2. Elect not to select a grantee for the grant.

FISCAL IMPACT:

No fiscal impact.



UNIVERSITY OF OREGON
School of Law

May 6, 2015

Polk County Board of Commissioners
850 Main Street
Dallas, OR 97338
Attention: Heather Merrill

RE: 2015-2017 Community Dispute Resolution Grants

Dear Board of Commissioners:

I am pleased to inform you that the Oregon Office for Community Dispute Resolution (OOCDR) has completed its review of applications for grant funding under the Oregon Community Dispute Resolution statute and administrative rules. The eligible program in your County is:

- * Community Mediation Services of Polk County
P.O. Box 1194
Dallas, OR 97338

At this point we ask that the County Board of Commissioners take action on or before June 12, 2015 to officially select the eligible grantee to receive OOCDR funds and that you notify me once that action has been taken.

After I receive notice of your selection, I will work directly with the eligible applicant to sign a grant agreement and award the grant. A copy of the grant agreement will be provided to you. Please note that the final grant award will be subject to authorization of ongoing funding by the Oregon Legislative Assembly for the 2015-2017 biennium.

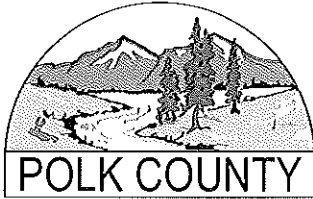
These grants help make it possible to educate the citizens of Oregon about mediation and assist them in finding effective ways to resolve their disputes peacefully. Thank you for the ways in which you support these important community engagements.

Sincerely,

Mark Quinlan, Administrator
Oregon Office for Community Dispute Resolution

cc: Ken Braun, Community Mediation Services of Polk County

OREGON OFFICE FOR COMMUNITY DISPUTE RESOLUTION
1515 Agate Street, 1221 University of Oregon, Eugene OR 97403-1221
T 541-346-1623 <http://oocdr.uoregon.edu/>



POLK COUNTY

820 S.W. ASH STREET * DALLAS, OREGON 97338-2112
(503) 623-9287 * FAX (503) 623-0897

PUBLIC WORKS

MEMORANDUM

TO: Board of Commissioners
FROM: Eric Berry *EB*
DATE: May 14, 2015
SUBJECT: Personal Services Contract – Universal Field Services, Inc.

Wednesday Consent
May 20, 2015

RECOMMENDATION:

Staff recommends Board approve the personal services contract with Universal Field Services, Inc.

ISSUE:

Shall the Board enter into a contract with Universal Field Services, Inc. to provide right-of-way services to Polk County for the Doaks Ferry Road Realignment project?

DISCUSSION:

Public Works wishes to obtain the services of Universal Field Services, Inc. for the appraisal and right-of-way services relating to approximately 6 properties, for the Doaks Ferry Road Realignment project.

FISCAL IMPACT:

The fiscal impact of this contract will not exceed \$40,000 without prior authorization.

**PERSONAL SERVICES CONTRACT
POLK COUNTY PUBLIC WORKS**

This contract is made and entered into by and between Polk County, herein known as Agency and the below named firm, herein referred to as Consultant.

Consultant Name: Universal Field Services, Inc.
Address: 2720 Commercial St SE, Suite 201
Salem, OR 97302
Phone: (503) 399-8002
Email:

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties above-mentioned, for and in consideration of the mutual covenants stated as follows:

1.0 Contract Duration. This Agreement is effective when signed by Consultant and County and shall be completed within one year of its effective date.

2.0 Consultant's services. The scope of services, delivery schedule and compensation are described in Attachment "A", attached hereto and by this reference incorporated into this Agreement.

3.0 Assignment. Neither party shall assign, sublet or transfer any interest in or duty under this agreement without the written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented.

4.0 Laws and regulations. Polk County and Contractor agree to comply with the ordinances and regulations of Polk County; applicable provisions in any contract between Polk County and the State of Oregon relating to the services to be provided under this Agreement by the Contractor; and all provisions of Federal and State law, rules and regulations relating to Contractor's performance of services under this Agreement.

In the case of an act or duty of Polk County, imposed upon Polk County by the State of Oregon, which, by the nature of this Agreement, Polk County determines to be within the scope of this Agreement and is to be performed by Consultant, Consultant shall perform such act or duty on behalf of Polk County.

5.0 Conflict of Interest. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. Consultant further covenants that in the performance of this contract no person having any such interest shall be employed.