



BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON

Wednesday, September 12, 2018
10:00 a.m. - Room 308

BOARD MEETING AGENDA

CALL TO ORDER/FLAG SALUTE

MINUTES:

Minutes, September 5, 2018 Board meeting.
Minutes, September 5, 2018 Work Session

VISITOR COMMENTS - 5 MINUTE LIMIT

CONSENT AGENDA:

- (A) Ratify the Select to Pay for the week of 09.10.18.
- (B) Appointments to the Columbia County Parks Advisory Committee: Courtney Elder to complete the term of David Somann, term to expire 12.31.2019; Steve Person to complete the term of Stephanie Klepel, term to expire 12.31.2021; Gerry Tinkle, term to expire 12.31.2011; and Ken Tennefoss, term to expire 12.31.22.
- (C) Order No. 39-2018, "In the Matter of Establishing a Temporary Emergency Speed for Timber Road between Highway 47 and the Columbia County Line".

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (D) C92-2018 - License & Maintenance Agreement with the City of St. Helens for "This is Us" artwork.
- (E) C93-2018 - Intergovernmental Agreement 165-10096-18 with the Oregon Secretary of State for Joint Voters' Pamphlet and authorize the Chair to sign.

DISCUSSION ITEMS:

COMMISSIONER HEIMULLER COMMENTS:

COMMISSIONER MAGRUDER COMMENTS:

COMMISSIONER TARDIF COMMENTS:

EXECUTIVE SESSION:

Pursuant to ORS 192.640(1), the Board of County Commissioners reserves the right to consider and discuss, in either open session or Executive Session, additional subjects which may arise after the agenda is published.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Establishing a Temporary
Emergency Speed for Timber Road between
Highway 47 and the Columbia County Line

ORDER NO. 39-2018

WHEREAS, pursuant to ORS 810.180(9), a road authority may establish an emergency speed on any highway under its jurisdiction; and

WHEREAS, Timber Road is a County Road under the jurisdiction of Columbia County (the "County"); and

WHEREAS, the County and the Oregon Department of Transportation ("ODOT") entered into an agreement to allow Timber Road to be used as a detour route during ODOT's replacement of Beaver Creek Bridge on Highway 47; and

WHEREAS, the Director of the Columbia County Road Department has determined that due to the increased detour traffic, the posted speed limits on Timber Road are no longer safe; and

WHEREAS, in accordance with County Ordinance No. 90-14 and ORS 810.180(9), the Director recommends that the County establish a temporary emergency speed of 45 miles per hour on Timber Road, between Highway 47 and the Columbia County line, during the Beaver Creek Bridge construction project but in no case more than 120 days;

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS HEREBY
ORDERS:

1. A temporary emergency speed limit of 45 miles per hour shall be established on Timber Road between Highway 47 and the Columbia County line; and
2. The Road Department shall post appropriate signs giving notice of the emergency speed in compliance with ORS 810.200; and
3. The temporary emergency speed shall be effective and enforceable when the signs giving notice of the speed are posted and shall remain in effect during the construction of Beaver Creek Bridge, but in no case more than 120 days from the effective date.

DATED this _____ day of September, 2018.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____
Margaret Magruder, Chair

Approved as to form:

By: _____
Henry Heimuller, Commissioner

By: _____
Office of County Counsel

By: _____
Alex Tardif, Commissioner

LICENSE AND MAINTENANCE AGREEMENT
BETWEEN COLUMBIA COUNTY AND THE CITY OF ST. HELENS FOR AN ART
INSTALLATION ON COUNTY PROPERTY ("THIS IS US")

This License and Maintenance Agreement ("Agreement") is by and between Columbia County, ("Licensor" or the "County") and the City of St. Helens ("Licensee") for the placement and maintenance of artwork on County property. In consideration for the mutual benefits and covenants stated herein, the parties hereby agree to the following:

1. **EFFECTIVE DATE.** This Agreement shall be effective on November 11, 2018 and shall continue until January 11, 2019 unless otherwise terminated as set forth in Paragraph 4, below.
2. **LICENSE.** The County hereby grants to Licensee a license to enter upon, occupy, and use the Columbia County Courthouse Rose Garden, located at The Strand, St. Helens, Oregon, 97051 ("Premises"), subject to the terms and conditions set forth herein, for the purpose of installing and maintaining artwork ("Art") described in Exhibit A, attached hereto and incorporated herein by this reference.
3. **TERMS AND CONDITIONS.** The following terms and conditions shall apply to this Agreement:
 - a. The Art is for public use, and Licensee shall not restrict its use by the public except as necessary during periods of repair or maintenance.
 - b. The Art will be placed throughout the Premises, as generally shown on Exhibit A, which is attached hereto and incorporated herein by this reference. The Art shall not encroach into the public right of way. The final location and installation of the Art shall be approved by the County.
 - c. Signs shall not be allowed, except as approved by the County.
 - d. Licensee shall obtain all necessary permits and approval, such as but not limited to construction permits, prior to installation.
 - e. Licensee owns the Art and shall be responsible for and shall maintain and repair the Art as needed to ensure that it is safe for public use at all times. If repair or maintenance is necessary for public safety, and Licensee fails to repair or maintain the Art, the County may perform the needed repairs and/or maintenance and recover its costs from Licensee. The County shall notify Licensee in writing prior to performing any such repair or maintenance, unless the County determines that immediate repair is necessary for public safety.
 - g. The Art is intended to be a temporary installation. Licensee will remove at the Art no later than 7:30 a.m. on the morning of January 12, 2019; however, the County may for any reason and at any time require the immediate removal of the Art. If immediate removal is required, County shall notify Licensee in writing. Upon removal of the Art, Licensee shall restore the premises to substantially the same condition as prior to installation. If the Art is not removed or other arrangements are made and approved by the County within five (5) days of date of the notice, the County may remove and dispose of the Art as it sees fit. The County may also remove the Art without notice if it determines that immediate removal is necessary for public safety. The County may recover costs incurred in the removal and disposal of the Art from Licensee.

- h. The County shall in not be responsible for the safekeeping of the Art. The County will not insure the Art. Licensee shall be responsible for insuring the Art. Licensee agrees to hold the County, its officers, agents, and employees harmless from any loss or damage to the Art at all times during the term of this Agreement.
- i. Licensee agrees to indemnify, defend, save and hold harmless the County, its officers, agents or employees, from any and all claims, suits or actions of any nature, including constitutional claims, claims of injury to any person or persons or of damage to property caused directly or indirectly by reason of error, negligence, or wrongful act by Licensee, its officers, agents and/or employees arising out of the performance of this Agreement, including but not limited to the design, installation, maintenance, monitoring and repair of the Art. This indemnity does not apply to claims, suits or actions arising solely out of the negligent acts or omissions of the County, its officers, agents or employees.
- j. Licensee shall maintain comprehensive general liability and property damage insurance in an amount of not less than \$2,000,000 per occurrence to protect County, its officers, agents, and employees. Licensee shall provide County a certificate or certificates of insurance in the amounts described above which names Columbia County, its officers, agents and employees as additional insureds. Such certificate or certificates shall be accompanied by an additional insured endorsement. Licensee agrees to notify County immediately upon notification to Licensee that any insurance coverage required by this paragraph will be canceled, not renewed, or modified in any material way, or changed to make the coverage no longer meet the minimum requirements of this Agreement.
- k. Licensee shall comply with all rules, regulations and requirements of the County with regard to the use of the premises pursuant to this Agreement.

- 4. TERMINATION. This Agreement may be terminated by either party upon 24 hours notice. Upon termination, Licensee must immediately remove the Art from the premises and return the premises to substantially the same condition as prior to installation.
- 5. REPRESENTATIVES. Any notice required to be given under this agreement shall be given to the following representatives:

FOR COUNTY

Casey Garrett, Facilities Manager
 Columbia County
 230 Strand St.
 St. Helens, Oregon 97051
 503-397-7213

FOR LICENSEE

Joan Youngberg
 "This is Us" St. Helens Community Art Project
 695 Seal Rd
 St. Helens, Oregon 97051
 503-369-1081

- 7. ENTIRE AGREEMENT. This document constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes any prior oral, written, or contemporaneous agreement between the parties.
- 8. SEVERABILITY. If any term or provision of this Agreement shall be declared invalid or unenforceable, the remainder of this Agreement, including the application of any term or provision to persons or circumstances other than those as to which the application is declared invalid or unenforceable, shall not be affected.
- 9. AMENDMENT. This Agreement may only be amended by a writing signed by the County and Licensee.

10. NO WAIVER. Waiver by either party of the strict performance of any term or covenant of this Agreement or any right under this Agreement shall not constitute a continuing waiver.
11. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective representatives, successors, and permitted assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

LICENSEE

BOARD OF COUNTY COMMISSIONERS FOR
COLUMBIA COUNTY, OREGON

By: 
John Walsh, City Administrator

By: _____
Margaret Magruder, Chair

Date: 8/20/18

By: _____
Henry Heimuller, Commissioner

Approved as to form

By: _____
Alex Tardif, Commissioner

By: _____
Office of County Counsel

Date: _____

EXHIBIT A

"This is Us" St Helens is a true Community Art Project. For the last 6 months "This is Us" has been holding small house paint events. The events have been both public and private free events. At these events we provided small 3"x3" squares and small triangle wood pieces and have encouraged everyone to paint a "house" that represents themselves in the St Helens Community.

We have collected over 3,500 houses. We are now assembling these small houses into one piece of Community Art. The houses will be glued and screwed onto 3 conical shapes structures. The three conical structures have been designed by Byron Olier of Michael Curry Designs. They are approximately 5 feet at the base and vary in height, the tallest not exceeding 14 ft in height. The houses will be secured to the structures and our hope is that we can display the structures in the Rose Garden in front of the courthouse. There is much community interest in this project and many of our painters are excited to see their piece of art in the final art piece.

RECEIVED
AUG 22 REC'D

July 1950



RECEIVED
AUG 21 REC'D

Mr. Tolson, Mr. Clegg, Mr. Glavin, Mr. Ladd, Mr. Nichols, Mr. Rosen, Mr. Tracy, Mr. Carson, Mr. Egan, Mr. Gurnea, Mr. Harbo, Mr. Hendon, Mr. Pennington, Mr. Quinn, Mr. Nease, Mr. Gandy

CERTIFICATE OF COVERAGE

Agent
Hagan Hamilton Insurance, Inc
PO Box 847
McMinnville, OR 97128

This certificate is issued as a matter of information only and confers no rights upon the certificate holder other than those provided in the coverage document. This certificate does not amend, extend or alter the coverage afforded by the coverage documents listed herein.



citycounty insurance services

Named Member or Participant
City of St. Helens
P. O. Box 278
St. Helens, OR 97051

Companies Affording Coverage

COMPANY A - CIS
COMPANY B - National Union Fire Insurance Company of Pitts, PA
COMPANY C - RSUI Indemnity

LINES OF COVERAGE

This is to certify that coverage documents listed herein have been issued to the Named Member herein for the Coverage period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which the certificate may be issued or may pertain, the coverage afforded by the coverage documents listed herein is subject to all the terms, conditions and exclusions of such coverage documents.

Type of Coverage	Company Letter	Certificate Number	Effective Date	Termination Date	Coverage	Limit
<input checked="" type="checkbox"/> General Liability <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Public Officials Liability <input checked="" type="checkbox"/> Employment Practices <input checked="" type="checkbox"/> Occurrence	A	18LSTH	7/1/2018	7/1/2019	General Aggregate: Each Occurrence:	\$30,000,000 \$10,000,000
<input checked="" type="checkbox"/> Auto Liability <input checked="" type="checkbox"/> Scheduled Autos <input checked="" type="checkbox"/> Hired Autos <input checked="" type="checkbox"/> Non-Owned Autos	A	18LSTH	7/1/2018	7/1/2019	General Aggregate: Each Occurrence:	None \$10,000,000
<input checked="" type="checkbox"/> Auto Physical Damage <input checked="" type="checkbox"/> Scheduled Autos <input checked="" type="checkbox"/> Hired Autos <input checked="" type="checkbox"/> Non-Owned Autos	A	18APDSTH	7/1/2018	7/1/2019		
<input checked="" type="checkbox"/> Property	A	18PSTH	7/1/2018	7/1/2019		Per Filed Values
<input checked="" type="checkbox"/> Equipment Breakdown	A	18BSTH	7/1/2018	7/1/2019		Per Filed Values
<input type="checkbox"/> Excess Liability						
<input checked="" type="checkbox"/> Excess Crime	B	18ECSTH	7/1/2018	7/1/2019	Per Loss	\$500,000
<input checked="" type="checkbox"/> Excess Earthquake	C	18EQSTH	7/1/2018	7/1/2019	Each Occurrence:	\$5,000,000
<input checked="" type="checkbox"/> Excess Flood	C	18FSTH	7/1/2018	7/1/2019	Each Occurrence	\$5,000,000
<input type="checkbox"/> Difference in Conditions						
<input checked="" type="checkbox"/> Excess Cyber Liability	A	18ECLSTH	7/1/2018	7/1/2019	Occurrence/Aggregate	\$450,000
<input type="checkbox"/> Workers' Compensation						

Description:

Columbia County, its officers, agents, and employees are named as additional members with respect to the "This is Us" Art Display at Columbia County Rose Garden, November 11, 2018 to January 11, 2019.

Certificate Holder:
Columbia County, Oregon
230 Strand, Room 318
St Helens OR 97051

CANCELLATION: Should any of the coverage documents herein be cancelled before the expiration date thereof, CIS will provide 30 days written notice to the certificate holder named herein, but failure to mail such notice shall impose no obligation or liability of any kind upon CIS, its agents or representatives, or the issuer of this certificate.

By *Alexis Perez*

Date: 8/22/2018

RECEIVED
AUG 22 REC'D

- (4) Sums sought or awarded for claims of unjust enrichment, money had and received or replevin.
 - (5) Sums due to taxing authorities, insurance programs, or retirement plans as a result of an award of damages or claim settlement
 - (6) Fines or penalties assessed to the Member for non-payment of taxes, insurance contributions or retirement plan contributions.
- G **"Employee benefit programs"** shall mean group life insurance, group health insurance, profit sharing plans, pension plan, employee stock subscription plans, workers' compensation, unemployment insurance, social security, disability benefits insurance and travel, savings or vacation plans
- H **"Fungus or fungi"** includes but is not limited to any form or type of mold, mushroom or mildew.
- I. **"Hazardous properties"** means radioactive, toxic or explosive properties.
- J **"Hospital"** or **"nursing home"** means any facility with an organized medical staff, with permanent facilities that include inpatient beds and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment including but not limited to providing treatment for 1) acutely ill patients and accident victims, 2) mentally ill patients or 3) patients in special inpatient care facilities. However, in-patient care facilities incidental to correctional facilities shall not be considered a **hospital** or **nursing home**.
- K **"Member"** means the entity named on the declarations page and its officers, employees and agents including volunteers, authorized to act on behalf of the named member, all acting within the scope of their employment or duties whether arising out of a governmental or proprietary function. **The term member shall also include additional members to the extent coverage is afforded under the definition of additional member.**
- (1) **"Named member"** means the entity named as such on the Declarations page of the coverage agreement,
 - (2) **"Additional member"** means any party whom a public body covered under this coverage agreement has agreed to hold harmless, indemnify or defend pursuant to a contract or other agreement lawfully entered into by such public body. However, in no event shall coverage under this coverage agreement extend to such party for any claim arising out of an occurrence after the expiration of this coverage agreement or the expiration of the contract or agreement entered into by the public body, whichever shall occur first. Further, in no event shall coverage under this coverage agreement extend to such party for any claim, however or whenever asserted, arising out of such party's sole negligence. Except as specified in this paragraph, such party shall have no rights under the Trust Agreement, Bylaws or Rules of the Trust. The term "additional insured" if used on a certificate of coverage, shall be understood to mean the same as **additional member**.
- L. **"Nuclear Facility"** means:
- (1) Any nuclear reactor;
 - (2) Any equipment or device designed or used for

INTERGOVERNMENTAL AGREEMENT

Agreement No. 165-190096-18

This Agreement is between the State of Oregon acting by and through its Secretary of State Elections Division ("Agency") and Columbia County ("Local Government"), each a "Party" and, together, the "Parties".

SECTION 1: AUTHORITY

This Agreement is authorized by ORS 190.110.

SECTION 2: PURPOSE

The purpose of this Intergovernmental Agreement is for the Agency and the County to produce a joint Voters' Pamphlet for the November 6, 2018, General Election.

SECTION 3: EFFECTIVE DATE AND DURATION

This Agreement is effective on the date of the last signature, and terminates on November 6, 2018, unless terminated earlier in accordance with Section 16.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 Agency's Authorized Representative is:

David Matthews
255 Capitol St NE, Ste 180, Salem, OR 97310
503-986-2597
fax: 503-378-4991
david.w.matthews@state.or.us

4.2 Local Government's Authorized Representative is:

Elizabeth (Betty) Huser, County Clerk
230 Strand St
St. Helens, OR 97051-2089
503-397-7214 or 503-397-3796
fax 503-397-7266
betty.huser@co.columbia.or.us

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

SECTION 5: RESPONSIBILITIES OF EACH PARTY

5.1 Agency shall:

- Assume all responsibility for the content of the state portion of the Voters' Pamphlet.
- Include in the state portion of the Voters' Pamphlet the following information:
 - Voter registration requirements (including qualifications and when to register or update a registration);
 - How a voter may obtain a replacement ballot;
 - Contact information for county elections offices; and
 - Resources for voters with disabilities.
- Obtain binding and delivery services of the joint voters' pamphlet.
- Have delivered to each post-office mailing address in the county including distribution to colleges and universities in the county.
- Provide the County with 200 combined state and county voters' pamphlets.
- Determine the quantity of county inserts necessary and notify the County no later than Friday, September 7, 2018.

5.2 Local Government shall:

- Assume all responsibility for the content of the Local Government portion of the Voters' Pamphlet.
- Print their portion of the voters' pamphlet according to the specifications listed below.
- The County will print their portion of the voters' pamphlet according to the following specifications:
 - Printed Signature: Print as press folded signature on 28-pound, 32-inch, recycled white newsprint. Press signature should have a minimum 3/8 inch hi-folio lap and a 3/16 inch head trim allowance. Press signatures should not be trimmed. Signatures must be printed on long cut-off press with approximate press finished size of 7-7/8 inches wide X 11-3/8 inches high plus high folio lap.
 - Page Increments: 4 page increments with a minimum of 8 pages. Shingling should be considered for the larger page counts.

- Copy Image Area: Image area of copy can be no greater than 6-5/8 inches wide by 10-1/8 inches high, centered on the page.
- Shaded or Color Bar: Each page must have a 50 percent screen color bar, printed in black or colored ink, which begins at the outside edge of the copy image area and bleeds off the page head, foot and face. The bleed image must extend beyond the finished trim size by a minimum of 1/4 inch. Bleeds not meeting this specification may not reach the trimmed edge when bound.
- Final Trim Size: When this signature is stitched into the center of the state voters' pamphlet, its final trim size will be 7-1/2 inches wide by 10-3/4 inches high.
- Quantities: Print quantities determined necessary by Agency for delivery to each post-office mailing address in the county, plus a sufficient percentage of over's to allow for non-mail copies and bindery and mailing spoilage.
- Delivery: Printed signatures must be produced in time for delivery to Signature Graphics at 15040 NE Mason St, Portland, Oregon 97230 no later than Friday, September 21, 2018. A specific delivery date and time must be scheduled with Kim Forbis of Signature Graphics at 503-345-1522.
- The County will include in the county portion of the Voters' Pamphlet the following information:
 - A listing of the hours and locations of drops sites; and
 - Any maps required or deemed necessary by the County (such as maps of county, city or district boundary changes).
- The County must have a front cover for the county portion of the Voters' Pamphlet and the cover shall have printed on it the following disclaimer:

ATTENTION

This is the beginning of your county voters' pamphlet. The county portion of this joint voters' pamphlet is inserted in the center of the state portion. Each page of the county voters' pamphlet is clearly marked with a (shaded or color bar) on the outside edge. All information contained in the county portion of this pamphlet has been assembled and printed by your (County Clerk, County Elections Official).

- The County must have a unique page numbering system (different from the standard page numbering used in the state portion) for the county portion of the Voters' Pamphlet. A suggestion would be to precede your page number with your county name (i.e. Columbia-1).

SECTION 6: COMPENSATION AND PAYMENT TERMS

Agency shall invoice Local Government all amounts due for the Local Government's portion of the combined Voter's Pamphlet. Pricing is listed in Attachment A (County Voters' Pamphlet Insert Pricing).

Local Government shall pay Agency for its portion of the combined Voters' Pamphlet upon approval of Agency's invoice.

SECTION 7: REPRESENTATIONS AND WARRANTIES

Local Government represents and warrants to Agency that:

- 7.1 Local Government is a county duly organized and validly existing. Local Government has the power and authority to enter into and perform this Agreement;
- 7.2 The making and performance by Local Government of this Agreement (a) have been duly authorized by Local Government, (b) do 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 Local Government's charter or other organizational document and (c) do 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 Local Government is party or by which Local Government 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 Local Government of this Agreement, other than those that have already been obtained;
- 7.3 This Agreement has been duly executed and delivered by Local Government and constitutes a legal, valid and binding obligation of Local Government enforceable in accordance with its terms;
- 7.4 Local Government has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Local Government will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 7.5 Local Government shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

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 Local Government.

SECTION 8: 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 Agency or any other agency or department of the State of Oregon, or both, and Local Government 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 any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. LOCAL GOVERNMENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 9: OWNERSHIP OF WORK PRODUCT

- 9.1** As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:
- 9.1.1 "Local Government Intellectual Property"** means any intellectual property owned by Local Government and developed independently from the work under this Agreement.
 - 9.1.2 "Third Party Intellectual Property"** means any intellectual property owned by parties other than Local Government or Agency.
 - 9.1.3 "Work Product"** means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that Local Government is required to deliver to Agency under this Agreement, and all intellectual property rights therein.
- 9.2** All Work Product created by Local Government under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of Agency. Agency and Local Government agree that any Work Product that is an original work of authorship created by Local Government under this Agreement is a "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created by Local Government under this Agreement is not "work made for hire," Local Government hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all original Work Product created by Local Government under this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Local Government shall execute such further documents and instruments necessary to fully vest such rights in Agency. Local Government forever waives any and all rights relating to Work Product created by Local Government under this Agreement, including without

limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

If the Work Product created by Local Government under this Agreement is a derivative work based on Local Government Intellectual Property, or is a compilation that includes Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform, and display the pre-existing elements of the Local Government Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

If the Work Product created by Local Government under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Local Government shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing element of the Third party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

- 9.3** If Work Product is Local Government Intellectual Property, Local Government hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Local Government Intellectual Property, and to authorize others to do the same on Agency's behalf.
- 9.4** If Work Product is Third Party Intellectual Property, Local Government shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on Agency's behalf.
- 9.5** If state or federal law requires that Agency or Local Government grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that Agency or the United States own the intellectual property in the Work Product, then Local Government shall execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

SECTION 10: CONTRIBUTION

- 10.1** 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 a Party (the "Notified Party") with respect to which the other Party (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 that have been received by the Notified

Party. 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 the Other Party of the notice and copies required in this Section and a 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 contribution obligation under this Section 10 with respect to the Third Party Claim.

10.2 With respect to a Third Party Claim for which Agency is jointly liable with Local Government (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Local Government 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 Agency on the one hand and of Local Government on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

10.3 With respect to a Third Party Claim for which Local Government is jointly liable with Agency (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of Agency 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 Local Government on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Local Government'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.

SECTION 11: LOCAL GOVERNMENT DEFAULT

Local Government will be in default under this Agreement upon the occurrence of any of the following events:

- 11.1** Local Government fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 11.2** Any representation, warranty or statement made by Local Government in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the

expenditure of funds or the performance by Local Government is untrue in any material respect when made;

- 11.3** Local Government (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; or
- 11.4** A proceeding or case is commenced, without the application or consent of Local Government, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Local Government, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Local Government or of all or any substantial part of its assets, or (c) similar relief in respect to Local Government 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 Local Government is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 12: AGENCY DEFAULT

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

SECTION 13: REMEDIES

- 13.1** In the event Local Government is in default under Section 11, Agency 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: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that Local Government has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Local Government to perform, at Local Government's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 of this Agreement or setoff, or both. These remedies are

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

- 13.2** In the event Agency is in default under Section 12 and whether or not Local Government elects to exercise its right to terminate this Agreement under Section 16.3.3, or in the event Agency terminates this Agreement under Sections 16.2.1, 16.2.2, 16.2.3, or 16.2.5, Local Government's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against Local Government, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against Local Government. In no event will Agency be liable to Local Government for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Local Government exceed the amount due to Local Government under this Section 13.2, Local Government shall promptly pay any excess to Agency.

SECTION 14: INTENTIONALLY BLANK

SECTION 15: 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.

SECTION 16: TERMINATION

- 16.1** This Agreement may be terminated at any time by mutual written consent of the Parties.

- 16.2** Agency may terminate this Agreement as follows:

16.2.1 Upon 30 days advance written notice to Local Government;

16.2.2 Immediately upon written notice to Local Government, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this

Agreement;

- 16.2.3** Immediately upon written notice to Local Government, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;
 - 16.2.4** Immediately upon written notice to Local Government, if Local Government is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Local Government; or
 - 16.2.5** As otherwise expressly provided in this Agreement.
- 16.3** Local Government may terminate this Agreement as follows:
- 16.3.1** Immediately upon written notice to Agency, if Local Government fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Local Government's reasonable administrative discretion, to perform its obligations under this Agreement;
 - 16.3.2** Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Local Government's performance under this Agreement is prohibited or Local Government is prohibited from paying for such performance from the planned funding source;
 - 16.3.3** Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or
 - 16.3.4** As otherwise expressly provided in this Agreement.
- 16.4** Upon receiving a notice of termination of this Agreement, Local Government will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, Local Government will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, Local Government will surrender all documents, research or objects or other tangible things needed to complete the work that was to have been performed by Local Government under this Agreement.

SECTION 17: INTENTIONALLY BLANK

SECTION 18: INTENTIONALLY BLANK

SECTION 19: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

SECTION 20: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually 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. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 21: 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 8, 9, 10, 14, 15 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.

SECTION 22: 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.

SECTION 23: COUNTERPARTS

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

SECTION 24: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

SECTION 25: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Local Government is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

SECTION 26: INTENDED BENEFICIARIES

Agency and Local Government 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.

SECTION 27: 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. Agency may terminate this Agreement upon written notice to Local Government after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 28: ASSIGNMENT AND SUCCESSORS IN INTEREST

Local Government may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Local Government to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Local Government's assignment or transfer of its interest in this Agreement will not relieve Local Government 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.

SECTION 29: SUBCONTRACTS

Local Government shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of Local Government under this Agreement. Agency's consent to any subcontract will not relieve Local Government of any of its duties or obligations under this Agreement.

SECTION 30: TIME IS OF THE ESSENCE

Time is of the essence in Local Government's performance of its obligations under this Agreement.

SECTION 31: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, 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 or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. 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.

SECTION 32: RECORDS MAINTENANCE AND ACCESS

Local Government shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Local Government shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Local Government's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Local Government acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Local Government 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 termination of this Agreement, 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, Local Government shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 33: 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.

SECTION 34: INTENTIONALLY BLANK

SECTION 35: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, Attachment A (County Voters' Pamphlet Insert Pricing).

SECTION 36: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its Secretary of State, Elections Division

Name, Title

Date

Columbia County

Name, Title

Attachment a

COUNTY VOTERS' PAMPHLET INSERT PRICING

Bind and Mail Process

The prices identified in this matrix include bindery and mail processing for a preprinted County Voters' Pamphlet inserted into the center of the State Voters' Pamphlet.

The largest size book including county inserts will be 248 pages.

County Pages	Bind and Mail Per M
8	\$21.50
12	\$21.50
16	\$21.50
20	\$21.50
24	\$24.73
28	\$24.73
32	\$24.73
36	\$24.73
40	\$24.73
44	\$27.95
48	\$27.95
52	\$44.08
56	\$44.08
60	\$44.08
64	\$47.30
68	\$47.30
72	\$47.30
76	\$47.30
80	\$47.30
84	\$50.53
88	\$50.53
92	\$50.53

County Pages	Bind and Mail Per M
96	\$50.53
100	\$66.65
104	\$69.88
108	\$69.88
112	\$69.88
116	\$69.88
120	\$69.88
124	\$73.10
128	\$73.10
132	\$73.10
136	\$73.10
140	\$73.10
144	\$76.33
148	\$92.45
152	\$92.45
156	\$92.45
160	\$95.68
164	\$95.68
168	\$95.68
172	\$95.68
176	\$95.68
180	\$95.68

ATTACHMENT A

COUNTY VOTERS’ PAMPHLET INSERT PRICING

Postage

The prices identified in this matrix include the maximum postage amount for mailing a County Voters' Pamphlet inserted into the center of the State Voters' Pamphlet.

The largest size book including county inserts will be 248 pages.

County Pages	*Max Postage Per M
4	\$0.22
8	\$2.64
12	\$5.06
16	\$7.48
20	\$9.90
24	\$12.32
28	\$14.74
32	\$17.16
36	\$19.58
40	\$22.00
44	\$24.42
48	\$26.84
52	\$29.26
56	\$31.68
60	\$34.10
64	\$36.52
68	\$38.94
72	\$41.36
76	\$43.78
80	\$46.20
84	\$48.62
88	\$51.04
92	\$53.46

County Pages	*Max Postage Per M
96	\$55.88
100	\$58.30
104	\$60.72
108	\$63.14
112	\$65.56
116	\$67.98
120	\$70.40
124	\$72.82
128	\$75.24
132	\$77.66
136	\$80.08
140	\$82.50
144	\$84.92
148	\$87.34
152	\$89.76
156	\$92.18
160	\$94.60
164	\$97.02
168	\$99.44
172	\$101.86
176	\$104.28
180	\$106.70

*Counties will only be charged postage if the combined state and county pamphlets go over 88 pages. If the state runs a pamphlet smaller than 88 pages, the counties will only pay postage on the amount of combined pages over 88. If the state runs a book bigger than 88 pages, the postage shown in the table is the amount the county will pay. Date