
Hood River City Council
211 Second St.
Hood River, OR 97031
(541) 386-1488
www.cityofhoodriver.gov

July 27, 2020

AGENDA

6:00 p.m.

Councilors:	Mark Zanmiller (President)	Kate McBride, Mayor	Megan Saunders	Tim Counihan
	Jessica Metta		Erick Haynie	Gladys Rivera

All public meeting locations are accessible. Please let the City Recorder know if you will need any special accommodations to attend any meeting. Call (541) 387-5212 for more information. Oregon Relay Service 1-800-735-2900

The City of Hood River is taking steps to limit exposure and spread of COVID-19 (novel coronavirus). In support of state and federal guidelines for social distancing, the City of Hood River will hold this meeting by using Zoom Conferencing.

Please use the following phone number or video link:

<https://us02web.zoom.us/j/86916074773>

(253) 215 8782

Meeting ID: 869 1607 4773

Members of City Council and City staff will participate by telephone, they will not be on site at City Hall during the meeting. The audio recording of the meeting will be posted shortly after the meeting on the City's website. Please check the City's website for the most current status of planned public meetings. <https://cityofhoodriver.gov/administration/meetings/>

I CALL TO ORDER

II BUSINESS FROM THE AUDIENCE

The Hood River City Council encourages community members to talk about issues important to them. If you wish to speak during "Business from the Audience", there are two options to choose from:

1. Submit written comments to the City Recorder at j.gray@cityofhoodriver.gov by Monday, July 27 no later than 12 noon in order to distribute to the City Council in one packet for review by 3pm. All comments will be added to the record.
2. To address Council during Business for the Audience, email the request (name of speaker and topic) to j.gray@cityofhoodriver.gov by Monday, July 27 no later than 12 noon. Please specify the topic your testimony addresses. Testimony will go in order of requests received. Attendees that have registered will be unmuted by the IT Administrator for 3 minutes to address Council. Public comment will be by audio only. At the Mayors discretion, public comments may be received prior to a specific topic of relevance during the meeting.

WORK SESSION

III OPEN WORK SESSION

IV AGENDA ADDITIONS OR CORRECTIONS

- V DISCUSSION ITEMS**
 - 1. Council Pledge – Use of Force Policies, Council Subcommittee, N. Holste *(30 mins.)* PAGES 3-57
 - 2. City of Hood River – COVID-19 Response, R. Fuller *(15 mins.)* PAGES 58-63
 - 3. League of Oregon Cities Legislative Priorities, R. Fuller *(20 mins.)* PAGES 64-77

VI ADJOURN WORK SESSION

REGULAR COUNCIL MEETING

I OPEN REGULAR COUNCIL MEETING

II AGENDA ADDITIONS OR CORRECTIONS

III CONSENT AGENDA

These items are considered routine and/or have been discussed by Council in Work Session. They will be adopted by one motion unless a Councilor or person in the audience requests, before the vote on the motion, to have an item considered at its regular place on the agenda.

- 1. Council Meeting Minutes – July 13, 2020 PAGES 78-86
- 2. Columbia Land Trust Mt. Vistas Phase 3, Tract 2 Easement, R. Rice PAGES 87-96

IV REGULAR BUSINESS ITEMS

- 1. Hood River Garbage Rate Review, Jim Winterbottom *(15mins.)* PAGES 97-101
- 2. IGA with ODOT Regarding Jurisdictional Transfer, W. Seaborn *(15 mins.)* PAGES 102-135

V REPORT OF OFFICERS

- A. Department Heads
 - 1. Announcements
 - 2. Planning Director Update

VI REPORT OF COMMITTEES

- 1. Visitor Advisory Committee – Metta and Saunders

VII MAYOR

VIII COUNCIL CALL

- 1. Resolution of Equity and Social Inclusion PAGES 136-139

IX ADJOURN REGULAR MEETING

City Council Agenda Item Cover Sheet

Meeting Date: July 27th, 2020
To: Honorable Mayor and City Council
From: Don Cheli, Lieutenant
Subject: Council Pledge Sub-Committee

Background: On June 22nd, 2020, the Hood River City Council approved the Mayor's pledge, which was changed to Council Pledge. This is a national call for mayors and city council members to address police use of force policies. The pledge includes:

- 1) Review police use of force policies
- 2) Engage community by including a diverse range of input, experiences, and stories in the review.
- 3) Report the findings of the review to the community and seek feedback.
- 4) Reform police use of force policies, as needed.

A sub-committee was formed to review all Hood River Police Department use of force policies. An independent review of the use of force policies was completed by CIS, the entity who insures the City of Hood River. The results of the policy review will be shared as well as department use of force statistics and community outreach opportunities.

Staff Recommendation: Give presentation to City Council outlining the findings of the Council Pledge Sub-Committee.

Suggested Motion:

Alternative Motion:

Fiscal Impact: There is no foreseen fiscal impacts of this action

Attachments:

- Council Pledge Sub-Committee background and participants
- Meeting agendas
- Use of force explained
- HRPD use of force statistics
- CIS policy review
- HRPD policy changes
- Legislative updates
- Community outreach

COUNCIL PLEDGE SUB-COMMITTEE

Background: On June 22nd, 2020 the Hood River City Council approved the Mayor's pledge, which was changed to Council Pledge. This is a national call for mayors and city council members to address police use of force policies. The death of George Floyd in Minneapolis and the events that followed nationally made the council aware they should look at our local Police Department use of force policies. The Hood River City Council supports systemic change to achieve racial and social equity in our community. The Council Pledge includes:

1. **REVIEW** police use of force policies.
2. **ENGAGE** community by including a diverse range of input, experiences, and stories in the review.
3. **REPORT** the findings of the review to the community and seek feedback.
4. **REFORM** police use of force policies, as needed.

Sub-Committee members

Mayor Kate McBride

Councilor Gladys Rivera

Councilor Erick Haynie

Participants

Rachael Fuller, City Manager

Neal Holste, Chief of Police

Don Cheli, Lieutenant

Policy review completed by CIS

Dave Nelson, Deputy Property/Casualty Trust Director

Steve Kraemer, Senior Litigation Attorney

Hood River PD Policies Reviewed by CIS

#300 Use of Force

#301 Use of Force Review Board

#302 Handcuffing and Restraints

#303 Control Devices and Techniques

#304 Tasers (Conducted Energy Device)

#305 Officer Involved Shooting and Deaths

Councils Pledge Sub-Committee Meeting

July 7, 2020 1:00p Zoom

Attendees: Mayor Kate McBride, Mayor
Councilor Gladys Rivera,
Councilor Erick Haynie,
Rachael Fuller, City Manager
Dave Nelson, CIS
Neal Holste, Chief of Police
Don Cheli, Lieutenant

1:00 pm	Welcome/Introductions	
1:05 pm	Hood River PD Use of Force Policy Review (Dave Nelson CIS)	
1:35 pm	Legislative Update/Lexipol	(Dave Nelson CIS)
2:05 pm	Hood River PD Use of Force Statistics	(Lt. Cheli, Chief Holste)
2:20 pm	Community Outreach Programs	(Chief Holste, Lt. Cheli)
2:35 pm	Council Member questions	(Lt. Cheli)
2:45 pm	Next Steps	(City Manager Rachael Fuller)
3:00 pm	Adjourn	

Councils Pledge Sub-Committee Meeting

July 14, 2020 1:00p Zoom

Attendees: Mayor Kate McBride, Mayor
Councilor Gladys Rivera,
Councilor Erick Haynie,
Rachael Fuller, City Manager
Dave Nelson, CIS
Neal Holste, Chief of Police
Don Cheli, Lieutenant

1:00 pm	HRPD Policy Review-follow up questions	(Dave Nelson CIS)
1:15 pm	Legislative Updates	(Dave Nelson CIS)
1:45 pm	Hood River PD Use of Force Statistics	(Lt. Cheli, Chief Holste)
2:00 pm	Community Outreach Opportunities	(Lt. Cheli, Chief Holste)
2:15 pm	Next Steps	(City Manager Rachael Fuller)
2:30 pm	Adjourn	

Use of Force Explained

USE OF FORCE: “The amount of effort required by police to compel compliance by an unwilling subject” (International Chiefs of Police)

EXCESSIVE FORCE: The force in excess of what a police officer reasonably believes is necessary.

Graham Vs. Connor (1989)

The 1989 Supreme Court decision in **Graham v. Connor** established an objective reasonableness standard for when an officer can legally use force on a suspect and how much force can be used. The test is whether or not a reasonable officer on the scene, faced with the same circumstances, would use the same physical force.

Department of Public Safety Standards and Training (DPSST)

Use of Force Presentation (Link)

<https://www.oregon.gov/dpsst/CJ/Pages/InformationalFiles.aspx> Virtual presentation to local elected officials regarding Basic Police Use of Force Training at DPSST, recorded on June 24, 2020.

HOOD RIVER CITY POLICE

January 1, 2011 to June 30, 2020

Year	CFS	Use of Force Reports	Use of Force (% CFS)	RACE OF PERSON					RACE OF OFFICER					SUBJECT STATUS		
				American Indian	Black	Hispanic	White	Unknown	American Indian	Black	Hispanic	White	Unknown	Intoxicated (Alcohol/Drugs)	Mental Illness	
2011	8854	3	0.034%			1	2						2	1	2	1
2012	11768	0	0.000%												0	0
2013	13063	0	0.000%												0	0
2014	11426	5	0.044%			1	3	1					2	3	1	2
2015	12713	5	0.039%	1			4						1	3	1	2
2016	12456	6	0.048%	1		2	3						1	1	4	1
2017	14501	5	0.034%				4	1					1	3	2	1
2018	14380	14	0.097%	2	2	4	6						2	3	4	0
2019	14359	11	0.077%		1	2	8						3	3	4	1
2020	5693	4	0.070%			1	3						3	3	0	0
TOTAL	119213	53	0.044%	4	3	11	33	2	6	8	20	19	0	18	8	

HOOD RIVER CITY POLICE

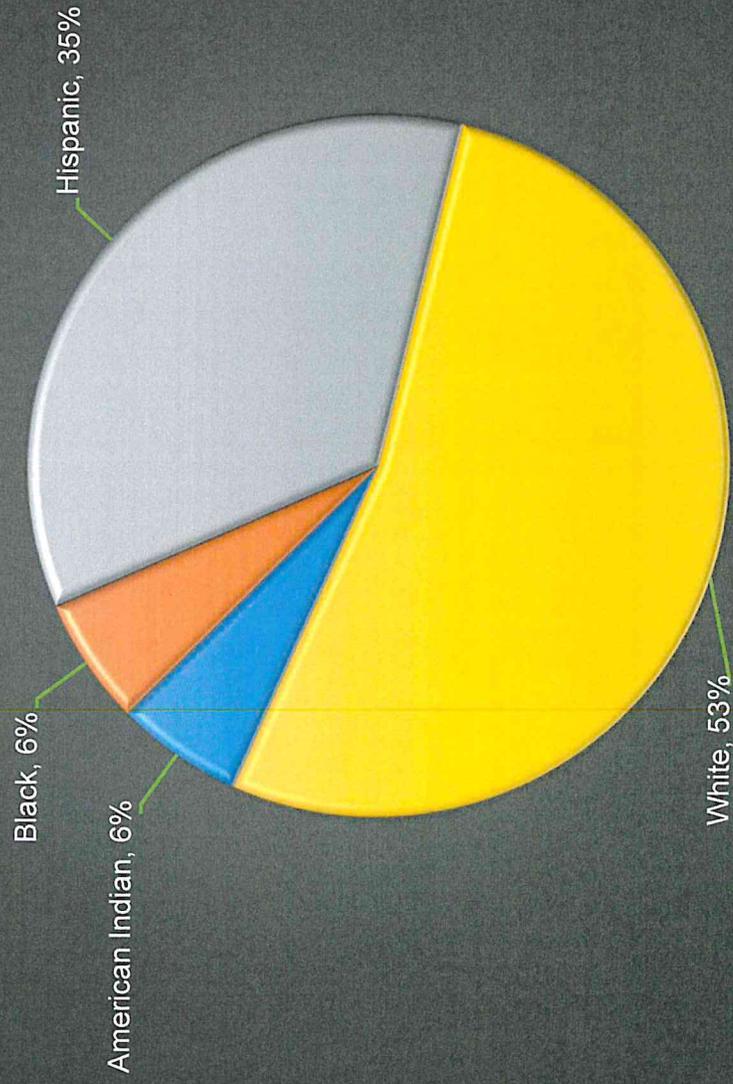
(January 1, 2011 to June 30, 2020)

USE OF FORCE BY TYPE	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Baton	0	0	0	0	0	0	0	0	0	0
Carotid Control Hold (Not Approved)	0	0	0	0	0	0	0	0	0	0
OC Spray	0	0	0	0	0	0	0	0	0	0
Physical - Other	4	0	0	6	5	7	4	24	17	5
Shooting - Officer Involved	0	0	0	0	0	0	0	0	0	0
Taser Deployed	1	0	0	0	0	1	2	2	0	1
TOTAL	5	0	0	6	5	8	6	26	17	6

Calls for Service	119,213
Use of force reports generated	53
Use of force reports per month	0.46%
Use of force frequency (last 9 years)	0.044%
Use of force complaints received	0
Injuries to person	11
Injury type:	
Taser Probe Removal	3
Minor Scrapes/Bruises	6
Previous Injury	1
Asthma	1
Injuries to Officer(s)	10

HOOD RIVER CITY POLICE

Department Diversity / July 2020



Race	Count
American Indian	1
Black	1
Hispanic	6
White	9
TOTAL	17



Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Hood River Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

Commented [SK1]: Is "should" strong enough language? If an officer observes force that exceeds the use of force permitted by law, then that force is not only unconstitutional, but might be criminal. I question whether the observer should have any discretion ("should") in reporting what he sees.

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer is justified in using force upon another person only when and to the extent that the officer reasonably believes it necessary (ORS 161.235):

- (a) To make an arrest or to prevent the escape from custody of an arrested person unless the officer knows that the arrest is unlawful; or
- (b) For self-defense or to defend a third person from what the officer reasonably believes to be the use or imminent use of force while making or attempting to make an arrest or while preventing or attempting to prevent an escape.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.

Commented [DN2]: I would suggest that in this section you add language that indicates that this information be included in the report. Quite often this information is missing from reports and it is helpful to have this background from both criminal and civil cases.

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- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.4 CAROTID CONTROL HOLD

Employees will not use neck restraints, carotid artery holds, or other weaponless control techniques that are not taught or approved by the department due to the potential for serious injury or death; unless they are in an emergency situation or under exigent circumstances where it is immediately necessary to use force to prevent serious bodily injury or death and city-issued and/or authorized lethal or less lethal weapons are inoperable, inaccessible, or otherwise not available or effective.

Commented [DN3]: Rachael and Chief Holste,

I would recommend you update this policy with current language from the state. Like Steve, I do not necessarily have an issue with the use of a carotid hold, however the issue is DPSST has not trained on this technique for more than 15 years. So where do you receive the training? How do you remain current in your training? This is a highly sensitive technique and will be for a very long time. I would have some internal debate on this, and I would be happy to be a part of that discussion. Please see attachment.

Commented [SK4]: Dave

I personally have no issue with using the Carotid hold. The issues that have developed have been because it was misused, and we have no idea how many times it has successfully been applied without incident.

However, given the political climate, this is more of a political, public relations issue and I am not sure that what it brings to the table in terms of a tool for officers is worth the cost in terms of the public perception of this hold in this environment.

Just curious how many times HRPD has even used the hold in the past few years.

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300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Hood River Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Commented [DN5]: Please keep an eye on this practice. There was some discussion about restricting the ability of officers to shoot at/from moving vehicles.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

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300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis and related purposes, the Department also requires the completion of additional report forms, as specified in department policy, procedure or law.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a

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description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

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- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 PATROL SERGEANT RESPONSIBILITY

A supervisory review shall be conducted after each use of force incident requiring a separate use of force report form as outlined in policy 300.5; or as directed by the Chief of Police. The supervisory review panel shall consist of:

Lieutenant

Sergeant

The Lieutenant will document the review panel's findings and provide them to the Chief of Police and/or any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

Commented [DN6]: I agree with Steve. Review and document the review on an annual basis.

300.9 USE OF FORCE ANALYSIS

At least annually, the Lieutenant should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

Commented [SK7]: My only comment is that I would remind the PD to have a system in place to ensure this is actually done. Often the intent is good, the execution is not.

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

Use of Force Review Board

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Hood River Police Department to review the use of force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

301.2 POLICY

The Hood River Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

301.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

301.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to [another].....

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

The Chief of Police may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Chief of Police will convene the Use of Force Review Board as necessary. It will be the responsibility of the supervisor of the involved employee to notify the Chief of Police of any incidents requiring board review. The involved employee's supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

301.4.1 COMPOSITION OF THE BOARD

The Chief of Police should select four Use of Force Review Board members from the following, as appropriate:

Lieutenant

Sergeants

Field Training Officer

Commented [DN8]: Does HRPD have a review board? If yes, do they know their role and received any training on their role?

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Use of Force Review Board

A peer officer

Department instructor for the type of weapon, device or technique used

The senior ranking command representative will serve as chairperson.

301.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

- (a) The employee's actions were within department policy and procedure.
- (b) The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.

The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.

Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

302.2 POLICY

The Hood River Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

302.3 USE OF RESTRAINTS

Only members who have successfully completed Hood River Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.

Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.

- Whether the person has any other apparent disability.

302.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

302.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

Commented [DN9]: Again. Document the training, so when it is questioned in court you have proof as to when and how often this training is conducted.

Commented [DN10]: I would encourage and suggest that if you put handcuff on someone there should be a report. Either an arrest report, or a special/information report as to why the person was handcuffed, how long and why they were released. This will be helpful in defending a false arrest claim.

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No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.

302.3.3 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

Commented [DN11]: Please document this as well. Anytime you handcuff a juvenile it needs to be well documented.

302.3.4 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during, transportation to the jail.

302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

302.5 APPLICATION OF SPIT HOODS

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally.

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Officers should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid commingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head, and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

Commented [DN12]: I would suggest that in the report the length of time the hood was on the individual is noted in the report., If there is claims that the person cannot breath then remove the hood place in isolation and monitor. Note all behavior in the report.

302.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest, or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

Commented [DN13]: Like other items. Please document training on alternative restraints.

302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints, the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

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- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

302.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

Commented [DN14]: I mentioned this above. Please make sure officers are documenting these items and supervisors do not approve reports unless this information is included in the report.

302.9 TRAINING

Subject to available resources, the Training Sergeant should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.

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- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

Control Devices and Techniques

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

303.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Hood River Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

303.4 RESPONSIBILITIES

303.4.1 RANGEMASTER RESPONSIBILITIES

The Chief of Police's designee shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Chief of Police's designee for a particular control device. The inspection shall be documented.

303.4.2 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Chief of Police's designee for disposition.

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303.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

303.6 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

303.6.1 OC SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

303.6.2 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

303.7 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

303.8 TRAINING FOR CONTROL DEVICES

The Training Sergeant shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

Commented [SK15]: Again, this might be a good time to confirm all of the training is kept up to date as it is not unusual for us to find it is not

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- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

303.9 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

TASERS (Conducted Energy Device)

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASERS.

304.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry the TASER device.

TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the TASER device and cartridges that have been issued by the Department. Officers who have been issued the TASER device shall wear the device in an approved holster on their person.

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

When carried while in uniform, officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon.

- (a) If a tactical or load-bearing vest is worn, the TASER shall not be carried in the front in such a manner that the officer's hand would naturally rest upon the TASER.
- (b) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (c) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.
- (d) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (e) Officers should not hold both a firearm and the TASER device at the same time.

304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.

Commented [SK16]: Do you want the verbal warning use limited to "should" or would it be better to mandate a verbal warning unless the circumstances set forth in the rest of the sentence exist? The rest of the sentence (unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances) provides enough exceptions to the warning requirement, it seems.

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- (b) Provide other officers and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

304.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.

Commented [DN17]: If you do not have body cameras the officer(s) should make their best attempt to document how many warnings were given. Or, if no warnings were able to be given please note that as well. Of course if the officer later learns of a hearing or language issue that will need to be noted as well.

Commented [DN18]: I would argue that you do NOT use the Taser on individuals who are known to be pregnant, or handcuffed/restrained, or that has been sprayed with OC or someone who could fall and injury themselves. Elderly, juveniles and low body mass, should be an exception and clearly documented in the report.

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- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The TASER device shall not be used to psychologically torment, elicit statements or to punish any individual.

304.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER device probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the TASER device, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all TASER device discharges. The deploying officer(s) shall be responsible to:

Commented [DN19]: I would train your officers warn, warn, warn and then deploy the taser. Warn, warn, warn before each application of the taser. Then document.

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Provide medical care as prescribed in policy 309.7.

Photograph injuries or lack thereof which occurred during the use of force.

Photograph probe penetration sites.

Download the TASER firing data and TASER CAM video to the server.

Identify and interview all witnesses.

Complete all incident/arrest reports to include any additional use of force report forms required by the department or as directed by a supervisor.

304.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

304.5.7 TASER® CAM™

The TASER CAM is activated any time the safety is in the off position. The safety should be in the safe position unless the officer intends to use the device. Because the TASER CAM memory is limited, the video and audio data should be downloaded frequently and retained as required by the department records retention schedule.

304.5.8 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department TASER devices while off-duty.

Officers shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Officers shall document all TASER device discharges in the related arrest/crime report and the use of force report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy.

Officers shall complete a TASER Presence Report in the event the mere presentation or threatened use of the TASER gained compliance.

The Training Sergeant and TASER Instructor should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The TASER Instructor should also conduct audits of data downloads and reconcile TASER device report forms with recorded activations. TASER device information and statistics, with identifying information removed, should periodically be made available to the public.

304.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove TASER device probes from a person's body. Used

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TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. A supervisor will ensure the deploying officer completed the actions following deployments as described in policy 309.5.5.

304.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by a department-approved TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time

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if deemed appropriate by the Training Sergeant and/or the TASER Instructor. All training and proficiency for TASER devices will be documented in the officer's training file.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Training Sergeant is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Training Sergeant should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

Officer-Involved Shootings and Deaths

305.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

305.2 POLICY

The policy of the Hood River Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

305.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the suspect's actions.
- (b) A criminal investigation of the involved officer's actions.
- (c) An administrative investigation as to policy compliance by involved officers.
- (d) A civil investigation to determine potential liability.

305.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Hood River Police Department would control the investigation if the suspect's crime occurred in Hood River.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

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305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will include at least one investigator from another law enforcement agency (ORS 181A.790).

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

Commented [DN20]: Has HRPD command and supervisory staff been trained on how to conduct a Professional Standards Investigation?

305.5 INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved HRPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

305.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved HRPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any HRPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

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2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Patrol Sergeant and Dispatch. If feasible, sensitive information should be communicated over secure networks.
 - (d) Take command of and secure the incident scene with additional HRPD members until properly relieved by another supervisor or other assigned personnel or investigator.
 - (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 1. Each involved HRPD officer should be given an administrative order not to discuss the incident with other involved officers or HRPD members pending further direction from a supervisor.
 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

305.5.3 PATROL SERGEANT RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Patrol Sergeant shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Lieutenant or a Chief of Police.

All outside inquiries about the incident shall be directed to the Patrol Sergeant.

305.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Lieutenant
 - District Attorney
 - Outside agency investigators (if appropriate)
 - Chief of Police or his designee supervisor
 - Civil liability response team
 - Psychological/peer support personnel
- Chaplain
- Medical Examiner (if necessary)
 - Involved officer's agency representative (if requested)

- CIS Public Safety Team

305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated.

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1. Involved HRPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 2. Requests from involved non-HRPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information.
- (d) A mental health professional shall be provided by the Department to each involved HRPD officer (ORS 181A.790). An involved officer shall attend at least one session. A mental health professional may also be provided to any other affected HRPD members, upon request.
1. Interviews with a mental health professional will be considered privileged.
 2. An interview or session with a mental health professional may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a mental health professional prior to providing a formal interview or report.
 3. The Department shall pay the costs of at least two sessions with a mental health professional and the sessions must take place within six months after the incident.
 4. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications with peer counselors are confidential (except threats of suicide or admissions of criminal conduct) and may not be disclosed by any person participating in the peer support counseling session (ORS 181A.835). To be considered confidential communications under the statute, the peer counselor must:
1. Have been designated by HRPD or employee assistance program to act as a peer counselor, and;
 2. Have received training in counseling and in providing emotional and moral support to public safety personnel or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting. An officer who uses deadly force that results in the death of a person shall not be returned to a duty assignment that might place him/her in a situation in which he/she has to use deadly force until at least 72 hours immediately following the incident (ORS 181A.790). It

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shall be the responsibility of the Patrol Sergeant to make schedule adjustments to accommodate such leave.

305.6 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) HRPD supervisors and Chief of Police or his designee personnel should not participate directly in any voluntary interview of HRPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

305.6.1 REPORTS BY INVOLVED HRPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved HRPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved HRPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

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Nothing in this section shall be construed to deprive an involved HRPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

305.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Criminal Detective to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Criminal Detective supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Chief of Police.

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305.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved HRPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Chief of Police or his designee and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/ her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Garrity* rights and ordered to provide **full** and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.

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5. The Chief of Police or his designee shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

305.8 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

305.9 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Attorney's Office, as appropriate.

305.10 DEBRIEFING

Following an officer-involved shooting or death, the Hood River Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

305.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Administration Chief of Police is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

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The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatcher, other non-sworn). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Chief of Police or his designee personnel.

305.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Criminal Investigations, Patrol Sergeant, Lieutenant and Chief of Police in the event of inquiries from the media.

No involved HRPD officers shall make any comment to the media unless he/she is authorized by the Chief of Police or designee.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

305.12 REPORTING

If the death of an individual resulted from an officer use of deadly force and occurred in the Hood River Police Department jurisdiction, the Chief of Police will ensure that the Administrative Assistant is provided with enough information to meet the reporting requirements to the Department of Justice (ORS 181A.790).

COUNCIL PLEDGE SUB-COMMITTEE

RECOMMENDED POLICY CHANGES

Policy #300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An Officer who observes another employee use force that exceeds the degree of force permitted by law ~~should~~ **“shall”** promptly report these observations to a supervisor.

Recommendation

Change the wording from “should” to “Shall”

Policy #300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

Recommendation

Include language showing the factors listed in this section are included in the Police report.

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. ~~These factors include, but are not limited to:~~ **The following factors should be included in the report.**

Policy #300.3.4 CAROTID CONTROL HOLD

Recommendation

Remove this policy from the Hood River PD policy Manual

This Policy has been removed from the Hood River Police Department Policy Manual.

Policy #300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

Recommendation: The Sub-Committee recommended adding “to prevent risk of harm” to this policy title, deleting the first sentence of this policy and changing the wording “Should” to “Shall” in the third sentence. It was also recommended this be split into two different policies, “Shooting at Moving Vehicles” and “Shooting From Moving Vehicles”. The wording in this policy mainly references shooting at a moving vehicle. It seems more prudent to remove the “Shooting from moving vehicles from the title and not make a subsection for it, since this is not a tactic our Officers are trained in.

300.4.1 SHOOTING AT MOVING VEHICLES TO PREVENT RISK OF HARM

~~Shots fired at or from a moving vehicle are rarely effective.~~ Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer ~~should~~ **Shall** only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

POLICY #300.5 REPORTING THE USE OF FORCE

The FBI launched the Use of Force Data Collection program. They are requesting all law enforcement agencies report use of force incidents within 5 days if the force involved or resulted in:

- a) The death of a person due to an officer’s use of force
- b) The serious bodily injury of person due to an officer’s use of force; or
- c) The discharge of a firearm by an officer at or in the direction of a person that did not otherwise result in death or serious bodily injury.

POLICY #304.4 VERBAL AND VISUAL WARNINGS

Recommendation

Would it be better to mandate a verbal warning, rather than using “should”.

A verbal warning of the intended use of the TASER device ~~Should~~ **shall** precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- a) Provide the individual with a reasonable opportunity to voluntarily comply.
- b) Provide other officers and individuals with a warning that the TASER device may be deployed.

POLICY #304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- a) Individuals who are known to be pregnant
- b) Elderly individuals or obvious juveniles
- c) Individuals with obviously low body mass
- d) Individuals who are handcuffed or otherwise restrained
- e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles)

Recommendation

Officers should not use the taser on individuals who are known to be pregnant, or handcuffed/restrained, or that has been sprayed with OC or someone who could fall and injure themselves.

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- a) Elderly individuals or obvious juveniles
- b) Individuals with obviously low body mass

The TASER device shall not be used on the following individuals:

- a) Individuals known to be pregnant
- b) Individuals who are handcuffed or otherwise restrained
- c) Individuals who have recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- d) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles)



OACP & OSSA
2020 1ST SPECIAL
SESSION REPORT
SUBMITTED BY KEVIN CAMPBELL,
OACP-OSSA LOBBYIST

Special Session Overview:

The Oregon Legislature adjourned “Sine Die” the 1st Special Session of 2020 (the 80th Legislative Assembly) at 7:08 pm on Friday evening after 3 days of long hearings and late nights. During the Special Session, the Legislature passed 24 bills on a wide range of issues, but focused primarily on COVID-19 relief and police accountability. The Special Session was unique for many reasons; chief among them was that it was 100% virtual for all lobbyists, staff and members of the public. The proceedings were plagued by technology glitches and failures that made the process cumbersome for everyone involved. The Capitol building was closed to the public and only legislators and essential staff was permitted to enter. While in the Capitol, legislators were required to wear masks and observe social distancing and were rarely congregated.

During the brief Special Session, the legislature passed 6 police accountability measures, a measure formalizing a moratorium on enforcement of certain DMV violations during the COVID-19 State of Emergency and a bill to prohibiting courts from issuing driver’s license suspension for failure to pay traffic fines. Here is a review of the key provisions of each measure along with links to the complete text of each measure and to OACP/OSSA testimony when submitted:

SB 1604: ARBITRATION REFORM – DISCIPLINARY MATRIX

[Click Here](#): Complete Text of SB 1604

[Click Here](#): OACP/OSSA Testimony on SB 1604

SB 1604 includes the following key provisions:

- Restricts arbitration award from ordering disciplinary action that differs from disciplinary action imposed by law enforcement agency if [Section 1(3)]:
 - The arbitrator makes a finding that the misconduct occurred consistent with agency’s finding of misconduct
 - The disciplinary action imposed by the agency is consistent with the provisions of a discipline guide or discipline matrix adopted by agency as result of collective bargaining and incorporated into agency’s disciplinary policies.
- Adds the development of a discipline guide or discipline matrix to the definition of “Employment Relations” for purposes of collective bargaining related to sworn law enforcement officers of a law enforcement agency [Section 2(7)(g) & 3(7)(g)].
 - Defines “discipline guide” as a grid that is designed to provide parameters for the level of discipline to be imposed for an act of misconduct that is categorized by the severity of the misconduct and that take into account the presumptive level of discipline for the misconduct and any aggravating or mitigating factors [Section 1(9)(a)].
 - Defines “discipline matrix” as a grid used to determine the level of discipline to be imposed for an act of misconduct that is categorized by the severity of the misconduct, according to the intersection where the category of misconduct and the level of disciplinary action meet [Section 1(9)(b)].
- Applies to collective bargaining agreements entered into on or after effective date of Act [Section 4].
- Effective Date: The bill includes an “emergency clause” which means the provisions of the bill will take effect on the day the Governor signs the bill into law [Section 5].

HB 4201-A: Joint Committee on Transparent Policing and Use of Force Reform

[Click Here](#): For Complete Text of HB 4201-A

[Click Here](#): For OACP/OSSA Testimony on HB 4201-A

HB 4201-A includes the following key provisions:

- Establishes the “Joint Committee on Transparent Policing and Use of Force Reform” [Section1(1)]

- Tasks the Speaker of the House and the President of the Senate with appointing the co-chairs and members of the committee [Section 1(2&3)].
- Authorizes the committee to meet, act, and conduct business during a Legislative Session or during the interim between sessions, identifies committee member per diem and expense reimbursement allowances, authority to adopt committee rules and quorum and voting requirements [Section 1(5-9)].
- Requires the Legislative Policy and Research Office Director to provide support of the functions of the committee [Section 1(10)].
- Specifies the committee objectives relating to transparent policing and use of force reform to include [Section 2(1-5)]:
 - Examining policies that improve transparency in investigations into and complaints regarding the use of force by police officers, and increase transparency in police protocols and processes to build public trust in policing;
 - Examining policies that reduce the prevalence of serious physical injury or death caused by the use of force by police officers by analyzing the use of force, the authorization of the use of force under state law and the disparate impact of the use of force on communities of color;
 - Determining the most appropriate policy for independent review of the use of deadly force by police officers, including an analysis of procedures and policies used in other states;
 - Examining any other policies that increase transparency in policing and reform the use of force by police officers; and
 - Making recommendations for legislation to the committees of the Legislative Assembly related to the judiciary on or before December 31, 2020.
- Sunsets or ends the work of the committee on December 31st, 2020 [Section 3].
- Effective Date: The bill includes an “emergency clause” which means the provisions of the bill will take effect on the day the Governor signs the bill into law [Section 4].

HB 4203-A: POLICE CHOKEHOLD BAN

[Click Here](#): For Complete Text of HB 4203-A

[Click Here](#): For OACP/OSSA Testimony on HB 4203-A

HB 4203-A includes the following key provisions:

- Provides that it is not justified or reasonable in any circumstance for a police officer to knowingly use physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person unless the

circumstance is one in which the peace officer may use deadly physical force as provided in ORS 161.239 [Section 2(1&2)].

- Directs the Board on Public Safety Standards and Training (BPSST) to adopt rules prohibiting the training of police officers and reserve officers in the use of physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person, except as a defensive maneuver [Section 5].
- Effective Date: The bill includes an “emergency clause” which means the provisions of the bill will take effect on the day the Governor signs the bill into law [Section 6].

4205-A: DUTY TO INTERVENE & REPORT

[Click Here](#): For Complete Text of HB 4205-A

[Click Here](#): For OACP/OSSA Testimony on HB 4205-A

HB 4205-A includes the following key provisions:

- Requires a police officer or reserve officer to intervene to prevent or stop another police officer or reserve officer engaged in any act the intervening officer knows or reasonably should know is misconduct, unless the intervening officer cannot intervene safely [Section 2(2)].
- Requires a police officer or reserve officer who witnesses another police officer or reserve officer engaging in misconduct to report the misconduct to a supervisor as soon as practicable, but no later than 72 hours after witnessing the misconduct [Section 2(3)].
- Defines misconduct for purposes of the requirement to intervene and report as [Section 2(1)(a-e)];
 - Unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of the use of force policy for the law enforcement unit employing the offending officer;
 - Sexual harassment or sexual misconduct;
 - Discrimination against a person based on race, color, religion, sex, sexual orientation, national origin, disability or age;
 - A crime; or
 - A violation of the minimum standards for physical, emotional, intellectual and moral fitness for public safety personnel established under ORS 181A.410.
- Specifies that failure to intervene or report in keeping with the measure is [Section 2(4):
 - Grounds for disciplinary action against a police officer or reserve officer by the law enforcement unit employing the officer or;
 - Action by the Department of Public Safety Standards and Training to suspend or revoke the officer’s certification as provided in ORS 181A.630, 181A.640 and 181A.650.

- Prohibits an employer from retaliating against an officer for intervening or reporting in keeping with the requirements of the measure and provides that a violation by an employer is an unlawful employment practice as provided in ORS 659A.199 [Section 2(5)].
- Requires DPSST to provide an annual report on rules adopted by DPSST for implementation of the measure to an appropriate committee of the Legislative Assembly [Section 2(6)].
- Effective Date: The bill includes an “emergency clause” which means the provisions of the bill will take effect on the day the Governor signs the bill into law [Section 3].

HB 4207-A: OFFICER SUSPENSION & REVOCATION DATABASE - PERSONNEL FILE REQUIREMENTS

[Click Here](#): For Complete Text of HB 4207-A

[Click Here](#): For OACP/OSSA Testimony on HB 4207-A

HB 4207-A includes the following key provisions:

DPSST Suspension and Revocation Database:

- Requires the Department of Public Safety Standards and Training (DPSST) to establish a statewide online database of suspensions and revocations of the certifications of police officers that is accessible by the public. The measure includes the following additional provisions [Section 3(1)]:
- Requires that the information published in the suspensions and revocations database include at a minimum [Section 3(2)(a-c)]:
 - The name of the officer;
 - The law enforcement unit at which the officer was employed; and
 - A description of the facts underlying the suspension or revocation.
- Requires DPSST to publish the required information for a suspension or revocation of a certification within 10 days after [Section 3(3)(a-b)]:
 - The time for filing an appeal of the department’s decision under ORS 181A.650 has passed and no appeal has been filed; or
 - The decision of the department is appealed under ORS 181A.650 and the department’s decision has been sustained by the Court of Appeals or the appeal has been dropped.
- Requires DPSST to submit an annual report to an appropriate committee of the Legislative Assembly summarizing and analyzing the data in the database [Section 3(4)].

- Provides that the provisions of HB 4207 related to the statewide public database of suspensions and certifications do not apply if compliance with the provisions of the measure would conflict or impair the execution of the terms of a collective bargaining agreement entered into before the effective date of the measure [Section 8].

Law Enforcement Hiring Requirements – Requesting, Reviewing and Providing Personnel Records:

- Requires a police agency, before extending an offer of employment to an applicant for a police officer or reserve officer position, to request and review the applicant’s personnel records from all law enforcement agencies in any jurisdiction at which the applicant was formerly employed [Section 4(2)].
- Requires a law enforcement agency to provide the personnel records of a police officer or reserve officer who was employed by the law enforcement agency at any time to another law enforcement agency that requests the records for review [Section 4(3)].
- Defines “personnel records” as the entire personnel file of a police officer or reserve officer, including but not limited to records of complaints and disciplinary action against the officer [Section 4(1)(b)].
- Requires law enforcement agencies to retain the personnel records of a police officer or reserve officer employed by the agency for at least 10 years after the officer leaves employment with the agency [Section 4(4)].
- Includes the following provisions related to immunity from civil liability including [Section 4(5)(a-d)]:
 - Provides a law enforcement agency with immunity from civil liability for any harm arising from relying on personnel records received as the result of complying with the measure.
 - Provides a law enforcement agency measure with immunity from civil liability for any harm arising from providing personnel records in compliance with the measure.
 - Provides that a law enforcement agency that fails to request, provide or retain records as required by the measure is not protected from civil liability.
 - Provides that a law enforcement agency is not protected from civil liability for negligent hiring.
- Provides that the requirements of a law enforcement agency to request personnel files or to provide personnel files do not apply if compliance with the provisions of the measure would conflict or impair the execution of the terms of a collective bargaining agreement entered into before the effective date of the measure [Section 8].

Formalizing Mandatory Certification Requirements:

- HB 4207 makes statutory the current process and grounds for denial, revocation or suspension of certification by DPSST that are currently identified in administrative rule [Section 6(2)(a-f)].
- Effective Date: The bill includes an “emergency clause” which means the provisions of the bill will take effect on the day the Governor signs the bill into law [Section 9] with the exception of the provisions in section 3 of the bill requiring DPSST to develop a database of revoked or suspended certifications – That section is operative January 1, 2021 [Section 7(1&2)].

HB 4208-A: RESTRICTIONS ON USE OF TEAR GAS

[Click Here:](#) For Complete Text of HB 4208-A

[Click Here:](#) For OACP/OSSA Testimony on HB 4208-A

HB 4208-A includes the following Key Provisions:

- Prohibits a law enforcement agency from using tear gas for the purposes of crowd control except in circumstances constituting a riot, as described in ORS 166.015 (A person commits the crime of riot if while participating with five or more other persons the person engages in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm) [Section 1(2)].
- Requires a law enforcement agency to take the following steps prior to using tear gas in a circumstance constituting a riot [Section 1(3)(a-c)]:
 1. Announce the agency’s intent to use tear gas;
 2. Allow sufficient time for individuals to evacuate the area; and
 3. Announce for a second time, immediately before using the tear gas, the agency’s intent to use tear gas.
- Defines “law enforcement agency” for purposes of the measure as: the Department of State Police, the Department of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal corporation of the State of Oregon and a university, that maintains a law enforcement unit as defined in ORS 181A.355 (12)(a)(A) - [Section 1(1)(a)].
- Defines “tear gas” for purposes of the measure as: oleoresin capsicum or orthochlorobenzalmalononitrile, or other similar chemicals meant to accomplish the same effect, administered by any shell, cartridge or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of the chemicals [Section 1(1)(b)].
- Effective Date: The bill includes an “emergency clause” which means the provisions of the bill will take effect on the day the Governor signs the bill into law [Section 2(1)].

❖ **Additional Measures Impacting Law Enforcement**

In addition to the 6 police accountability measures, two additional bills were passed that make changes to law enforcement including a bill to prevent courts from suspending driver's licenses for failure to pay fines and a bill to formalize a moratorium on the issuance of certain traffic offenses due to COVID-19 and DMV backlogs. The Driver's License Suspension measure was introduced without advanced warning and moved on the first day of the Special Session. The following is details regarding the two additional measures:

HB 4210: DEBT-BASED DRIVER'S LICENSE SUSPENSION ELIMINATION

[Click Here: Complete Text of HB 4210](#)

HB 4210 includes the following key provisions:

- Removes authority of courts to impose personal and commercial driving privilege suspensions for failure to pay traffic-related fines or for failure to comply with requirements ordered in lieu of fines [Section 1-10].
- Prohibits new suspensions from being imposed on or after October 1, 2020 [Section 11&12].
- Provides that driving privilege restrictions or driving privilege suspensions imposed before October 1, 2020, shall be governed by law applicable to driving privilege restrictions and driving privilege suspensions in effect at the time of the most recent restriction or suspension [Section 11].
- Authorizes the Department of Transportation to adopt rules or take any actions before October 1, 2020 necessary to enable the department to carry out the provisions of the measure. Rules adopted by the Department of Transportation cannot become operative before October 1, 2020 [Section 12(2)].
- Effective Date: The bill includes an "emergency clause" which means the provisions of the bill other than those identified as taking effect on October 1st, 2020 will take effect on the day the Governor signs the bill into law [Section 13].

Background: Under current law (ORS 809.210) Under ORS 809.210, a court can order the suspension of an individual's driving privileges if that individual fails to pay court fines related to a driving offense or fails to meet a requirement ordered in lieu of a fine. The suspension will stay in place for 20 years unless the individual presents a reinstatement notice from the court to Oregon Driver and Motor Vehicle Services (DMV) showing that the individual: has paid the fine in full; is making payments following a court-approved payment plan; is enrolled in a pre-apprentice program; or is a registered apprentice. Individuals who have had their driving privileges suspended for failing to pay traffic-related fines are eligible to apply for a hardship permit. These permits allow suspended individuals to drive for certain specific purposes, such as for work, medical treatment, or to provide other necessary services to themselves or family members.

SB 1601-A: MORATORIUM ON CERTAIN TRAFFIC OFFENSES DURING COVID-19

[Click Here](#): Complete Text of the Dash 2 Amendment to SB 1601 (Adopted)

[Click Here](#): Complete Text of SB 1601-A

SB 1601-A formalizes in statute the current moratorium on issuing citations for certain violations that law enforcement has honored due to the impact of DMV closures and backlogs on the ability of motorists to comply. We successfully removed a violation that was in the original proposal that would have eliminated the authority of police officers to issue a citation for failure to carry a license or to present a license to a police officer under ORS 807.570.

HB 1601-A is an omnibus transportation “fix” bill that includes the following key provisions of importance to law enforcement:

- Prohibits law enforcement officers from issuing traffic offenses based upon a document or credential that expired or a document that was not submitted to DMV between March 1, 2020, and December 31, 2020 for the following offenses [Section 21(2)(a-k)]:
 - Unlawful parking in a space reserved for persons with disabilities under ORS 811.615. This paragraph applies only to individuals who displayed a disabled person parking permit, issued by this state or another jurisdiction, at the time of the offense but the permit expired during the period described in this subsection.
 - Operating a vehicle without driving privileges under ORS 807.010.
 - Failure to register a vehicle under ORS 803.300.
 - Failure to pay the appropriate registration fee under ORS 803.315.
 - Permitting unlawful operation of an unregistered vehicle under ORS 803.320.
 - Purchase and use of an out-of-state registered vehicle by a resident under ORS 803.325.
 - Failure to surrender out-of-state registration under ORS 803.380.
 - Failure to submit a declaration of weight under ORS 803.440.
 - Failure to renew vehicle registration under ORS 803.455.
 - Improper display of validating stickers under ORS 803.560.
 - Failure of a person to hold a trip permit when required under ORS 803.600 (10).
- Defines ‘document or credential’ to include but not limited to documents or credentials issued or accepted by the Department of Transportation such as vehicle registration, registration stickers, driving privileges, declaration of weight, disabled person parking permits, trip permits, driver licenses and driver permits [Section 21(1)].
- Directs the court to dismiss a charge for a citation that is issued in violation of the moratorium [Section 21(3)].
- Nothing in the language of the measure prevents an officer from pulling over someone for the violations listed as part of the moratorium.



COMMUNITY EVENTS/OUTREACH

4th of July Parade – Grand Marshalls

Bike to School Day (May Street School)

Bowl With a Cop (Special Olympics)

Classic Car Judging

Easter Safety Fair (Jackson Park)

End of Year Party (May Street School)

Kids Triathlon

Radar Reader Board Program

Ride Along Program

Safe Halloween

Safety Talks (Dethman Manor, Freeman Dental, MCCC Head Start)

Security Walkthrough & Employee Talk (Parkhurst)

Shop With a Cop

Situational Awareness Training (Copper West)



Council Pledge Sub-Committee

Community Outreach Opportunities

Latinos en Acción (The Next Door)

leads the health equity work in Hood River. The group's priorities are leadership development, county ID card, housing, transportation, access to healthy foods and free or low cost physical activities.

Radio Tierra

The Hood River Police Department has previously participated in Radio Tierra segments. This is an opportunity to connect with the Latino community to educate and answer any questions or concerns the public may have regarding law enforcement.

All of the community outreach work done by the Hood River Police Department is to achieve the following:

- Relationship building
- Build Trust
- Provide community safety
- Understand community problems to address them together

CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: July 27, 2020

To: Honorable Mayor and City Council

From: Rachael Fuller, City Manager

Subject: City of Hood River – COVID-19 Response

Background: The purpose of this item is to communicate the City's emergency declaration and current actions related to the COVID-19 crisis and to answer questions from Council about the City's response to the public health crisis. To maintain readiness and resiliency during the public health crisis, the City of Hood River is operating under a local State of Emergency following provisions of HRMC 2.48.

Since declaring an emergency on March 17, 2015, the following actions remain in place:

- All utilities have been continued regardless of a customer's ability to pay. Anyone unable to make a payment may defer payment through the end of the state of emergency, plus 60 days, with no penalty or interest charges.
- Highly visited parks are closed and posted.
- City buildings are open to the public with limited services.
- The City is collaborating with local agencies to communicate public health and other relevant local information.
- All City services have been maintained or modified to comply with physical distance guidelines.
- Food trucks are permitted to remain in place longer than 180 days.
- Non-essential meetings are suspended.

Staff Recommendation: To allow flexibility and to maintain readiness during the public health crisis, the City's emergency declaration will be extended to September 30, 2020.

Suggested Motion: No motion necessary. The purpose of this item is to listen to Council input and to answer questions.

Fiscal Impact: COVID-19 has had a direct impact on the City's funding for essential services. For FY 2019/20, the City estimates a reduction in transient room tax revenue of approximately \$500,000. For FY 2020/21, revenue estimates are highly dependent on the duration of the event and could exceed an additional \$800,000. Staff is closely monitoring occupancy numbers for hotel and transient lodging tax receipts. Staff will provide a revenue update to Council in September, pending receipt of June tax receipts.

Environmental Impact: None.

Attachments: City Manager emergency declaration.

The City Manager for the City of Hood River, Oregon

EXTENSION OF THE LOCAL STATE OF EMERGENCY DECLARED BECAUSE OF THE COVID-19 PANDEMIC

The City Manager of the City of Hood River adopts the following findings:

WHEREAS, on March 8, 2020, Governor Kate Brown declared a state of emergency due to the COVID-19 outbreak in Oregon (EO 20-03), finding that COVID-19 has created a threat to public health and safety, and constitutes a statewide emergency under ORS 401.025(1); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 to be a global pandemic; and

WHEREAS, on March 12, 2020 Governor Brown issued a second Executive Order (EO 20-05) prohibiting public gatherings of 250 or more people state-wide and announcing the closure of Oregon's K-12 schools from March 16, 2020 through March 31, 2020; and

WHEREAS, on March 13, 2020, the President of the United States Declared the COVID-19 outbreak to be a national emergency, and according to the Centers for Disease Control and Prevention, COVID-19 presents a "high" potential public health threat, both globally and in the United States; and

WHEREAS, on March 16, 2020, the U.S. Department of Human Services imposed its most recent set of protective measures to restrict visitors to long-term care facilities and other residential facilities. The Oregon Health Authority adopted similar measures at the Oregon State Hospital and other behavioral health settings, and limited admissions to the Oregon State Hospital; and

WHEREAS, on March 16, 2020 I issued an Order Declaring an Emergency pursuant to authority in HRMC 2.48.50 and based on the public health hazard created by the COVID-19 pandemic and the related public health, social, economic effects, incorporated herein by this reference

WHEREAS, on March 17, 2020, Governor Brown issued third Executive Order (EO 20-07) placing further restrictions on public gatherings by, among other things prohibiting social, spiritual and recreational gatherings of 25 people or more where at least a 3-foot social separation cannot be maintained and includes any community, public, leisure, faith-based and sporting events, concerts, conventions, fundraisers, fairs, festivals and similar events and activities; and

WHEREAS, also on March 17, 2020, the Governor issued Executive Order 20-08, which ordered the closure of public schools until April 28, 2020 to prevent the spread of the Novel Coronavirus among school children, their families and other contacts; and

WHEREAS, on March 19, 2020 the City Council convened a special meeting and ratified my March 16th City Manager's Emergency Declaration by adoption of Resolution No. 2020-04; and

WHEREAS, on March 23, 2020 the Governor issued another Executive Order (EO 20-12) prohibiting all non-essential social and recreational gatherings of individuals where a minimum 6-foot distance between all individual could not be maintained as a primary means of reducing the spread of

the Novel Coronavirus, which causes COVID-19; and

WHEREAS, the Governor's March 23rd Executive Order was explicit that, while outdoor activities and exercise were permissible, a minimum 6-foot distance between all individuals must be maintained; otherwise, failure to comply constituted an imminent threat and immediate danger to public health, because of the contagiousness and virulence of the Novel Coronavirus, and mortality of the COVID-19 pandemic; and

WHEREAS, in the week following the Governor's March 23rd Executive Order, large numbers of people from outside Hood River County flocked to the Columbia River Gorge and the City of Hood River and gathered, hiked and recreated in large aggregations in violation of the Governor's March 17th and 23rd Executive Orders, thereby creating an imminent threat and immediate danger to public health; and

WHEREAS, in response, the Mayor issued an Emergency Declaration on March 25, 2020 and ordered the City Manager to do the following:

1. Close all City Parks and recreational sites to public use.
2. Close all transient lodging facilities in the City, including motels, hotels, short-term vacation rentals, hosted home shares, bed and breakfasts, RV parks, and campgrounds. All camping on private property is prohibited, except for those approved by the Police Chief. Transient lodging facilities may remain open to serve only the following designated individuals:
 - a. Current registered guests for a term of longer than 30 consecutive days.
 - b. Essential personnel as defined by federal or state law, where lodging within Hood River County is necessary for work involving the safety of human life or the protection of property or performing other work consistent with the intent of this provision, e.g. emergency and public safety responders, truck drivers and supply providers, and construction industry workers.
 - c. Individuals deemed vulnerable by the Hood River County Health Department, which may include, but not be limited to, homeless individuals and individuals who may have been placed in quarantine due to the public health emergency.
 - d. Other individuals as authorized by the Hood River County Health Department.

WHEREAS, on March 27, 2020, the City Council convened a special meeting and ratified the Mayor's March 25th Declaration by adoption of Resolution No. 2020-05; and

WHEREAS, on April 15, 2020, the Governor adopted Executive Order 20-16, effective until further notice, a set of regulations requiring local government operations to be conducted remotely by video or telephonically whenever possible; and

WHEREAS, pursuant to Executive Order 20-14, the Governor extended indefinitely (until rescinded) her earlier Executive Order that prohibited public gatherings of 25 or more people where social distancing could not be maintained; and

WHEREAS, on April 8, 2020 the City Manager extended her Emergency Declaration until April 30, 2020; and

WHEREAS, Coronaviruses are a group of viruses that can cause respiratory disease, with the potential to cause serious illness or loss of life especially for individuals with underlying health conditions; and

WHEREAS, COVID-19 requires a significant level of public resources at the local level to keep the public and community informed and as safe as possible; and

WHEREAS aside from the clear public health threat that COVID-19 presents, the cumulative effect of local, state, federal and world-wide measures implemented to stem the spread of the disease will have a significant impact on people's lives, livelihoods and the economy for a long time into the future; and

WHEREAS, the unknown duration of the COVID-19 pandemic will have significant social and financial impact to the Hood River community; and

WHEREAS, pursuant to ORS 401.309(1), the governing body of a city may declare, by ordinance or resolution, that a state of emergency exists within the city and

WHEREAS, the City Manager extended her original March 16th Emergency Declaration to April 19, 2020, extended it a second time to May 14, 2020, extended it a third time to May 28, 2020, extended a fourth time to July 6, 2020 and extended a fifth time to September 30, 2020 because of the on-going threat posed by the Novel Coronavirus; and

WHEREAS, the Governor issued guidelines for the state and local governments to begin reopening and gradually resuming normal operations and issued a new Executive Order (EO 20-25) on May 14, 2020, superseding and tempering her prior Orders and prohibition on non-essential travel by calling for the minimization of non-essential travel in frequency, duration and distance and allowing limited commercial, retail and service business operations to resume with social distancing and other protocols in place to inhibit the spread of the Novel Coronavirus; and

WHEREAS, Hood River County has qualified for and is pursuing Phase I reopening under the Governor's Guidelines, which includes easing restrictions on local business operations, but still maintaining social distancing, cleaning and sanitizing protocols as recommended by the Oregon Health Authority; and

WHEREAS, on June 5, 2020 the Governor provided a comprehensive set of requirements for a phased reopening of the state and the various sectors of the economy (EO 20-27) that replaces and supersedes the prior Executive Order (EO 20-25) and governs Hood River's phased reopening along with the Oregon Health Authority guidance.

NOW, THEREFORE BE IT RESOLVED, based upon ORS 401.309, HRMC Ch. 2.48, and the foregoing recitals, which are incorporated herein, in my capacity as the Hood River City Manager, I hereby extend my March 16, 2020 Emergency Declaration to, and remain in effect until, September 30, 2020, unless extended, modified or terminated sooner as circumstances warrant.

BE IT FURTHER RESOLVED that my March 16th Emergency Declaration is modified to allow neighborhood parks to be open and used, so long as social distancing protocols are observed by all park users at all times. All pools, skate parks, outdoor sports courts, and playground equipment areas are specifically addressed in Oregon's phased reopening guidance and such guidance shall be followed.

BE IT FURTHER RESOLVED that my March 16th Emergency Declaration is modified to allow transient lodging facilities (hotels, motels, bed & breakfast establishments, and short-term rentals) to accept reservations and guests for short-term stays so long as cleaning, sanitizing and social distancing protocols are scrupulously followed, consistent with Oregon Health Authority guidance, and that all such establishments require their guests to follow these protocols.

BE IT FURTHER RESOLVED that my March 16th Emergency Declaration is modified to allow transient merchants, operating under a Class 1 or Class 2 license pursuant to HRMC Chapter 5.07 shall be entitled to remain in the same location longer than the 180 days normally allowed by HRMC 5.07.030. Transient merchants licensed under HRMC Chapter 5.07 may remain in the same place until this Emergency Declaration is lifted or modified.

BE IT FURTHER RESOLVED that the City shall look to the Governor’s Office, the Oregon Health Authority, and the Hood River Health Department for leadership and guidance as to when and what specific activities, economic endeavors and facilities can resume operations and how those operations can begin resumption while safe-guarding human health.

IT IS SO ORDERED AND EFFECTIVE this ____ day of July 2020.

Rachael Fuller, City Manager

Attest:

Approved as to form:

Jenifer Gray, City Recorder

Daniel Kearns, City Attorney

CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: July 27, 2020

To: Honorable Mayor and City Council

From: Rachael Fuller, City Manager

Subject: League of Oregon Cities Legislative Priorities

Background: The purpose of this item is to identify the Hood River City Council's collective input on the legislative priorities developed by the League of Oregon Cities. Each city is asked to rank four priorities and submit them to the League of Oregon Cities by August 7, 2020.

In advance of every legislative session, policy committees supported by the League of Oregon Cities develop policy issues for consideration by local governments. Each city is asked to review the recommendations of the policy committees and provide input to the League of Oregon Cities Board of Directors as it prepares to adopt the 2021 Legislative Agenda.

Staff Recommendation: Staff recommends that Council review the legislative priorities and identify the top four issues. Staff will submit the list of four issues to the League of Oregon Cities.

Suggested Motion: I move to identify the following four issues as the City of Hood River's top issues for consideration by the League of Oregon Cities Board of Directors for the 2021 legislative agenda.

Alternatives: This is an optional item, Council can choose not to participate.

Fiscal Impact: Several of the items, if passed, would have a fiscal impact to the City.

Environmental Impact: Several of the items, if passed, would have an environmental impact.

Attachments: List of Legislative Issues for Consideration

NOTE: This document is best opened in Google Chrome.

A. Beer and Cider Tax Increase

Legislation:

The League proposes increasing the state taxes on beer and cider to assist with rising public safety costs, improve public health, reduce alcohol consumption by minors, and provide alcohol tax equity with wine and liquor.

Background:

Oregon's tax has not been increased since 1978 and is currently \$2.60 per barrel which equates to about 8 cents on a gallon of beer. The tax is by volume and not on the sales price, meaning the tax is less than 5 cents on a six-pack. Oregon has the lowest beer tax in the country, and to get to the middle of the states Oregon would need to raise the tax to \$30.00 per barrel or 54 cents per six pack (a more than 10-fold increase). Given recent challenges to the craft brewing industry tied to bar and restaurant closures it may be appropriate to delay or phase-in the increase. Cities are preempted from imposing alcohol taxes. In exchange, cities receive approximately 34% of the state alcohol revenues, but the state takes 50% of beer and wine taxes off the top prior to this distribution. Cities have significant public safety costs related to alcohol consumption, and the beer tax does not come close to covering its fair share of these costs.

Presented by the Finance and Taxation Committee

B. Broadband Infrastructure and Technical Assistance Funding

Legislation:

Seek additional state support and funding for increased broadband infrastructure deployment and technical assistance.

Background:

The deployment of broadband and telecommunications networks and services (public and/or private) throughout Oregon is critical to economic development, education, health and safety and the ability of residents to be linked to their governments. Research shows areas of the state either not served or underserved by competitive broadband technology. A significant barrier to the deployment of broadband infrastructure is funding. Cities need additional funding and support from various sources, including the state and federal government, allocated for increased or new, reliable, low latency broadband infrastructure that reaches speeds of at least 25 Mbps download and 3 Mbps upload or any updated speed standards as adopted by the FCC. Many federal grant programs require localities to have a broadband strategic plan in place before they are eligible for funds. Therefore, there is a need for funding sources to help cities with technical assistance as well as infrastructure.

Presented by the Telecom, Broadband & Cable Committee

C. Building (Reach) Code – Energy Efficiency Local Option

Legislation:

The LOC will pursue/support legislation to allow communities to adopt the Reach Code as the mandatory residential or commercial building code within the city's jurisdictional boundaries. The Reach Code would represent a building energy code that would be at least 10 percent more efficient than the statewide building code. Under this proposal, cities would be able to adopt the more efficient Reach Code or would continue to use the standard statewide building code as the base code.

Background:

Under current state law, cities are preempted from adopting local building codes. Instead, development is subject to statewide codes, including for new residential and commercial development. In 2009, legislation was passed to implement a new, optional code (Reach Code) that would allow developers to exceed statewide codes and streamline the construction of higher-performance buildings through efficiencies

gained in the building exterior envelope as well as heating, ventilation, air conditioning, piping insulation and lighting. The Reach Code is optional for builders to use, but a local government can't mandate a builder to use it. This legislative recommendation would allow a city to adopt the Reach Code within their jurisdiction in order to promote additional energy efficiency for new residential and commercial structures. If a city does not wish to adopt the Reach Code, the statewide code would remain in place. The LOC Energy & Environment Committee discussed whether this recommendation would impact housing costs and believes that long-term cost savings may be gained through increased energy efficiency in newly built units. Ultimately, the decision on whether to utilize the standard code or the enhanced (Reach) code would be at the discretion of the city.

Presented by the Energy and Environment Committee

D. COVID-10 Economic Recovery Investments

Legislation:

The League will advocate for continued economic recovery strategies and investments for small business and workforce assistance in response to the economic impacts of the COVID-19 pandemic.

Background:

The COVID-19 pandemic has had a devastating impact on Oregon's small businesses and workforce. While the federal government and the state have made recent investments to support small business, these resources have yet to meet current needs and more resources will be needed to support long term economic recovery for Oregon's communities. The League will work in coordination with economic development partners to advocate for continued investments to support long-term recovery and economic development.

Presented by the Community Development Committee

E. Digital Equity and Inclusion

Legislation:

Support legislation and policies that are inclusive and equitable to all, individuals and communities, so that they have the information technology capacity needed for full participation in our society, democracy and economy.

Background:

Connectivity is crucial to modern life. It is being relied on more for how people do business, learn, and receive important services like healthcare. As technology has evolved, the digital divide has become more complex and nuanced. It is no longer about the existence of technology in certain places. Now, the discussion of the digital divide is framed in terms of whether a population has access to hardware, to the Internet, to viable connection speeds and to the skills and training they need to effectively use it. The LOC will partner with schools, healthcare, and other stakeholders to ensure technologies are relevant, available, affordable, and accessible to the diverse populous and communities of Oregon. Additionally, the LOC will advocate for digital literacy programs to help learn these new technologies.

Presented by the Telecom, Broadband & Cable Committee

F. Expedited Siting for Shelter and Affordable Housing

Legislation:

The League will pursue legislation to expedite the siting of emergency shelter and other affordable housing that follows the intent of the 2020 shelter siting bill ([HB 4001](#)) but retains more local decision making in the process. The League will pursue this priority in coordination with affordable housing partners and other land use stakeholders.

Background:

The League worked closely with city and county partners during the 2020 session to gain improvements to [HB 4001](#), which sought to preempt all local siting and zoning regulations and the land use appeals process, for approving the siting of emergency shelters for a one-year period. HB 4001 received strong legislative support in 2020. Draft omnibus legislation for a potential future special session has included the text of HB 4001 and the League expects to see HB 4001 reintroduced in the 2021 session.

This priority will empower cities and counties to proactively introduce alternative legislation, similar to existing statute in California, which requires jurisdictions to identify places where shelters can locate instead of mandating that jurisdictions allow shelters to be sited anywhere. The California model requires cities and counties to accommodate their need for emergency shelters on sites where the use is allowed without a conditional use permit and requires cities and counties to treat transitional and supportive housing projects as a residential use of property.

Presented by the Community Development Committee

G. Green Energy/Renewables – Expanded Local Option**Legislation:**

The LOC will pursue/support policies that increase local control opportunities for cities that want to establish a community-scale green energy program. This program would be optional for cities that choose to pursue it. Cities who choose to, would be allowed to adopt resolutions that would opt-in residential, commercial, and industrial customers to a voluntary renewable energy option if it is provided by an investor owned utility that serves the city and its electric customers. Under this proposed program, a city would be able to pursue a more aggressive green energy portfolio and would better position cities to meet local climate action goals.

Background:

Under current law, customers of investor-owned utilities can opt-in to voluntary renewable energy options for their customers. These options allow customers to invest in additional green energy generation. In 2019, the state of Utah passed legislation ([SB 411](#)) that allows cities and counties to opt-in to programs on a community-scale basis, while still allowing individual customers to opt-out. Under this proposal, any city within the territory of an investor-owned utility, would be able to pursue this option for community-scale renewable energy (net-100% renewable).

Presented by the Energy and Environment Committee

H. Housing and Services Investment**Legislation:**

The League will support increased investments for affordable housing, homeless assistance, and related services including funding for: shelter, homeless services, case management, rent assistance, the development and preservation of affordable housing, and permanent supportive housing.

Background:

Cities large and small were facing escalating homelessness rates before the COVID-19 pandemic and the current economic downturn will only increase the number of Oregonians facing eviction or experiencing homelessness. State general fund programs like the Emergency Housing Assistance (EHA) and State Homeless Assistance Program (SHAP) have seen record investments in previous legislative sessions. The legislative emergency board also voted recently to dedicate \$12M in general funds to support rent assistance and safe shelter in response to COVID-19.

Oregon's lack of available housing, high rents and high home prices are causing housing instability and homelessness to increase. The Legislature has made record investments in recent years to fund the LIFT

affordable housing program and preserve Oregon’s existing affordable housing infrastructure. These programs are funded through general obligation bonds and lottery backed bonds.

Permanent Supportive Housing is a key strategy for ending chronic homelessness that reduces downstream costs to public systems like public safety, emergency health care and corrections. The 2019 Legislature invested over \$50M to stand up a three-pronged permanent supportive housing program that includes 1) development costs to build, 2) rent assistance to keep units deeply affordable, and 3) wrap around services that are key to ensuring residents’ long-term stability. The state should continue investing in this model to bring more Permanent Supportive Housing across the state and ensure that the housing developed with the original \$50M continues receive the necessary ongoing funding for rent assistance and supportive services.

Presented by the Community Development Committee

I. Increased Budgetary Flexibility During Budgetary Emergency

Legislation:

The League proposes relaxing budgetary constraints in state law so that cities may better be able to withstand revenue losses related to natural disasters and public health emergencies. These losses will inevitably force many cities to cut services and lay off staff, the legislature can reduce the effect of losses by increasing flexibility for use of funds during and after a declared emergency.

Background:

Cities anticipate a tremendous loss in revenue due to the COVID-19 pandemic. Reduced revenues already include losses to lodging taxes, gas taxes, park fees, development fees, parking fees, utility charges, and so on. Further out, there is widespread concern that there will be impacts to the real estate market going into 2021, and by extension a reduction in 2021-22 property tax revenues. Cities want maximum flexibility in using funds that are subject to statutory limitations but will negotiate terms on individual funding sources including payback requirements if necessary. This flexibility should apply during and after declared emergencies, including both the current pandemic and future natural disasters.

Presented by the Finance and Taxation Committee

J. Infrastructure Financing and Resilience

Legislation:

The League will advocate for an increase in the state’s investment in key infrastructure funding sources, including, but not limited to, the Special Public Works Fund (SPWF), Brownfield Redevelopment Fund, and Regionally Significant Industrial Site loan program. The advocacy will include seeking an investment and set aside through the SPWF for seismic resilience planning and related infrastructure improvements to make Oregon water and wastewater systems more resilient.

Background:

Cities continue to face the challenge of how to fund infrastructure improvements (both to maintain current and to build new). Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia and the funds are depleting and unsustainable without significant program modifications and reinvestments. This priority will focus on maximizing both the amount of funding and the flexibility of the funds to meet the needs of more cities across the state to ensure long-term infrastructure investment.

Presented by the Community Development Committee

K. Local Climate Action Planning Resources

Legislation:

The LOC will seek grant funding and technical assistance resources for cities to pursue, adopt or expand local climate action plans. In addition, the LOC will pursue opportunities to work with the Oregon Climate Change Research Institute (through Oregon State University) to provide cities and counties with local/regional data that can better inform the adoption and implementation of climate adaptation and mitigation at the local level.

Background:

According to the Oregon Department of Energy's [2018 Biennial Energy Report](#) (BER), since the early 1990s, major international and U.S. scientific assessments have concluded that both climate change mitigation and adaptation efforts are necessary in response to climate change. The BER goes on to explain that adaptation is often thought of as actions "to prepare for and adjust to new conditions, thereby reducing harm or taking advantage of new opportunities or simply to reduce society's vulnerability to climate change impacts." Local climate action plans, adopted by cities or counties, can help communities better understand how climate change will impact their communities, and can provide localized solutions to help mitigate against the impacts of climate change. The LOC is aware of fourteen cities that have adopted local climate action plans. There are other cities that are interested in doing the same but that do not have the financial and/or staffing resources that are necessary.

Presented by the Energy and Environment Committee

L. Local Energy Generation Project Support

Legislation:

The LOC will support/pursue funding, technical assistance and other tools that make local energy generation more feasible for cities to pursue.

Background:

Local energy generation projects can better position cities to pursue and achieve local climate action goals, address capacity constraints of existing electric transmission lines, and can help cities respond to individual businesses that may be seeking green energy options. The types of local energy generation projects discussed by the committee include, but are not limited to, small-scale hydropower, in-conduit hydropower, methane capture, biomass and solar. Such projects are not intended to conflict with existing low-carbon power purchase agreements but can position cities to pursue local climate action goals and supplement energy needs through renewable generation. Under this recommendation, the LOC will work to identify barriers and potential solutions to local energy generation and will pursue funding assistance for feasibility studies and project implementation.

Presented by the Energy and Environment Committee

M. Local Speed Setting Authority

Legislation:

Support legislation that provides legislative authority for ODOT to delegate local speed setting authority to Oregon cities that meet state criteria. Improve safety and speed limit consistency in Oregon cities by establishing a clear delegation process that is consistent with recently adopted statewide speed zone rules. ([OAR 734-020-0014](#), [734-020-0015](#), and [734-020-0016](#)). This will be permissive legislation allowing cities to opt-in and thus will not be a mandate.

Background:

The state of Oregon and cities across the state are all committed to improving safety on our streets. National and international research has shown that setting appropriate speed limits on city streets is a critical tool for improving safety and saving lives. During the 2020 legislative session, [HB 4103](#) gained widespread support for setting up a collaborative process with ODOT and cities that opt into a process for gaining local speed setting authority. Despite strong support, HB 4103 did not pass due to the legislative clock running out. Going forward, LOC will work with safety advocates and cities and use HB 4103 from the 2020 session as a template for legislation in 2021. Delegated authority should be made available to all cities that meet ODOT's criteria; participation by cities is permissive (not required). Cities should be able to determine speeds that are adequate and safe for their communities, working within the OAR speed zone framework. This will improve safety and make speed setting more consistent across local government jurisdictions.

Presented by the Transportation Committee

N. Long Term Transportation Infrastructure Funding**Legislation:**

Support expansion and consideration of revenue-generating options to fund multimodal transportation infrastructure, which includes state and local facilities. Support state and local projects that are part of the Statewide Transportation Improvement Program.

Background:

Oregon has made two significant state-wide transportation investments in the last 15 years. In 2009, the [Jobs and Transportation Act](#) (JTA) passed. This was a successful effort from local governments and the business community to invest in maintenance and capacity building projects state-wide. In 2017, [HB 2017](#) established Oregon's first ever comprehensive, multimodal, transportation investment with what is known as "Keep Oregon Moving," which was a \$5.3 billion package. Although HB 2017 will not have its full funding until 2024 LOC and other transportation advocates will need to constantly explore other sources of revenue including a possible future replacement of Oregon's gas tax with a road user charge system. Oregon has been pioneering a vehicle miles traveled (VMT) tax within the [MyOReGo](#) pilot program. The program is voluntary and can provide several benefits to users. Ultimately the long-term structure for transportation investment may well take on a similar structure.

Presented by the Transportation Committee, endorsed by the Community Development Committee

O. Low-Income Energy Efficiency and Affordability Programs**Legislation:**

The LOC will provide support for programs that seek to expand upon low-income energy and heating assistance programs, including programs targeted to make energy more affordable for rental properties. In addition, the LOC will work to support programs that provide for energy bill payment assistance and expand opportunities for low-income Oregonians to access resources for home weatherization.

Background:

According to Oregon Housing & Community Services, approximately 396,182, or about 25 percent of all households, are considered energy-burdened because of their energy-related expenditures (as of 2018). A household is considered energy burdened if six percent or more of its gross income is consumed by energy-related expenses. In recent years, legislation has been introduced in Oregon that would have provided additional assistance to low-income homeowners and renters that struggle with energy affordability. Unfortunately, legislation did not pass. The need for such assistance has increased as a result

of the economic hardships resulting from COVID-19. In addition to bill payment assistance, there is a need for programs that will support low-income home weatherization in order to make energy bills more affordable in the long-term.

Presented by the Energy and Environment Committee

P. Marijuana Tax Local Rate Limitation Increase

Legislation:

The League proposes increasing the current 3% cap on local marijuana taxes. This would give local voters greater choice in choosing a rate that reflects their needs or their community.

Background:

Retailers licensed by the Oregon Liquor Control Commission (OLCC) are required to charge a state-imposed retail sales tax of 17 percent for all recreational marijuana sold. Cities and counties (unincorporated areas only) may also impose a local retail sales tax of up to 3%, subject to voter approval. Tax rates for recreational marijuana vary widely across the states, but the total Oregon tax burden at a maximum of 20% is the lowest of West Coast states. Washington imposes a 37% state excise tax, but with a state sales tax of 6.5% and local rates of up to 1.9% the total rate can reach over 45%. California has a retail tax of only 15%, but with a state sales tax of 7.5% and local taxes up to 15.25% the total rate can reach up to 37.75%. Oregon consistently ranks among the lowest of the states for marijuana prices. Cities are sensitive to the desire to not push consumers to the black market and will work with the legislature on an increased cap that balances that concern with local revenue needs.

Presented the Finance and Tax Committee

Q. Mental Health Service Delivery

Legislation:

Support the delivery of mental health services in order to reduce negative police interactions and ensure that those in need receive the help they require.

Background:

The Committee and the LOC membership have prioritized the delivery of mental health services periodically over the last 5 years. Items contained in this priority have included crisis intervention training for police officer, mobile police and social worker teams to proactively work with people in danger of going into crisis, jail diversion, mental health courts and greater access to care. In the immediate past short session, the LOC worked with its coalition partners to obtain \$9 million in additional funding for aid-and-assist, community care and jail diversion but was unsuccessful due to a lack of quorum.

While the measurements are subjective and not in general agreement, most surveys of behavioral health and alcohol and drug addiction service availability place Oregon near or at the bottom of state rankings. As a result, Oregon ranks third in the nation for [alcohol related deaths](#), and above the national average in [suicides](#). Anecdotally, most police chiefs that have participated in LOC conversations on this topic report a growing number of calls for service stemming from people in mental health crisis. The COVID-19 pandemic has exacerbated some of these issues with Portland Police Bureau reporting a 41% increase in suicide related calls (including attempts and threats) over this time last year. This priority would include but not be limited to:

Investment: The stark truth is that Oregon has never financially supported mental health services at a level commensurate with need. More beds and more capacity will allow for greater delivery. The spending plan may be complicated but many advocates bristle at the idea of “mental health reform” when it’s never been funded as a priority. The League does not have a specific number at this time but is in conversation with partners to develop one.

Decimalization of Mental Illness: People suffering from mental illness that interact with the criminal justice system typically spend more time incarcerated and suffer a disruption in treatment. Jail diversion has been something the League has advocated for in previous sessions and but will require changes in law, training and investments.

Workgroups Outcomes: There are currently several workgroups developing behavioral health reform plans that have yet to be completed, much of that work has been interrupted by COVID 19. LOC staff can update the Committee on these their work continues but cannot make recommendations on them now.

Alcohol Availability: The prevalence of cheap and potent alcoholic beverages that are produced and sold for the express purpose of achieving rapid intoxication has been a concern for Oregon Recovers, an advocacy group for those recovering from addiction. OLCC sells several 750 ml bottles for under \$10 and some as low as \$5. Creating a minimum price per international unit of alcohol has had an impact on consumption of cheap, potent beverages in Scotland and is believed to have had an impact on consumption there. Raising the price of low cost but high-volume products would also increase city shared revenue and provide additional funding for behavioral health services.

Mental Health Parity: Oregon and the federal government have enacted statutes to ensure that mental health services are treated as a health issues in a manner identical to physical health by health insurers. The legislative intent behind these laws has not been met as evidence by reports of denied coverage. Ensuring effective parity would increase treatment an access.

Presented by the General Government/Human Resources Committee, endorsed by the Community Development Committee

R. Municipal Broadband and Pole Protection

Legislation:

Oppose legislative efforts to restrict existing municipal authority to provide broadband services, and own and operate poles in the rights-of-way.

Background:

As the public grows more dependent on the Internet for expanding parts of their lives, community choices for gaining access at a reasonable price, for both consumers and producers, are dwindling. Some municipalities choose to become service providers themselves. Municipal broadband is sometimes the only way to bring high speed internet to a community and it can serve as an access point to neighboring communities. Additionally, municipal broadband adds competition to the market and can help lower prices for community members. As there is a push for more connectivity and bridging the digital the divide, the LOC will protect localities rights to be internet service providers for their own communities. Additionally, as more and more small cell and 5G technology is deployed in the rights-of-way, the LOC will protect the right of municipalities to own, operate and regulate attachments that are allowed on their poles.

Presented by the Telecom, Broadband & Cable Committee

S. New Mobility Services

Legislation:

Support for a variety of new mobility services that promote a safe, sustainable, and equitable multimodal transportation system, while preserving local government's authority to regulate services and ensure they best serve the local context.

Background:

Transportation mobility has been rapidly changing over the last few years. The emergence of ridesharing services such as Transportation Network Companies (TNCs) now provide the public with more options to

get from point “a” to point “b.” New platforms continue to emerge such as scooters, shared bikes, electric delivery tricycles for package delivery and the possibility of future driverless delivery and vehicle fleets. Cities must have the flexibility to address the impacts of emerging technologies on their communities such as increased congestion and air pollution while protecting consumers and maintaining a safe transportation network that recognizes the unique needs of individual communities.

Presented by the Transportation Committee

T. Photo Enforcement Safety Cameras

Legislation:

Support continuation and expansion of fixed speed and red-light cameras and mobile speed radar state-wide to improve public safety in high-crash corridors. Explore changes that enable more streamlined processing of citations. Allow for local governments to form IGA’s with other local governments to facilitate the use of safety cameras and mobile radar in their communities.

Background:

The Oregon Transportation Safety Action Plan sets a goal of no deaths or life-changing injuries on Oregon’s transportation system by 2035. In 2015, the Oregon Legislature granted the city of Portland the authority to implement a fixed speed safety camera program ([HB 2621](#)). Portland’s fixed speed camera systems have been operating on “urban high crash corridors” for the past several years. Data collected at these locations shows a distinct change in driver behavior that has reduced the risk of collisions (See [PBOT Report](#)). Under existing statutes, photo radar is allowed in the cities of Albany, Beaverton, Bend, Eugene, Gladstone, Medford, Milwaukie, Oregon City, Portland and Tigard. LOC’s goal is to bring this authority state-wide providing all cities with the choice of operating speed radar in their communities to improve safety and reduce the risk of high-speed crashes.

Presented by the Transportation Committee

U. Property Tax Reform

Legislation:

The League of Oregon Cities proposes that the Legislature refer a constitutional measure and take statutory action to reform the property tax system as part of the 2021 session. With the passage of the Corporate Activities Tax Oregon has taken a step towards long term financial stability at the state and school district level, but local budgetary challenges persist and the legislature must take action to allow cities and other local governments to adequately fund the services that residents demand.

Background:

The property tax system is broken and in need of repair due to Measures 5 and 50, which are both now over 20 years old. The current system is inequitable to property owners and jurisdictions alike, is often inadequate to allow jurisdictions to provide critical services, removes all local choice, and is incomprehensible to the majority of taxpayers. Local governments and schools rely heavily on property tax revenues to pay for services and capital expenses. Therefore, the League will take a leadership role in forming coalitions to help draft and advocate for both comprehensive and incremental property tax reform option packages. The League will remain flexible to support all legislation that improves the system, with a focus on a property tax package that includes, but may not be limited to these elements:

- To restore local choice, a system that allows voters to adopt tax levies and establish tax rates outside of current limits and not subject to compression (requires constitutional referral).
- To achieve equity, a system that has taxpayers’ relative share tied to the value of their property, rather than the complex and increasingly arbitrary valuation system based on assessed value from Measure 50 (requires constitutional referral).

- To enhance fairness and adequacy, a system that makes various statutory changes, some of which would adjust the impact of the above changes. For example, as a part of comprehensive reform the League supports a new reasonable homestead exemption (percentage of RMV with a cap) but also supports limiting or repealing various property tax exemptions that do not have a reasonable return on investment.

Presented by the Finance and Tax Committee, endorsed by the Community Development Committee

V. Reducing Wastewater Impacts from Wipes and Other “Non-Flushables”

Legislation:

The LOC will work with other stakeholders, including the Oregon Association of Clean Water Agencies address challenges resulting from wipes and other non-flushable items. Legislation pursued will likely focus on requirements for manufacturers to clearly label product packaging to indicate that the product should not be flushed, however, the LOC will additionally explore other viable opportunities to address the public health, environmental and economic challenges resulting from improper disposal of these products.

Background:

In recent years, public wastewater systems have experienced significant increases in sewer line clogs, environmental impacts, infrastructure impacts and costs associated with wipes being flushed down toilets. Most wipes don’t break down when flushed, and even wipes that are labeled as “flushable” can clog pipelines and pumps and can cause sewage overflows in residences and the environment. The COVID-19 pandemic has made this challenge even worse due to shortages of toilet paper and increased use of disinfecting wipes. The EPA and other national organizations, as well as statewide and local wastewater agencies, are working to get the message out to avoid costly as well as environmental impacts of wipes in our sewer and treatment systems. In March of 2020, the state of Washington passed legislation requiring manufacturers to label products with a “do not flush” logo if the product does not meet national “flushability” standards (i.e. breaking down in the sewer system).

Presented by the Water/Wastewater Committee

W. Right-of-Way/Franchise Fees Authority Preservation

Legislation:

Oppose legislation that, in any way, preempts local authority to manage public rights-of-way and cities’ ability to set the rate of compensation for the use of such rights-of-way.

Background:

In its commitment to the protection of Home Rule and local control, the LOC consistently opposes restrictions on the rights of cities to manage their own affairs. From time to time, in the context of public rights-of-way management authority discussions, legislative proposals to restrict this authority arise. Efforts to restrict local authority often include proposals for a statewide right-of-way access policy and compensation system as well as limiting the ability of cities to charge fees of other government entities. This is contrary to local government management authority; the ability to enter into agreements with users of the right-of-way either by agreement/contract or ordinance; to set terms of right-of-way use and to set the rate of compensation. In recent years the FCC has passed rulemaking through various orders like the Small Cell Orders ([FCC 18-133](#) and [FCC 18-111](#)) and the Cable Franchising Order ([FCC 19-80](#)) that erode cities’ right-of-way and franchising authority. Local governments around the U.S. are fighting these orders in court. There is a fear that the language of these orders will be codified in state legislatures. This would mean if the orders are overturned in court at the federal level, they will still impact cities in states that have passed laws codifying the orders.

Presented by the Telecom, Broadband & Cable Committee

X. State Highway Funds Formula

Legislation:

Consider opening the state highway fund distribution formula to allow for an additional percentage to cities. Currently the split is 50-30-20 with the State receiving 50%, Counties receiving 30% and the balance going to Cities 20%.

Background:

Oregon has had a distribution formula for the state highway fund for decades. [This fund](#) combines the revenues generated from the state's gas tax, weight-mile tax on heavy trucks, licenses, fees, and bond proceeds. Approximately 77 percent of the total revenue collected by Oregon Department of Transportation (ODOT) is from state sources, while only 23 percent comes from federal sources. During the 2017 session base level funding for the least populated counties was established along with a \$5 million-dollar small city fund for cities under 5,000 in population with a maximum award of \$100,000 and no match requirement. LOC will engage with other transportation interests to determine if there is adequate support to advance legislation that would revisit the current 50-30-20 distribution.

Presented by the Transportation Committee

Y. Tort Liability Reform

Legislation:

COVID-19 and existing federal court decisions have added risk exposure to cities in areas where their authority has been limited or have not received adequate support. This priority seeks to ensure that cities are not held liable in these areas.

Background:

CIS has already had a COVID related claim filed against it for a COVID related exposure. While there may be many legitimate reasons for a person to seek damages related to the outbreak, local governments have been hampered by inadequate supplies of PPE, testing capability, direct financial support, and legislative relief.

Additionally, the Boise decision that prevents cities from enforcing no camping rules and ordinances subject cities to additional tort liability. The ruling holds that if a person has no place else to go, a city must allow them to sleep somewhere. While there is a logical basis for the core of the ruling, if a city allows a person to sleep in an area that is not designed for camping, such as a park, the person may seek damages. Please note that recreational users of parks may not seek damages due to Oregon's recreational immunity statute that were corrected in 2017.

Finally, in previous sessions, legislation has been introduced but not passed to require cities to permit shelters in areas where they may not be appropriate and "codify" the Boise decision in state law. This legislation did not include immunity from tort liability while removing city authority.

Presented by the General Government/Human Resources Committee

Z. Water Utility Rate and Fund Assistance

Legislation:

The League will work during the 2021 legislative session to provide water utility funding assistance for ratepayers that are experiencing ongoing or recent economic hardships. In addition, the LOC will work to identify opportunities for additional investments in public infrastructure, including water supply, wastewater treatment, stormwater management, green infrastructure opportunities and resilience for water systems. Finally, the LOC Water & Wastewater Policy Committee has identified a need for additional,

targeted grant funding assistance that will benefit smaller communities. This includes additional funding to conduct rate studies, feasibility studies and funding to help communities comply with new regulatory requirements, including the requirement to include a seismic risk assessment and mitigation plan within regular water master plan updates.

Background:

In response to economic impacts associated with the spread of COVID-19, many of Oregon’s drinking water and wastewater utility providers have offered additional assistance to ratepayers. The LOC is aware that most water utility providers have temporarily ceased water service shut offs (disconnections) for non-payment or past due bill collection during this period of economic hardship. Impacts associated with residential ratepayer revenue losses and decreased water consumption from businesses that have either closed or limited operations has resulted in revenue losses for many Oregon water utility providers. Some water utilities have outstanding debt from prior infrastructure investments and have expressed concerns that reductions in revenue may impact the ability to make the ongoing debt payments. In addition, the economic hardships that are being experienced by many Oregonians, especially in low-income and minority communities, will be ongoing; highlighting the need for additional ratepayer assistance investments that focuses on equity and our most vulnerable populations.

The LOC will work to identify funding for water utility ratepayer assistance and will work to establish a framework for the distribution of funds and will seek to ensure that this crisis does not exacerbate existing inequities, especially for Black, Indigenous, other Communities of Color and for rural Oregonians.

In addition, while COVID-19 has created unique revenue challenges for water utility providers, a key issue that most cities continue to face is how to fund infrastructure improvements (including maintaining, repairing and replacing existing infrastructure and building new infrastructure to address capacity and regulatory requirements). Increasing resources in programs that provide access to lower-rate loans and infrastructure-specific grants will assist cities in investing in vital infrastructure improvements which will also help bolster economic recovery. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia and the funds are depleting and unsustainable without significant program modifications and reinvestments.

The LOC will pursue additional funding through the state’s Special Public Works Fund, which provides funding assistance through Business Oregon for a variety of public infrastructure needs and will explore state bonding capacity opportunities for water-specific infrastructure needs. In addition, LOC will pursue funding for small communities that face regulatory and operational challenges. Examples of small-community funding assistance opportunities may include expanded grant opportunities through existing funding programs and additional funding assistance to help communities with regulatory compliance and engage in utility best practices, including rate studies.

Presented by the Water/Wastewater Committee, endorsed by the Community Development Committee

Acknowledgements

Thank you to all that participated in the policy committee process.

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**City of Hood River
City Council Work Session
July 13, 2020**

Council: Mayor Kate McBride, Mark Zanmiller, Megan Saunders, Tim Counihan, Jessica Metta, Erick Haynie, Gladys Rivera

Staff: City Manager Rachael Fuller, City Attorney Dan Kearns, Finance Director/ACM Will Norris, Planning Director Dustin Nilsen, Fire Chief Leonard Damian, Police Chief Neal Holste, Interim Public Works Director Wade Seaborn, City Recorder Jennifer Gray, GIS Analyst Jonathan Skloven-Gill, Planner Jennifer Kaden, Project Manager Rich Rice

Absent:

I CALL TO ORDER – Cell Phone Reminder – 6:00 p.m.

II BUSINESS FROM THE AUDIENCE

Lorraine Lyons, Hood River, OR – she wanted to voice her concern about the news she received today about ODOT not allowing parklets on Oak Street. She stated 96% of her revenue in the last two weeks has come from the parklet. Without it, they will have to close their doors and their employees who just got back to work would be let go. She doesn't know where the disconnect was between the City and ODOT. It seems in the time of COVID, ODOT could be more understanding. They cannot put tables on their sidewalk because of the social distancing requirements. The City approved her business to do this, they did not ask for this and now they are being told it needs to be removed. They are in a really tariffing place right now.

Andrew McElderry, Hood River, OR – spoke about the success parklets are having across the country. He explained what they need right now is time. They need time to figure out a solution to this issue. There are issues with having the downtown main street where they live and conduct business, be a State highway and the limits it puts on business owners on how they can use city streets. We need to figure out a way to own our City streets, otherwise downtown is going to die. You can already see this happening. There are several spots open for lease and they are not being filled. They desperately need time to find a solution. The solution that has been put forth (tables on sidewalks) is not acceptable in, it does not work. He has six city owned items on his sidewalk that inhibits him to put tables. Putting tables on sidewalks and making pedestrians walk around on closed parking spots is going to look terrible. He constructed a quality high end parklet. It was not cheap. If the parklet is taken away, he is going to have to lay off three of his employees, who can no longer go back on unemployment. He hired them back because of the parklet. Please find them a way to get more time. Everyone has to give in this COVID world. We need ODOT to give and give them more time.

Council agreed to speak about the parklet concerns under Mayor Call.

Peter Cornelison, Hood River, OR – he stated on the draft resolution that has to do with social equity,

he would like Council to consider adding language about the impact climate change has on communities of color. Many legislators have made decisions about climate and have not considered equity. He believes the resolution would be improved by adding a couple of sentences on that topic. He added the Warm Springs Reservation is in critical need of help due to their water situation and COVID. He sent an article to the City Recorder for Council to read. He is unsure if there is a way for the City to help Warm Springs.

WORK SESSION

III OPEN WORK SESSION – 6:12 p.m.

IV AGENDA ADDITIONS OR CORRECTIONS

V DISCUSSION ITEMS

1. Council Resolution - Social and Racial Equity, Council Subcommittee
Resolution for Racial and Social Equity submitted by the subcommittee for consideration to the Council, as discussed at the June 22 Council meeting.

Councilor Saunders stated the subcommittee took what they heard over the past few weeks, along with what they have been doing at Goal Setting in previous years to try to go in the direction Council was hoping for. The resolution was longer than they expected but there was a lot of be stated.

Council discussed the drafted resolution.

Councilor Zanmiller suggested several edits. He believes there are several whereas statements that could be combined to reduce the length of the resolution. He suggested the sixth “Be it Further Resolved” statement should be changed to a “whereas” statement. He would like the fourth “Be it Further Resolved” statement to read “and other peaceful methods of community debate.”

Councilor Haynie agreed with Mayor McBride regarding members of Council to participate in the education and training with City employees on racism and the principles of equity and inclusion. He suggested adding language in the 10th whereas to state Council recognizes the use of social media to encourage nonpeaceful activities and the display of open firearms, can be perceived as threatening.

Councilor Rivera stated she wanted to highlight the statement regarding Council denouncing actions that detract from sense of community safety, including any forms of intimidator or harassment. Council is here on a volunteer bases to make meaningful changes in the community. In the last couple of weeks, she can say her experience regarding being on Council has been questioned and she has received a lot of negative backlash and attention, for simply having a seat at this table. She does not have intentions in going anywhere, for those who want her to leave. This document is two pages long but they are things that need to happen because the City is growing. They are simply trying to be better and hopefully other cities will follow.

McBride asked Council if they are okay with the combining of statements that are similar and the other changes discussed. Council agreed. The subcommittee will make the revisions and bring back the final draft at the next meeting.

2. Housing Code Project Update and Next Steps, D. Nilsen
Nilsen presented a PowerPoint; it was added to the record.

Background:

Creating opportunities for an inclusive, equitable, and diverse housing inventory through updates to the municipal code is a project in the City's 2020 Workplan. This strategy will be implemented this year, in part, by including "middle housing" into the Hood River Zoning Code which is intended to encourage the development a wider variety of housing options within the City.

Over the past year, the City has sharpened its understanding of the Hood River housing market, regulatory framework, and institutional barriers to the construction of middle housing. Building upon the City's Buildable Lands Inventory and housing needs analysis from the Comprehensive Plan, recent work and collaboration with stakeholders, the University of Oregon Sustainable Cities Institute, EcoNorthwest, and State of Oregon has informed the work that City staff will initiate with this project. The purpose of the project is to engage a subject matter consultant to write the middle housing code this summer and then introduce before Planning Commission and Council as a legislative update to municipal code.

The Shaping the code to fit Hood River's needs and circumstance required local knowledge and input. The City's approved housing needs analysis included public outreach and served as the basis for two project advisory committees made up of representatives from the community, partner agencies, landowners to evaluated draft code updates presented over the past 2 years. This input, and the aforementioned work completed in 2020, shall shape the Zoning Code amendment to allow middle housing that reflects HB 2001 (relating to duplexes in medium sized hood river cities) and the standards that define and allow the development of middle housing types (duplexes, triplexes, cottage, and cluster housing models) within the City's residential zones. In preparation of this middle housing code development, staff would like to gather additional input from Council to ensure the policy questions that are important to Council are taken into consideration.

To share the development and updates staff will prepare a project page on the City's website and share results with community partners and the public.

Staff requests Council input related to the middle housing code work, as staff initiates the code development and legislative process before Planning Commission.

Mayor McBride stated staff has questions for Council to answer; regarding Senate Bill 2001 incorporating that into the process and general process questions or directions.

Councilor Metta noted she would like to see more diverse housing, but she does not want to see tear downs of smaller older structures, that are replaced with large housing structure that do not fit in the neighborhood.

Councilor Saunders stated she would like to see diversity of ages, family sizes, incomes, and everything in neighborhoods. The way to achieve that is to have a full range of diversity of housing types and sizes. She is supportive of looking at all the potential

middle housing products that could be developed. She believes House Bill 2001 is one part of that mix. She would like to see the increase the supply of smaller/medium housing instead of large ones.

There was consensus among Council to incorporate Senate Bill 2001 now, rather than later.

Mayor McBride stated she believes looking at middle housing and House Bill 2001, will be a great start. It will help if everything is not done through a PUB or condition use permit. If they make the process simple for developers to do these types of projects, it is her hope they will see more of them developed.

VIII ADJOURN WORK SESSION – 7:29 p.m.

REGULAR COUNCIL MEETING

I OPEN REGULAR COUNCIL MEETING – 7:29 p.m.

II AGENDA ADDITIONS OR CORRECTIONS

III CONSENT AGENDA

1. Council Meeting Minutes – June 8, 2020 and June 22, 2020
2. Capital Project Management Consulting Contract Award, W. Norris, R. Rice
3. Microsoft Office 365 Licensing & Migration Agreement, W. Norris
4. Amendment No. 2 to the Strategic Communications Assistance Professional Services Agreement with Pageworks Design Inc.
5. OLCC Permit Application Approval
 - Downwinder, 200 Portway Ave, Limited On-Premises
 - Votum Restaurant, 503 13th Street, Full On-Premises

Motion: To approve the Consent Agenda.

First: Saunders

Second: Counihan

Discussion: Council made note the address for Votum Restaurant is on 2nd Street.

Vote: Motion passed (roll called)

Ayes: McBride, Zanmiller, Saunders, Counihan, Metta, Haynie

Nays: None

Abstentions: None

Excused: None

IV REGULAR BUSINESS ITEMS

1. DKS Contract Approval for Transportation System Plan Amendment, D. Nilsen

Management of the local transportation system is a core function of the City, emphasized in its adopted Goal to “Promote an efficient and safe multi-modal transportation system that alleviates traffic and parking congestion and encourages biking, pedestrian access and public transportation” and serves as the basis of the Transportation System Plan Amendment Project identified in the 2020 Work Plan.

As discussed with Council in February, staff has continued to work on scoping and preparing an Amendment for the Transportation system plan. The proposed update and project scope are intentionally narrow but still constitute a significant update to the TSP that relies on the Streets and Pedestrian Framework recommendations project guidance. Specially, the scope involves updating: 1) Bike and pedestrian trail routes, 2) Arterial street alignments, 3) Typical street cross sections, 4) The Mount Adams intersection on Cascade with a possible roundabout, and 5) Infrastructure cost estimates and financially constrained project lists for vehicle, bike, and pedestrian modes.

Update:

At the June 22nd meeting Council request clarifications on Task 2 of the scope as well as previous Planning Commission recommendations relating the TSP update. Included with the packet is a DKS review of PC recommendations, which calls attention to the PC recommendation to incorporate “advisory shoulders”. To incorporate an experimental technology and approach is possible but will require an extended process and legislative work not built into the 2011 amendment. As mentioned by DKS, such an effort may be better suited to be included in a full TSP update.

Task 2 includes a revised traffic scenario based on a full movement intersection at Wine Country and Mt. Adams. This was originally restricted to right turns in the Westside Area Concept Plan, but both staff and Planning Commission expressed concern over limiting movement to the west where significant access will be needed to accommodate redevelopment along Cascade, Sherman and Rand. A single revised scenario outlined in Task 2 will be evaluated and results reported as part of the legislative hearings.

Status and Next Steps:

Transportation System Plans are periodically updated and processed in coordination with the Oregon Department of Transportation. They typically require a consultant-driven, staff-supported project and legislative process that meets Oregon Administrative Rules and Statutes.

Staff has prepared an anticipated budget and work scope to be performed by a lead transportation consulting firm. In preparing the scope, and after discussions with Public Works Engineering, and Legal Counsel, it appears that a sole source contract to DKS was the most logical choice to see the work completed in a cost effective and timely matter.

Key facts to staff findings are that 1). DKS is the owner and operator of the City’s traffic model needed to perform the analysis for the amendment and 2). DKS was the firm who has prepared the transportation analysis and findings needed to approve the amendment in compliance with the Transportation Planning Rule. If the City were to select an alternate consultant at this stage of the project, that consultant would be required to subcontract DKS to perform the traffic modelling and would be required to evaluate or redevelop the assumptions that DKS has prepared in anticipation of the Transportation System Plan Update. Alternatively, an alternative consultant could develop a new model to run the traffic analysis, but that is not feasible given the time and budget constraints anticipated for the project.

It is anticipated that the Next full Transportation System Plan update will not include a proprietary model not owned by the City as part of the project deliverables. Given the narrow scope of the project and the background already work completed to support

the amendments proposed as part of the Transportation Plan Project, staff recommends approving the DKS work scope and contract to complete the Transportation Engineering and TSP Amendment.

Staff Request:

On tonight's agenda, approve a resolution and work scope to DKS and Associates to amend the City's Transportation System Plan.

Motion: I move to approve the resolution with the corrected amount and work scope to DKS and Associates to amend the City's Transportation System Plan.
First: Metta
Second: Saunders
Discussion: None
Vote: Motion passed (roll called)
Ayes: McBride, Zanmiller, Saunders, Counihan, Metta, Haynie
Nays: None
Abstentions: None
Excused: None

2. Resolution Establishing a PERS Side Account under the State of Oregon's Employer Incentive Fund program, W. Norris

The long-term funding challenges facing Oregon's Public Employees Retirement System (PERS) have been well publicized. Oregon's system is better funded than most other States, but the problem is serious and has already placed strain on public budgets. The Hood River City Council recognized the upcoming PERS funding challenges and responded by setting aside \$500,000 in a PERS Stabilization Reserve in 2016. The balance of this reserve has grown to \$531,240 earning interest in the State of Oregon's Local Government Investment Pool.

The Oregon Legislature has also responded to the State's PERS challenges with several recent laws. These include appropriating funds to provide 25% matching deposits for local governments that create a PERS investment "side accounts" under their Employer Incentive Fund program (EIF). Other actions include increasing employee cost sharing and modifying employer funding formulas to smooth the rate impact from retirement programs provided to public employees that started work before 2003 reforms.

The City Council received a staff report and presentation on the EIF at their October 28th, 2019 regular meeting. The City Council directed staff at that time to apply for the maximum available PER match amount of \$409,684.40 for a total PERS side account of \$2,048,422. The City of Hood River successfully submit its application immediately upon the opening of the application period. All available State of Oregon EIF matching funds were fully allocated within 15 minutes.

Discussion:

The City of Hood River's PERS Side Account deposit is schedule for July 20th, 2020. A Resolution authorizing payment is attached with this staff report. The City may elect to delay the side account deposit to as late as December 1st. Delaying payment risks the availability of State of Oregon match as discussed below under Timing Considerations.

Fiscal Impact:

PERS provides a rate projection tool to estimate future rate credits from the creation of a side account. The tool estimates a \$2,048,422 side account will return \$3,543,962 in rate credits over the next ten biennia, decreasing the City's projected PERS expenses by 11.3% annually. The rate projection tool uses a 7.2% assumed investment rate of return. The assumed rate of return is set by the PERS Board in consultation with investment advisors. PERS Investments have not met this rate of return over the last five-years (returning 5.73% annually) but have also exceeded this rate of return over the last 10 years (returning 7.96% annually). In 2019, the last full calendar year, the PERS investment fund earned 13.92%. Investment returns reported by Oregon PERS in calendar year 2020 through April have been -5.04% with the impact of COVID19.

The City of Hood River 2020-21 Adopted Budget includes the full PERS deposit, first using the PERS Stabilization Reserve and distributing the remaining costs to all other Funds proportionately based on PERS liabilities. The General Fund's proportional responsibility is \$755 thousand.

Timing Considerations:

The \$100 million that the State of Oregon appropriated to for EIF match monies are State General Fund dollars and subject to budget adjustments until invested. The Oregon Legislature intends to hold a special legislative session at a yet to be announced date to address budget shortfalls related to COVID19. It is possible that uninvested EIF matching funds may be rescinded. This adds urgency to establishing the City of Hood River's PERS Side Account to lock in match monies ahead of the next special legislative session.

As of July 1st, 55% of the EIF has been invested as match against PERS employer side account contributions. Fourteen (14) other PERS employers with approved EIF applications have scheduled deposits in July. These employers cumulatively will draw \$4,876,650.90 in EIF matching funds. Seven (7) other employers with approved EIF applications have elected to move their deposit dates forward to May/June from July/August, presumably to reduce risk that matching funds will be reallocated. The cumulative draw on the EIF from these employers is \$4,058,250. Five (5) other employers with approved EIF applications have moved their deposit dates backward, presumably due to revenue uncertainty from COVID19. The cumulative draw on the EIF from these employers is \$19,468,750. Forty (40) PERS employers are on the waitlist for the EIF, fourteen (14) of which have committed to the creation of a PERS side account without or without state match.

Staff Recommendation:

Authorize the full \$1,638,737.60 deposit into a PERS Side Account to obtain the maximum amount of matching funds for a total side account amount of \$2,048,422. The ongoing impacts of COVID19 and resulting recession introduce risk to the City's finances. However, the City does not face any near-term liquidity problem. Drawing \$409,684.40 in State of Oregon matching dollars to offset existing PERS liabilities is a prudent use of accumulated fund balances under the City of Hood River's financial policies. Reducing known and unavoidable PERS expenses is an unqualified benefit to the City's ongoing financial position irrespective of COVID19 revenue impacts.

Councilor Saunders thanked Norris for his work on this and this seems like the most fiscally responsible thing to do.

Motion: I move to adopted Resolution 2020-12, directing the establishment of a PERS Side Account under the State of Oregon Employer Incentive Fund program.

First: Saunders

Second: Rivera

Discussion: None

Vote: Motion passed (roll called)
Ayes: McBride, Zanmiller, Saunders, Counihan, Metta, Haynie
Nays: None
Abstentions: None
Excused: None

V REPORT OF OFFICERS

A. Department Heads

Norris gave an update on the framework for the remaining amount of the COVID relief funds. The initial application for approximately \$50,000 was approved and the money is in hand. The League of Oregon Cities with the Special Districts Association of Oregon and Association of Oregon Counties came together for a framework on how to distribute the rest of the money the Governor's office has signed on to. The City's allocation is \$244,000, in addition to what has already been reimbursed. A few meetings past, staff brought Council an economic redevelopment program. In light of these monies, and the treasury guidance staff will reconfigure that and bring it back to Council with more discrete proposals at the next meeting. They are expecting to have some non-profit assistance, small business assistance and individual assistance. They will also set aside some money for the city's direct expenses responding to COVID, as well as a reimbursement program for anyone who has had to any major outlays, in order reconfigure their business for COVID. This could also be a place to recommend creating a grant program for businesses who spent money on parklets, and who are now needing to remove them by ODOT. 90% of the financial detriment to the City from COVID has been in revenue loss. That is not what the money can be used for, so they will put it to the best and highest use possible.

Norris stated the cleanup of the transient lodging tax code will be coming to Council soon. The focus will be getting booking intermediaries to remit tax on behalf of their properties. BRBO already does this. Air BnB has stated without municipal code stating this process, they will not do it. Norris has been in discussion with Air BnB over the past few weeks. They have come to an agreement on language that would give them authorization to collect for properties.

Norris stated there might be a contract amendment coming to Council regarding the electric vehicle share with Forth, that is going to be placed at City Hall. There is issues with the wiring infrastructure at City Hall and a billing arrangement is needed.

Kearns stated he has news on the legal front on the decision from LUBA on the City's decision to rezone a portion of Morrison Park. LUBA affirmed Councils decision; they have the authority to rezone the portion of the park. There is a 21-day appeal period, but at this time point City Council has been affirmed by LUBA. Kearns will send Council the LUBA response.

VI MAYOR

Mayor McBride and Council discussed the parklet issues. Council and staff expressed their disappointment and frustration with ODOT for not allowing parklets under the circumstances business are facing, due to COVID.

Council agreed to put together a letter addressed to ODOT, State Representatives and the Governor's office to reconsider and allow parklets. Also look into the option for a transfer. If an IGA could be executed, that would be something that could give them time for parklets to be relocated to a different location.

Mayor McBride the Energy Committee has recommended the City and the County to send letters to DLCD regarding natural hazard mitigation which would be discussing the Public Safety Power Shutoff (PSPS). She is in support of signing the letter. Council agreed.

Mayor McBride has received a request from Debi Ferrer to recommend her to sit on the Gorge Commission. She did some reference checks and plans to sign Ferrer's letter.

VII COUNCIL CALL

VIII ADJOURN – Adjourned by unanimous consent at 8:49 p.m.

Kate McBride, Mayor

Jennifer Gray, City Recorder

Approved by City Council on _____

CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: July 27, 2020

To: Honorable Mayor and City Council Members

From: Rich Rice, Project Manager

Subject: Columbia Land Trust Mt. Vistas Phase 3, Tract 2 Easement

Background:

Columbia Land Trust has reached out to the City about securing an access easement that would run across land owned by the City of Hood River in the Mountain Vistas, Phase 3 subdivision of the Sieverkropp area. This easement would be located at the South end of the City's stormwater detention pond which is located at the intersection of Sieverkropp Drive and 3rd Street. There is a locked fence area for City maintenance which the easement would run through for ease of access to the Columbia Land Trust property. Coordination between the City and Columbia Land Trust for access to this fenced area will be discussed upon approval.

This easement would allow Columbia Land Trust to access their parcel of land to perform maintenance such as vegetation management, slope stabilization, garbage removal, or infrastructure development. Currently their parcel is located behind the City's property with no clear access for these activities. This Easement Agreement does not allow general public access, only access for Columbia Land Trust.

Staff Recommendation:

Authorize the Mayor to execute the Easement Agreement with Columbia Land Trust

Financial Impact:

There is no financial impact to the City.

Alternatives:

Do not sign the Easement Agreement, Columbia Land Trust will then need to find other alternatives to access their parcel of land.

Proposed Motion:

"I move that on tonight's consent agenda, we authorize the Mayor to execute the Easement Agreement with Columbia Land Trust"

Attachments

Easement Agreement (CLT_City of Hood River)

Map of Location

AFTER RECORDING RETURN TO:

Nate Ulrich
Columbia Land Trust
850 Officer's Row
Vancouver, Washington 98661

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement (the "**Agreement**") is executed as of the _____ day of _____, 2020 (the "**Effective Date**"), by and between the City of Hood River, an Oregon municipal corporation ("**Grantor**"), and Columbia Land Trust, a Washington nonprofit corporation ("**Grantee**").

RECITALS

- A. Grantee is the fee owner of certain real property located in Hood River County, Oregon (the "**Grantee Land**"), which Grantee Land is legally described on Exhibit "A" attached hereto.
- B. Grantor is the fee owner of real property located in Hood River County, Oregon (the "**Grantor Land**"), which Grantor Land is legally described on Exhibit "B" attached hereto.
- C. Grantee desires an easement over the Grantor Land for the purpose of only vehicular and pedestrian ingress and egress, and Grantor has agreed to grant to Grantee the requested easement, all in accordance with the terms set forth below.

AGREEMENT

NOW, THEREFORE, for and in consideration of the Recitals set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby agreed upon and acknowledged by Grantor and Grantee (each, a "**Party**," and collectively, the "**Parties**"), the Parties agree as follows:

1. **Grant of Easement; Gates and Locks.** Grantor does hereby grant, convey and set over unto Grantee and its employees, contractors, agents and invitees (the "**Grantee Parties**") but not the general public, a perpetual, non-exclusive, appurtenant access easement benefitting the Grantee Land (the "**Easement**") over and across the roads and pathways (collectively, the "**Access Routes**") in existence from time to time on the Grantor Land. Grantee shall be allowed to use the Access Routes only for vehicular and pedestrian ingress and egress to the Grantee Land and for no other purposes. The Access Routes are sometimes referred to herein as the "**Easement Area**," and the "**Easement**." Grantor shall provide Grantee and the Grantee Parties with the keys and/or combinations to any locked gate(s) that must be opened to access the

Access Routes. Grantor may change the gate combination(s) or key lock(s) at any time, but before changing the combination(s) or key lock(s), Grantor shall notify Grantee of the new combination or the need to obtain a key to be used. Notice under this provision may be made by phone, email or regular mail.

2. **Grantor Reservations.** Grantor hereby specifically reserves to itself, its successors and assigns, its employees, representatives, contractors, agents, lessees, licensees and invitees (each, a “**Grantor Party,**” and collectively, the “**Grantor Parties**”) the full, free and perpetual right and privilege, in common with Grantee and any other third parties Grantor chooses in its sole and absolute discretion, to use the Grantor Land and Access Routes for any other purpose desired by Grantor that is consistent with then Applicable Laws (defined below).

3. **Grantee Responsibilities; Compliance with Law.** Grantee shall at all times: (i) take all reasonable precaution to prevent unauthorized persons from using the Easement Area; and (ii) immediately report to Grantor any dangerous or defective condition of which it has actual knowledge with respect to any portion of the Easement Area. Additionally, Grantee shall at all times comply with all applicable federal, state and local laws, rules and regulations (collectively, “**Applicable Laws**”), with respect to the use of Easement Area, and to the extent any Grantee Parties access the Access Routes for any reason, each shall also comply with all Applicable Laws.

4. **Maintenance.** Grantee shall repair, or cause to be repaired, at its sole cost and expense, any damage to the Easement Area solely occasioned by Grantee or any Grantee Parties. Should inordinate damage to the Easement Area occur which is not caused by an authorized user thereof, the Parties shall meet to agree upon the cost of replacement and the shares of replacement cost to be borne by each user of the Easement Area. Unless the Parties hereto agree in writing to share the cost of improvements to the Easement Area in advance of such improvements being made, such improvements shall be solely at the sole cost of the improver.

5. **Easement Condition.** Grantee has inspected the Easement Area and is familiar with conditions and accepts them for use in their present condition.

6. **Insurance.** Prior to actually entering upon the Easement Area or Grantor Land, Grantee and all Grantee Parties shall first obtain reasonable automobile insurance and any other insurance coverages that Grantor may require from time to time in its commercially reasonable discretion.

7. **Notices.** All notices required or permitted to be given hereunder, or given in regard to this Agreement by one Party to the other, shall be in writing and the same shall be given and be deemed to have been served, given and received (i) if delivered by hand, facsimile transmission, when delivered in person or the transmission is received at the address, facsimile number set forth hereinafter for the Party to whom notice is given, or (ii) if mailed, when placed in the United States mail, postage pre-paid, by certified mail, return receipt requested, addressed to the Party at the address hereinafter specified. Any Party may change its address or facsimile number for notices by giving five days advance written notice to the other Party hereto in the manner provided for herein. Until changed in the manner provided herein, the Parties’ respective addresses and facsimile numbers for notices hereunder are as follows:

If to Grantor: City of Hood River
Attn: Director of Public Works
211 2nd Street
Hood River, Oregon 97031
Telephone: (541)-387-5221
Facsimile: (541)-387-5222

If to Grantee: Columbia Land Trust
Attn: Stewardship Director
Vancouver, Washington 98661
Telephone: (360)-696-0131
Facsimile: (360)-696-1847

8. **Indemnification.** Grantee agrees to defend, indemnify, save, protect and hold harmless Grantor from and against all causes of action, claims, liability, damage and expense (including attorneys' fees) for injury or death to persons, whomsoever, and liability, damage to or loss of property, to whomsoever belonging, arising out of or in any way connected with the use of the Access Routes by Grantee or Grantee Parties; unless such causes of actions, litigation, cost, loss, liability, damage and expense results from the negligence or willful misconduct of Grantor, any Grantor Parties or other parties not under the direct control or supervision of Grantee.

9. **Attorneys' Fees.** In the event any arbitration, action, suit or legal proceeding is instituted by either Party to this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing Party both reasonable attorney fees and reasonable expert witness fees as determined by the court or arbitration panel, both at trial and on appeal or review and in bankruptcy, whether or not the matter in dispute involves an issue peculiar to federal bankruptcy law. Attorney fees and expert witness fees shall be in addition to other costs and disbursements allowed by law. "**Prevailing Party**" shall be determined by the arbitrator, or any court, as the true prevailing party (not statutorily prevailing party) after taking into consideration any settlement offers made by the Parties and the number and importance of issues to be determined.

10. **Amendment.** This Agreement may be modified or amended only by a written agreement signed by the Grantor and Grantee, or their applicable permitted successors or assigns.

11. **Entire Agreement; Construction.** This Agreement, together with any and all attachments and Exhibits, constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof. No provisions of this Agreement shall be construed against or interpreted to the disadvantage of any Party hereto by any court or governmental or jurisdictional authority by reason of such Party having been deemed to have structured, written, drafted or dictated such provisions.

12. **Applicable Law; Venue.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Oregon. In addition, the Parties agree that in the event of any dispute concerning this Agreement, venue for any cause of action arising out of, or having

to do with, this Agreement shall be, and is, in Oregon state courts situated in Hood River County, Oregon.

13. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

14. **Waiver.** No failure of either Party to exercise any power given hereunder or to insist upon strict compliance with any obligations specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of any Party's right to demand strict compliance with the terms hereof; provided, however, that any Party may, at its sole option, waive any requirement, covenant or condition herein established for the benefit of such Party without affecting any of the other provisions of this Agreement.

15. **Severability.** If any provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any Party. Upon any such determination, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible. Notwithstanding any other provision of this Agreement, the invalidation of any provision herein relating to the Parties' remedies shall not be interpreted to prevent an injured Party from seeking actual damages.

[Signatures contained on following page]

EXECUTED by the Parties effective as of the Effective Date.

GRANTOR:

CITY OF HOOD RIVER, an Oregon
municipal corporation

By: _____
Name: _____
Title: _____

GRANTEE:

COLUMBIA LAND TRUST, a Washington
nonprofit corporation

By: _____
Name: _____
Title: _____

Exhibits

- A - Grantee Land Legal Description
- B - Grantor Land Legal Description

[Acknowledgments contained on following page]

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this _____ day of _____, 2020, by _____, the _____ of the City of Hood River, an Oregon municipal corporation, on behalf of the municipal corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this _____ day of _____, 2020, by _____, the _____ of Columbia Land Trust, a Washington nonprofit corporation, on behalf of the nonprofit corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT A

(Grantee Land)

Tracts A, B, C and D, MOUNTAIN VISTAS PHASE 4, according to the official plat thereof recorded January 23, 2019 as Instrument No. 201900201, City of Hood River, County of Hood River and State of Oregon

TOGETHER WITH that certain tract described as follows:

Beginning at the South quarter corner of Section 36, Township 3 North, Range 10 East of the Willamette Meridian, in the County of Hood River and State of Oregon; thence North along the North and South centerline of said Section to a point that is 400 feet North of the Northwest corner of the Southwest quarter of the Southeast quarter of said Section 36; thence Easterly, parallel with the North line of said Southwest quarter of the Southeast quarter of said Section, a distance of 300 feet to the true point of beginning; thence South, parallel with the North and South centerline of said Section 36, to a point that is 150 feet North of the South line of Section 36; thence East, parallel with the South line of said Section, 100 feet; thence South, parallel with the North and South centerline of said Section, 150 feet to the South line of said Section 36; thence Easterly along the South line of said Section to a point that is 100 feet Westerly of, measured at right angles to, the West bank of Hood River; thence Northerly, parallel with and 100 feet Westerly from the West bank of Hood River, to the point of intersection with a line running Easterly from the true point of beginning; thence Westerly along said line that is parallel with the North line of the Southwest quarter of the Southeast quarter of Section 36, to the point of beginning.

ALSO, beginning 250 feet East of the South quarter corner of Section 36, Township 3 North, Range 10 East of the Willamette Meridian, in the County of Hood River and State of Oregon; thence North 115 feet; thence East 50 feet; thence North 35 feet; thence East 100 feet; thence South 150 feet; thence West 150 feet to the true point of beginning.

EXCEPTING THEREFROM the following tract conveyed to Erik Eastman et ux by Deed recorded November 16, 2005 as Microfilm No. 20055979, Hood River County Microfilm Records, being more particularly described as follows:

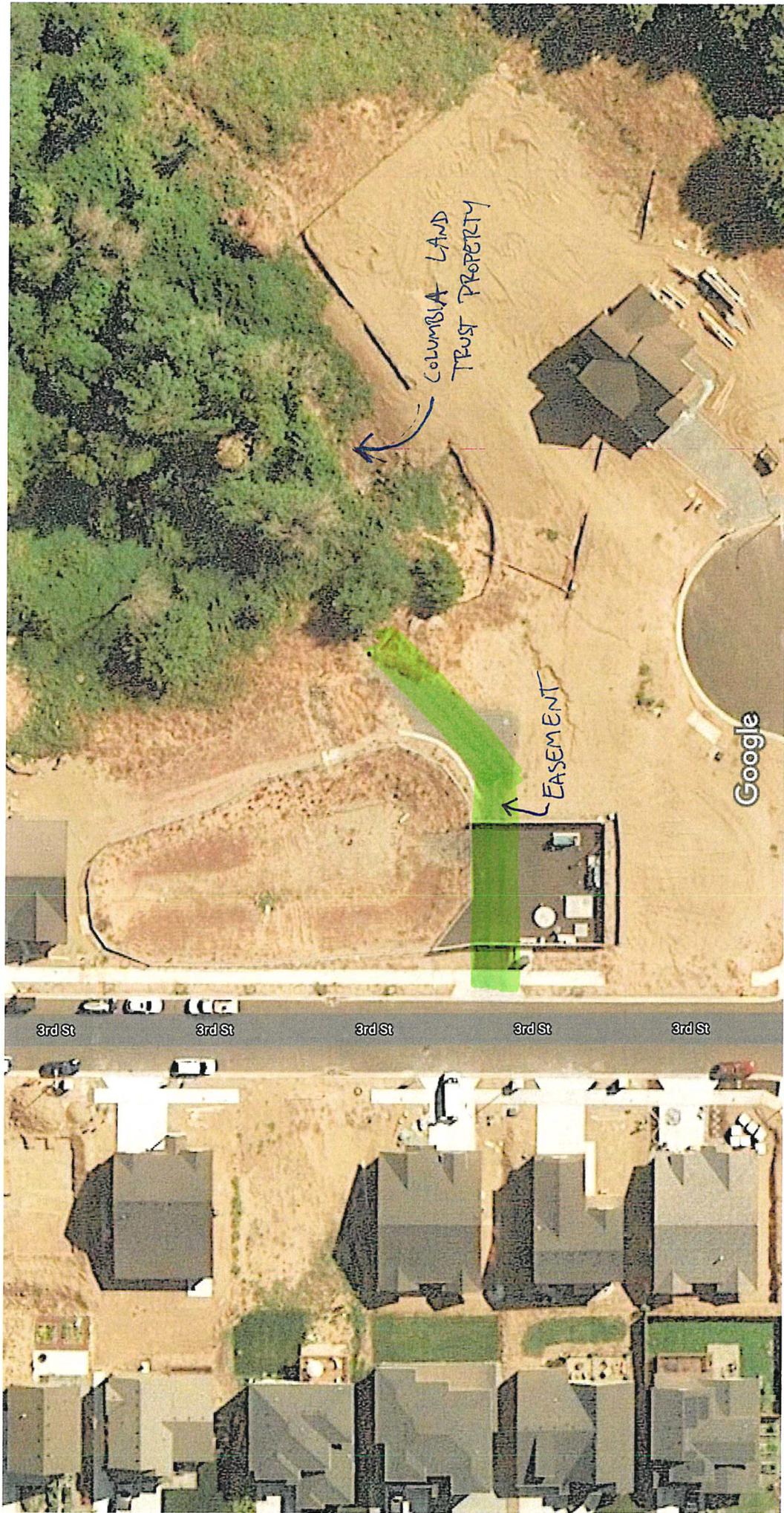
Beginning at the Southwest corner of the Southeast quarter of the Southwest quarter of Section 36, Township 3 North, Range 10 East of the Willamette Meridian, in the County of Hood River and State of Oregon; thence East, along the South line of Section 36, a distance of 1570 feet to the true point of beginning of the tract of land herein described; thence continuing East, along the South line of Section 36, a distance of 50 feet; thence North parallel with the West line of the Southeast quarter of the Southwest quarter of said Section 36, a distance of 115 feet; thence West, parallel with the South line of said Section 36, a distance of 50 feet; thence South, parallel with the West line of the Southeast quarter of the Southwest quarter of said Section 36, a distance of 115 feet to the true point of beginning.

TOGETHER WITH an Appurtenant Private Access Easement for the Maintenance Purposes Intended to Perpetually benefit Tract A of Subdivision Plat of Mountain Vistas Phase 4 as said easement is delineated over Lot 86 on the Subdivision Plat of Mountain Vistas Phase 4, City of Hood River, County of Hood River, State of Oregon.

EXHIBIT B

(Grantor Land)

Tract 2, of Mt.Vistas Phase 3 as recorded on August 30th, 2017 (Plat No.2017-2983) in Hood River, southeast quarter and the southwest quarter of Section 36, Township 3 North, Range 10 East of the William Hood River, in the State of Oregon.



Map data ©2020, Map data ©2020 20 ft



WASTE CONNECTIONS
Connect with the Future®

City of Hood River
211 2nd Street
Hood River, OR 97031

July 9, 2020

Attention:
Mayor Kate McBride
Council Members

Dear Mayor McBride and Council Members,

Hood River Garbage would like to respectfully request a rate adjustment averaging approximately 2.15% to help offset rising operational costs and disposal fees. We request this adjustment to be effective September 1, 2020. Some examples of these increases include but are not limited to, health care costs, environmental compliance, equipment, containers and fleet maintenance.

We use The Consumer Price Index (CPI) for the Standard Metropolitan Statistical Area (West-C) to benchmark our changes in operational costs. The most recent July to July comparison increased 2.53% and we believe this is a good indicator of our overall experience. The Wasco County Landfill increased both its gate rate and the pass-through Household Hazardous Waste tax by 2.15% effective January 1, 2020. We have incorporated these increases into the attached proposed rate schedule.

We would like to be scheduled on the July 27, 2020 agenda to discuss our proposal. We appreciate the continued opportunity to provide the City of Hood River with high quality solid waste services.

Sincerely,

Jim Winterbottom
District Manager



Waste Connections of Oregon, Inc.
dba Hood River Garbage
Proposed City of Hood River Rates
Effective Sept 1, 2020

SERVICE	2.15%		TOTAL INCREASE	NEW RATE
	TOTAL LF INCREASE	BUSINESS INCREASE		
RESIDENTIAL				
35 GALLON CART				
EOW				
- Curbside	\$21.86	\$0.05	\$0.42	\$22.33
- Carry out	\$25.14	\$0.05	\$0.48	\$25.67
* Each addl 25 ft	\$2.63	\$0.00	\$0.06	\$2.68
Monthly				
- Curbside	\$14.93	\$0.03	\$0.29	\$15.24
- Carry out	\$17.16	\$0.03	\$0.34	\$17.53
* Each addl 25 ft	\$1.56	\$0.00	\$0.03	\$1.59
65 GALLON CART				
EOW				
- Curbside	\$26.13	\$0.11	\$0.46	\$26.70
- Carry out	\$30.05	\$0.11	\$0.54	\$30.70
* Each addl 25 ft	\$2.63	\$0.00	\$0.06	\$2.68
Monthly				
- Curbside	\$17.99	\$0.05	\$0.34	\$18.37
- Carry out	\$20.67	\$0.05	\$0.39	\$21.11
* Each addl 25 ft	\$1.56	\$0.00	\$0.03	\$1.59
90 GALLON CART				
EOW				
- Curbside	\$31.99	\$0.16	\$0.54	\$32.70
- Carry out	\$36.79	\$0.16	\$0.64	\$37.59
* Each addl 25 ft	\$2.63	\$0.00	\$0.06	\$2.68
Monthly				
- Curbside	\$22.11	\$0.08	\$0.40	\$22.59
- Carry out	\$25.42	\$0.08	\$0.47	\$25.96
* Each addl 25 ft	\$1.56	\$0.00	\$0.03	\$1.59
SPECIAL CHARGES				
- Overweight/full	\$4.83	\$0.01	\$0.09	\$4.93
- Extra bag/box	\$4.83	\$0.01	\$0.09	\$4.93
- Extra loose yardage	\$21.48	\$0.10	\$0.37	\$21.95
- Return trip	\$11.37	\$0.00	\$0.24	\$11.61
- Recycle bin replacement	\$23.71	\$0.00	\$0.50	\$24.20
- Roll cart replacement	\$54.08	\$0.00	\$1.13	\$55.21
- Account set up fee	\$6.25	\$0.00	\$0.13	\$6.38
- NSF	\$37.71	\$0.00	\$0.79	\$38.50
- Delinquent fee	\$15.07	\$0.00	\$0.32	\$15.38

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Effective Sept 1, 2020

SERVICE	2.15%		2.15%		NEW RATE
	TOTAL LF INCREASE	BUSINESS INCREASE	TOTAL INCREASE		
COMMERCIAL					
32 GALLON CAN					
Weekly					
- Curbside	\$18.46	\$0.09	\$0.32	\$0.41	\$18.86
- Carry out	\$25.58	\$0.09	\$0.47	\$0.55	\$26.14
* Each addl 25 ft	\$3.51	\$0.00	\$0.07	\$0.07	\$3.59
EOW					
- Curbside	\$13.71	\$0.05	\$0.24	\$0.30	\$14.01
- Carry out	\$19.07	\$0.05	\$0.36	\$0.41	\$19.48
* Each addl 25 ft	\$2.65	\$0.00	\$0.06	\$0.06	\$2.71
Monthly					
- Curbside	\$8.14	\$0.03	\$0.15	\$0.18	\$8.32
- Carry out	\$11.37	\$0.03	\$0.22	\$0.24	\$11.61
* Each addl 25 ft	\$1.57	\$0.00	\$0.03	\$0.03	\$1.60
60 GALLON FOOD CART					
On Call					
- Curbside	\$15.50	\$0.10	\$0.24	\$0.35	\$15.84
90 GALLON CART					
Weekly					
- Curbside	\$56.74	\$0.27	\$0.98	\$1.24	\$57.99
SPECIAL CHARGES					
- Overweight/full	\$4.83	\$0.01	\$0.09	\$0.10	\$4.93
- Extra bag/box	\$4.83	\$0.01	\$0.09	\$0.10	\$4.93
- White goods	\$14.83	\$0.00	\$0.31	\$0.31	\$15.14
- Return trip	\$11.37	\$0.00	\$0.24	\$0.24	\$11.61
- Lock charge	\$4.16	\$0.00	\$0.09	\$0.09	\$4.25
- Access charge	\$4.16	\$0.00	\$0.09	\$0.09	\$4.25
- Recycle bin replacement	\$23.71	\$0.00	\$0.50	\$0.50	\$24.20
- Roll cart replacement	\$54.08	\$0.00	\$1.13	\$1.13	\$55.21
- Account set up fee	\$6.25	\$0.00	\$0.13	\$0.13	\$6.38
- NSF	\$37.71	\$0.00	\$0.79	\$0.79	\$38.50
- Delinquent fee	\$15.07	\$0.00	\$0.32	\$0.32	\$15.38
- Mileage 15 mi RT from LF	\$3.62	\$0.00	\$0.08	\$0.08	\$3.70
1 - 1/2 Yd Containers					
- EOW	\$72.88	\$0.31	\$1.28	\$1.59	\$74.47
- 1XPW	\$130.01	\$0.63	\$2.23	\$2.85	\$132.86
- 2XPW	\$219.39	\$1.25	\$3.60	\$4.86	\$224.25
- 3XPW	\$305.14	\$1.88	\$4.90	\$6.78	\$311.92
- 4XPW	\$387.22	\$2.51	\$6.12	\$8.63	\$395.85
- 5XPW	\$463.64	\$3.14	\$7.22	\$10.36	\$474.00
- 6XPW	\$539.96	\$3.76	\$8.32	\$12.09	\$552.05
2 - 1 1/2 Yd Containers					
- EOW	\$145.67	\$0.63	\$2.55	\$3.18	\$148.85
- 1XPW	\$243.30	\$1.25	\$4.10	\$5.36	\$248.66
- 2XPW	\$411.14	\$2.51	\$6.62	\$9.13	\$420.27
- 3XPW	\$571.98	\$3.76	\$8.99	\$12.76	\$584.74
- 4XPW	\$726.22	\$5.02	\$11.23	\$16.25	\$742.47
- 5XPW	\$869.37	\$6.27	\$13.23	\$19.50	\$888.88
- 6XPW	\$1,013.12	\$7.53	\$15.24	\$22.77	\$1,035.90
3 - 1 1/2 Yd Containers					
- 1XPW	\$356.58	\$1.88	\$5.98	\$7.86	\$364.44
- 2XPW	\$602.96	\$3.76	\$9.64	\$13.41	\$616.37
- 3XPW	\$838.69	\$5.65	\$13.09	\$18.73	\$857.43
- 4XPW	\$1,065.12	\$7.53	\$16.33	\$23.86	\$1,088.99
- 5XPW	\$1,275.10	\$9.41	\$19.24	\$28.65	\$1,303.75
- 6XPW	\$1,486.35	\$11.29	\$22.17	\$33.46	\$1,519.81

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SERVICE	2.15%		TOTAL INCREASE	NEW RATE
	TOTAL LF INCREASE	BUSINESS INCREASE		
4 - 1 1/2 Yd Containers				
- 1XPW	\$469.71	\$2.51	\$7.85	\$480.07
- 2XPW	\$794.73	\$5.02	\$12.66	\$812.42
- 3XPW	\$1,105.49	\$7.53	\$17.18	\$1,130.21
- 4XPW	\$1,404.09	\$10.04	\$21.44	\$1,435.57
- 5XPW	\$1,680.85	\$12.55	\$25.25	\$1,718.65
- 6XPW	\$1,959.54	\$15.06	\$29.09	\$2,003.69
5 - 1 1/2 Yd Containers				
- 1XPW	\$583.22	\$3.14	\$9.73	\$596.08
- 2XPW	\$986.50	\$6.27	\$15.69	\$1,008.46
- 3XPW	\$1,372.30	\$9.41	\$21.28	\$1,402.98
- 4XPW	\$1,743.03	\$12.55	\$26.55	\$1,782.13
- 5XPW	\$2,086.62	\$15.69	\$31.25	\$2,133.56
- 6XPW	\$2,432.73	\$18.82	\$36.01	\$2,487.56
6 - 1 1/2 Yd Containers				
- 1XPW	\$696.52	\$3.76	\$11.61	\$711.89
- 2XPW	\$1,178.25	\$7.53	\$18.71	\$1,204.48
- 3XPW	\$1,639.12	\$11.29	\$25.37	\$1,675.79
- 4XPW	\$2,081.96	\$15.06	\$31.66	\$2,128.68
- 5XPW	\$2,492.40	\$18.82	\$37.26	\$2,548.48
- 6XPW	\$2,905.89	\$22.59	\$42.93	\$2,971.41
2 Yd Containers				
- EOW	\$97.15	\$0.42	\$1.70	\$99.27
- 1XPW	\$162.16	\$0.84	\$2.73	\$165.73
- 2XPW	\$274.08	\$1.67	\$4.41	\$280.17
- 3XPW	\$381.28	\$2.51	\$5.99	\$389.78
- 4XPW	\$484.13	\$3.35	\$7.49	\$494.96
- 5XPW	\$579.61	\$4.18	\$8.82	\$592.61
- 6XPW	\$675.45	\$5.02	\$10.16	\$690.63
3 Yd Containers				
- EOW	\$145.67	\$0.63	\$2.55	\$148.85
- 1XPW	\$243.30	\$1.25	\$4.10	\$248.66
- 2XPW	\$411.14	\$2.51	\$6.62	\$420.27
- 3XPW	\$571.98	\$3.76	\$8.99	\$584.74
- 4XPW	\$726.22	\$5.02	\$11.23	\$742.47
- 5XPW	\$869.37	\$6.27	\$13.23	\$888.88
- 6XPW	\$1,013.12	\$7.53	\$15.24	\$1,035.90

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SERVICE	2.15%		TOTAL INCREASE	NEW RATE
	TOTAL LF INCREASE	BUSINESS INCREASE		
SPECIAL CHARGES				
- Delivery charge per cont.	\$33.82	\$0.00	\$0.71	\$34.53
- Extra loose yardage	\$21.52	\$0.10	\$0.37	\$21.99
- Cont. over	\$27.12	\$0.10	\$0.49	\$27.71
- Return trip	\$11.37	\$0.00	\$0.24	\$11.61
- Access charge	\$4.16	\$0.00	\$0.09	\$4.25
- Mileage (over 15 mi RT)	\$3.62	\$0.00	\$0.08	\$3.70
- Rent-a-Bin (1.5 yards)	\$73.38	\$0.15	\$1.42	\$74.95
- Rent-a-Bin (2.0 yards)	\$97.74	\$0.19	\$1.89	\$99.83
- On call container (1.5 yards)	\$36.24	\$0.15	\$0.64	\$37.03
- On call container (2.0 yards)	\$48.49	\$0.19	\$0.86	\$49.55
- On call container (3.0 yards)	\$60.68	\$0.29	\$1.04	\$62.01
ROLL OFF				
DROP BOXES				
- Placement (per trip)	\$77.40	\$0.00	\$1.62	\$79.03
- Moving fee (per trip)	\$77.40	\$0.00	\$1.62	\$79.03
- Drop box swap	\$163.30	\$0.00	\$3.42	\$166.72
- Compact box swap	\$163.30	\$0.00	\$3.42	\$166.72
- Excess chg/ton over 5 tons	\$49.54	\$1.25	\$0.05	\$50.83
- Daily demurrage (14+ days)	\$5.92	\$0.00	\$0.12	\$6.04
- Waiting time (per min)	\$2.00	\$0.00	\$0.04	\$2.04
- Mileage (over 15 mi RT)	\$3.62	\$0.00	\$0.08	\$3.70
- Overweight charge	\$50.85	\$0.00	\$1.07	\$51.92
Disposal per yard (loose)*	\$18.22	\$0.42	\$0.24	\$18.88
Disposal per yard (compacted)*	\$26.79	\$0.94	\$0.17	\$27.90

*Approved County of Hood River disposal rates.

CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: July 27, 2020

To: Honorable Mayor and City Council

From: Wade Seaborn, Public Works Director

Subject: Jurisdictional Transfer of Oak Street –
Intergovernmental Agreement between City of Hood River and ODOT

Background: The purpose of this item is to request City Council approval of an intergovernmental agreement between the City of Hood River and the Oregon Department of Transportation (ODOT) to transfer ownership of Oak Street between State St and 13th to the City of Hood River. Hwy 30 is a historic remnant of the state highway system as it existed before I-84. Despite being within Hood River's historic downtown, this section of highway is still operated, maintained, and controlled by ODOT. The City and ODOT have a collaborative and positive relationship and frequently work together on projects. However, due to various rules and regulations imposed by ODOT, the City Council requested that staff look at options for the City to assume ownership of the highway. It is not uncommon for Cities to assume operational control of these historic highway segments to gain more control over these sections.

The intergovernmental agreement establishes the framework for a future agreement between the City and ODOT, which will take time to develop. Key points for the City Council to consider:

- **Liability.** Assuming ownership of any property is not without risks. Through this agreement, the City assumes liability associated with the roadway. The agreement outlines the terms under which ODOT will bring the roadway to current standards.
- **Cost.** The City and ODOT have agreed that ODOT will bring all ADA ramps within the section to current ODOT standards. In addition, ODOT will upgrade the pavement between 5th and 13th or provide funds to the City to do so, if mutually agreed. The City will assume the repair liability for pavement for the entire section upon completion of this project. Pavement typically has a useful life of 20-30 years. The City and ODOT have agreed to share the cost of signal operations. The City's share of the cost is \$1,250 per year.
- **Operations.** The City does not operate or maintain signals. The City and ODOT have agreed that ODOT will continue to operate the signal per the terms above. At the request of the City, ODOT will assist with snow removal.

Other important points are outlined in the agreement and include the requirement to confer with the Historic Columbia River Highway Advisory Committee. The City is also required to maintain certain freight levels in collaboration with ODOT.

Note: The attached Intergovernmental Agreement is still in draft form. Any changes to the document will be noted at the meeting.

Staff Recommendation: Staff recommends that Council authorize the Mayor to sign the Intergovernmental Agreement with ODOT for transfer of Oak Street between Front St. and 13th to the City of Hood River.

Suggested Motion: I move to authorize the Mayor to sign the Intergovernmental Agreement with ODOT for transfer of Oak Street between Front St. and 13th to the City of Hood River.

Alternatives: The City Council could choose not to authorize the IGA. This alternative would result in the section of highway remaining under the control and responsibility of ODOT.

Fiscal Impact: Upon execution of the agreement, the City will be responsible for pavement maintenance and operations of the roadway, except for the provisions to bring certain sections to current standards. Funding is allocated in the FY 2020-21 budget and is anticipated to be minimal. The City and ODOT have agreed to share the cost of signal operations. The City's share of the cost is \$1,250 per year. Longer-term, the City will need to evaluate options for ongoing maintenance.

Environmental Impact: None.

Attachments: Draft Intergovernmental Agreement

JURISDICTIONAL TRANSFER AGREEMENT
Historic Columbia River Highway, State Highway Number 100
MP 50.13 – 50.88
City of Hood River

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

RECITALS

1. Historic Columbia River Highway is under the jurisdiction and control of the Oregon Transportation Commission. Historic Columbia River Highway, State Highway number 100 is also designated as US Route 30 and OR Route 35 and is known as Oak Street in the City of Hood River.
2. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.220 and 374.329(1) the State and Cities may enter into an agreement to transfer jurisdiction and ownership of a state highway when it is in the best interest of highway users to abandon a segment of the state highway.
3. The National Highway System (NHS) was adopted by Congress as part of the National Highway System Designation Act of 1995. The Federal Highway Administration (FHWA) administers this program and must approve all changes to the system and is subject to Title 23, Title 49 of the Federal Regulations and all applicable FHWA policies, including but not limited to 23 USC 131 and the Oregon Motorist Information Act, ORS 377.700 to 377.840 and 377.992. Historic Columbia River Highway is not a part of the NHS.
4. Pursuant to ORS 366.220, State may select, locate, establish, designate, construct, maintain, operate and improve or cause to be constructed, maintained, operated and improved a system of state highways within the state, which highways shall be designated by name and by the point of beginning and terminus thereof. The system of state highways shall include such other highways as may from time to time be selected and adopted by resolution of the commission pursuant to law and all highways adopted and classified as secondary state highways which are subject to and qualified for construction, improvement, betterment and maintenance as are other state highways. State may by a resolution of the commission may classify and reclassify the highways comprising the state highway system as primary and secondary highways. Secondary highways may consist of newly established highways, reclassified primary highways and county roads selected pursuant to ORS 366.290.

5. By the authority granted in ORS 366.395, State may relinquish title to any of its property not needed by it for state highway purposes to any other governmental body or political subdivision within the State of Oregon, subject to such restrictions, if any, imposed by deed or other legal instrument or otherwise imposed by State.
6. The permanent vehicle capacity of identified freight routes shall not be permanently reduced after a jurisdictional transfer, per ORS 366.215. Reduction of vehicle carrying capacity means a permanent reduction in the horizontal or vertical clearance of a highway section by a permanent obstruction to motor vehicles located on usable right of way, per Oregon Administrative Rule (OAR) 731-012-0010. Historic Columbia River Highway is not subject to these provisions.
7. Freight movements on the highway will not be restricted beyond the limits set in this Agreement after a highway segment is transferred per ORS 374.329. Historic Columbia River Highway between mile point 50.13 and mile point 50.88 is located within a city and is subject to this provision.
8. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current standards and specifications.
9. State maintains a State Route system and a US Route System to assist the traveling public in their travels. Designated routes may be composed of both state highway and local roads. Designation and elimination of state routes are under authority of the Oregon Transportation Commission. US Route designations are administered by the Special Committee on US Route Numbering of the American Association of State Highway and Transportation Officials (AASHTO).

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT:

1. State and Agency agree that it is in the best interest of highway users to transfer jurisdiction and ownership of Unit A as described in Exhibit A-1 and shown on Exhibit A-2, attached hereto and by this reference made a part hereof ("Unit A").
2. **Transfer of Jurisdiction and Control**
State and Agency agree that upon execution of this Agreement, jurisdiction and control of Unit A shall vest in Agency; and that Agency shall control, operate and

maintain Unit A as part of its road system as long as needed for the service of persons living thereon or a community served thereby.

3. Transfer of Property Interests

State and Agency agree that all property rights, title, interests and access rights in Unit A, including traffic signals, illumination, all slope, utility, wetland, water quality and similar easements, and access control and excluding those rights reserved below, shall be conveyed from State to Agency by recording a Jurisdictional Transfer Conveyance Document after the Oregon Transportation Commission (“OTC”) or its designee approves the Jurisdictional Transfer Resolution. A Jurisdictional Transfer Resolution shall set forth the OTC or its designee’s affirmation of the transfer of jurisdiction and approve the transfer of all remaining property rights, title, interests and access rights not otherwise reserved under this agreement. The Agency’s interest in Unit A are subject to the rights of any utilities located within Unit A, including but not limited to the right to operate, reconstruct, and maintain their utility facilities. If Unit A is no longer used for public road purposes, it shall revert to State.

4. Highway designation

This section of roadway will retain the US Route 30 and OR Route 35 designations.

5. Construction of Improvements

Unit A shall be transferred to Agency in its current condition. State agrees to bring curb ramps in Unit A as shown in Exhibit C up to current ODOT ADA standards no later than December 31, 2027. State also agrees to repave Unit A between 5th Street and 13th Street or, if mutually agreeable to the parties, to provide a cash payment to the City in lieu of the paving project. Improvements completed at the sole expense of the State. State agrees to coordinate with Agency to enable any underground utility work to occur simultaneously.

6. Management of Roadway after Transfer

- a. Freight movements will not be restricted beyond the limits set in this Agreement. State and Agency agree to continue to allow annual permits up to 12 feet wide consistent with ODOT Route Map 2 and Single Trip Permits on a case-by-case basis with traffic control if roadway geometry allows.
- b. Upon execution of this Agreement, Agency will have maintenance and repair responsibilities and liability for Units A with the exception of the activities listed in subsection c and d and State’s obligations of Terms of Agreement 5.
- c. State shall retain maintenance responsibilities for existing traffic signals and anticipated new signal at 2nd and Oak in Unit A listed in Exhibit D attached hereto and by this reference made a part hereof. State shall keep accurate cost accounting records of traffic signal and associated illumination maintenance costs and shall bill Agency annually for such 50% of such costs.

- d. At the request of the City, State shall also be responsible for winter weather maintenance of snow on Unit A, which includes plowing, sanding, and the use of magnesium chloride as needed. State shall keep accurate cost accounting records and shall bill Agency monthly for such costs.
- e. In maintaining the transferred facilities, Agency agrees to ensure that sidewalks, curb ramps, and pedestrian activated signals meet the requirements of the ADA upon State's completion of its obligations under terms of the Agreement
- f. Agency shall consult with the Historic Columbia River Highway Advisory Committee on any proposed modifications to Unit A of the character-defining features as defined in the National Register nomination to ensure consistency along the Historic Columbia River Highway corridor.

7. Effective Date

This Agreement becomes effective on the date all required signatures are obtained. The Agreement terminates upon the execution of the Jurisdictional Transfer Resolution by the OTC or its designee and recording of the Jurisdictional Transfer Conveyance Document or two (2) calendar years after the effective date of the Agreement, whichever is earlier, unless otherwise extended or renewed by a formal amendment executed between the Parties. If the OTC or its designee approves the Jurisdictional Transfer Resolution, the maintenance and construction obligations set out set out in paragraphs 5 and 6 a through f of this Agreement shall survive Agreement expiration or termination.

STATE OBLIGATIONS

1. State shall prepare and present a Jurisdictional Transfer Resolution to the OTC or its designee and Highway Plan Amendment to the OTC to eliminate Unit A from the Historic Columbia River Highway (State Highway number 100) and the state highway system. Jurisdiction, control and maintenance responsibilities of Unit A shall vest with the Agency at the time this Agreement is executed. All property rights, title and interest of Unit A as described in Exhibit A-1 and shown in Exhibit A-2, shall be transferred to Agency when the Jurisdictional Transfer Conveyance Document is recorded.
2. State shall furnish Agency relevant copies of its curb ramp inventory, approved curb ramp design exceptions and written orders to close crosswalks closures, and any maps, records, permits, and any other related data available that may be required to administer the Historic Columbia River Highway and the Hood River Highway.
3. State shall upgrade the curb ramps listed in Exhibit C by December 31, 2027 to meet ADA standards. State shall also repave a portion of Unit A between 5th Street and 13th Street. State's obligation in this paragraph shall survive Agreement expiration or termination but shall terminate when the upgrade project is completed.

AGENCY OBLIGATIONS

1. Upon execution of this Agreement, Agency agrees to accept jurisdiction and control of Unit A to operate and maintain as portions of its road system as long as needed for the service of persons living thereon or a community served thereby including all traffic signals, signs and illumination and all things and appurtenances within the transferred right of way. In maintaining Unit A, Agency shall ensure that sidewalks, curb ramps, and pedestrian activated signals meet the requirements of the ADA. Agency's ADA maintenance obligations for the curb ramps listed in Exhibit C shall begin upon the completion of a State ADA upgrade project identified in this Agreement.
2. Agency agrees to accept all State's property rights and interests described in Exhibit A-1 and Exhibit A-2 upon the recording of the Jurisdictional Transfer Conveyance Document. This intent is also memorialized by the signatures in Exhibit B, Acceptance of Jurisdictional Transfer & Quitclaim of Active Right of Way, attached hereto and made a part of this agreement. If said property interests are no longer used for public road purposes, it shall revert to State.
3. If the OTC or its designee approves the Jurisdictional Transfer Resolution, the rights and obligations of Agency set out in this section of this Agreement shall survive Agreement expiration or termination.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties. State may terminate this Agreement effective upon delivery of written notice to Agency or at such later date as may be established by State, under any of the following conditions:
 - a. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited, or if State is prohibited from paying for such work from the planned funding source.
 - b. If OTC or its designee fails to approve a Jurisdictional Transfer Resolution to transfer Unit A from the state highway system to Agency.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
3. **Indemnification:**

Agency agrees that immediately upon execution of this agreement, Agency shall defend, save, hold harmless, and indemnify ODOT and the State of Oregon and its officers, employees and agents from and against all claims, suits, actions proceedings, losses, damages, liabilities, awards and costs of every kind and description (including reasonable attorneys' fees and expenses at trial, on appeal and in connection with any with any petition for review) (collectively "claim") which

may be brought or made against ODOT, the State of Oregon, or its Agents, officials, employees and arising out of or related to any personal injury, death or property damage caused by any alleged act, omission, error, fault, mistake or negligence of Agency, its employees, agents, related to Agency's control, operation and maintenance of any or part of Unit A before the Jurisdictional Transfer Document is recorded. ODOT shall promptly notify agency in writing of any claim which ODOT becomes aware. Notwithstanding the foregoing, State shall be and remain solely liable for any claim that asserts that any of the curb ramps in Unit A are noncompliant with the Americans with Disability Act standards or requirements, including any related claims for personal injury or damage.

However, the Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of the State or its officers, employees and agents prior to such action or representation. Further, the State of Oregon, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State of Oregon's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending or able to defend the interests of the State, its officers, employees or agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State of Oregon are served thereby. Agency's obligation to pay for all costs and expenses shall include those incurred by the State of Oregon in assuming its own defense and that of its officers, employees, or agents under (i) and (ii) above.

4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which a claim is made that the the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing to represent its own interests and in conformity with paragraph 3 above. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
5. With respect to a Third Party Claim for which State is determined to be jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency

on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding. Nothing in this paragraph affects the Agency's agreement in paragraph 3 with respect to Claims as defined in paragraph 4.

6. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
7. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
8. All employers, including State and Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. State and County shall ensure that each of its subcontractors complies with these requirements.
9. Each Party hereby grants the other party authority to enter onto each other's right of way for the purpose of performing the work or maintenance services under this Agreement, including State's ongoing maintenance for Agency under Terms of Agreement 6c and 6d and for State's work to upgrade Unit A under Terms of Agreement Number 5.
10. If Agency fails to maintain facilities in accordance with the terms of this Agreement, State, at its option, and after providing City 60-days written notice, may maintain the facility and seek reimbursement from Agency, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law.

11. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Notwithstanding the foregoing, State shall be responsible to bring all curb ramps in Unit A up to ADA standards, as provided in Terms of Agreement Number 5.
12. State and Agency acknowledge and agree that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of State and Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after execution of the Agreement. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
13. Paragraphs 4 through 13 of this section shall survive Agreement expiration or termination.
14. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
15. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
16. This Agreement and attached exhibits **A-1, A-2, B, C, and D** constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by either party of that or any other provision.

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

DRAFT

CITY OF HOOD RIVER, by and through its
elected officials

By _____

Title _____

Date _____

By _____

Title _____

Date _____

LEGAL REVIEW APPROVAL

By _____
County Counsel

Date _____

City Contact:

Name/Title
Address
Phone
Email

STATE OF OREGON, by and through its
Department of Transportation

By _____
Director

Date _____

APPROVAL RECOMMENDED

By _____
State Right of Way Manager

Date _____

By _____
Region 1 Manager

Date _____

By _____
Region 1 Right of Way Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

State Contact

Name/Title
Address
Phone
Email



EXHIBIT A-1 – LEGAL DESCRIPTION

DRAFT

Transfer to the City of Hood River

All that portion of the active Right of Way of the existing and relocated Historic Columbia River Highway No. 100 consisting of all properties contiguously attached to and in support of said active Right of Way and lying within Sections 25 and 26, Township 3 North, Range 10 East, W. M., Hood River County, Oregon, beginning at the Easterly side of the intersection of the Hood River Highway No. 281 (13th Street) and the Historic Columbia River Highway No. 100 (Oak Avenue) approximately at mile point 50.12; thence Easterly to the Northerly side of the intersection of the Historic Columbia River Highway No. 100 (Front Street) and the Historic Columbia River Highway No. 100 (State Avenue) at approximately mile point 50.88.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

DIGITALLY SIGNED

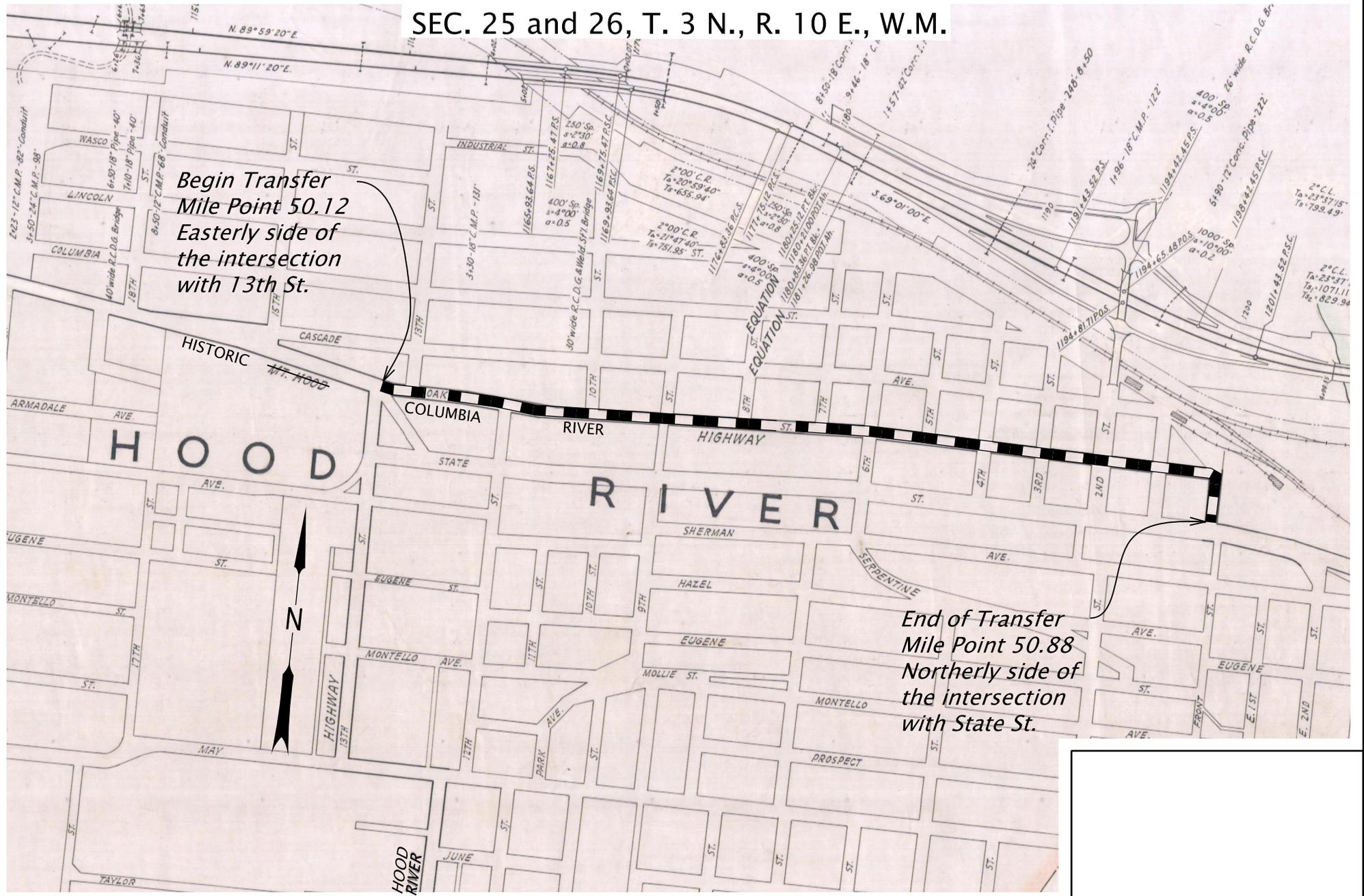
OREGON
JANUARY 16, 1996
PAUL JOSEPH MORIN
2746

RENEWS: Dec. 31, 2020

EXHIBIT A-2 – MAP

DRAFT

SEC. 25 and 26, T. 3 N., R. 10 E., W.M.



Begin Transfer
Mile Point 50.12
Easterly side of
the intersection
with 13th St.

End of Transfer
Mile Point 50.88
Northerly side of
the intersection
with State St.

OREGON DEPARTMENT OF TRANSPORTATION

JURISDICTIONAL
TRANSFER NO. 848
 EXHIBIT A-2 SHEET 1 OF 1

SECTION	CITY OF HOOD RIVER - OAK ST. AND FRONT ST.		
HIGHWAY	HISTORIC COLUMBIA RIVER HIGHWAY NO. 100		
COUNTY	HOOD RIVER COUNTY	SCALE	1" = 600'
SEE DRAWING 7B-30-1		DATE	JULY, 2020

EXHIBIT B
Acceptance of Jurisdictional Transfer
& Quitclaim of Active Right of Way

_____ **Section**
_____ **Highway**
_____ **County**

The Parties agree that signing this Agreement and Acceptance page serves as an indication of approval, pursuant to ORS 93.808, of the following conveyances from the State to the _____ Insert name of County, City or other jurisdiction:

All right, title, and interest, including jurisdiction, maintenance and control, of the _____ Section of the _____ Highway, state highway No. _____ in _____ County, Oregon, and the state highway system, in Unit Insert Unit Number, described in Exhibit A-1 and shown on Exhibit A-2, attached hereto and by this reference made a part hereof, shall be conveyed to _____ as (a) portion(s) of its Insert name of County, City or other jurisdiction road system as long as needed for the service of persons living thereon or for a community served thereby and so long as it used as for public right-of-way purposes.

Accepted By:

_____ Insert name of County, City or other jurisdiction, by and through its elected officials

By _____

Title _____

Date _____

By _____

Title _____

Date _____

EXHIBIT C – ADA Inventory

DRAFT

Exhibit C

Jurisdictional Transfer (No. A157-G0092518)

Historic Columbia River Highway – City of Hood River

HWY 100 MP 50.13 – MP 50.88

1. HWY 100 MP 50.18
2. HWY 100 MP 50.25
3. HWY 100 MP 50.30 (10TH ST.)
4. HWY 100 MP 50.36 (9TH ST.) RRFB
5. HWY 100 MP 50.43 (8TH ST.)
6. HWY 100 MP 50.50 (7TH ST.)
7. HWY 100 MP 50.54 (6TH ST.)
8. HWY 100 MP 50.59 (5TH ST.)
9. HWY 100 MP 50.64 (4TH ST.)
10. HWY 100 MP 50.69 (3RD ST.)
11. HWY 100 MP 50.74 (2ND ST.)
12. HWY 100 MP 50.79 (1ST ST.)
13. HWY 100 MP 50.88 (State ST.)

Location Ratings:

GOOD: Do not require remediation

NOT NEEDED: Do not require remediation

POOR, FAIR or MISSING: Remediation required

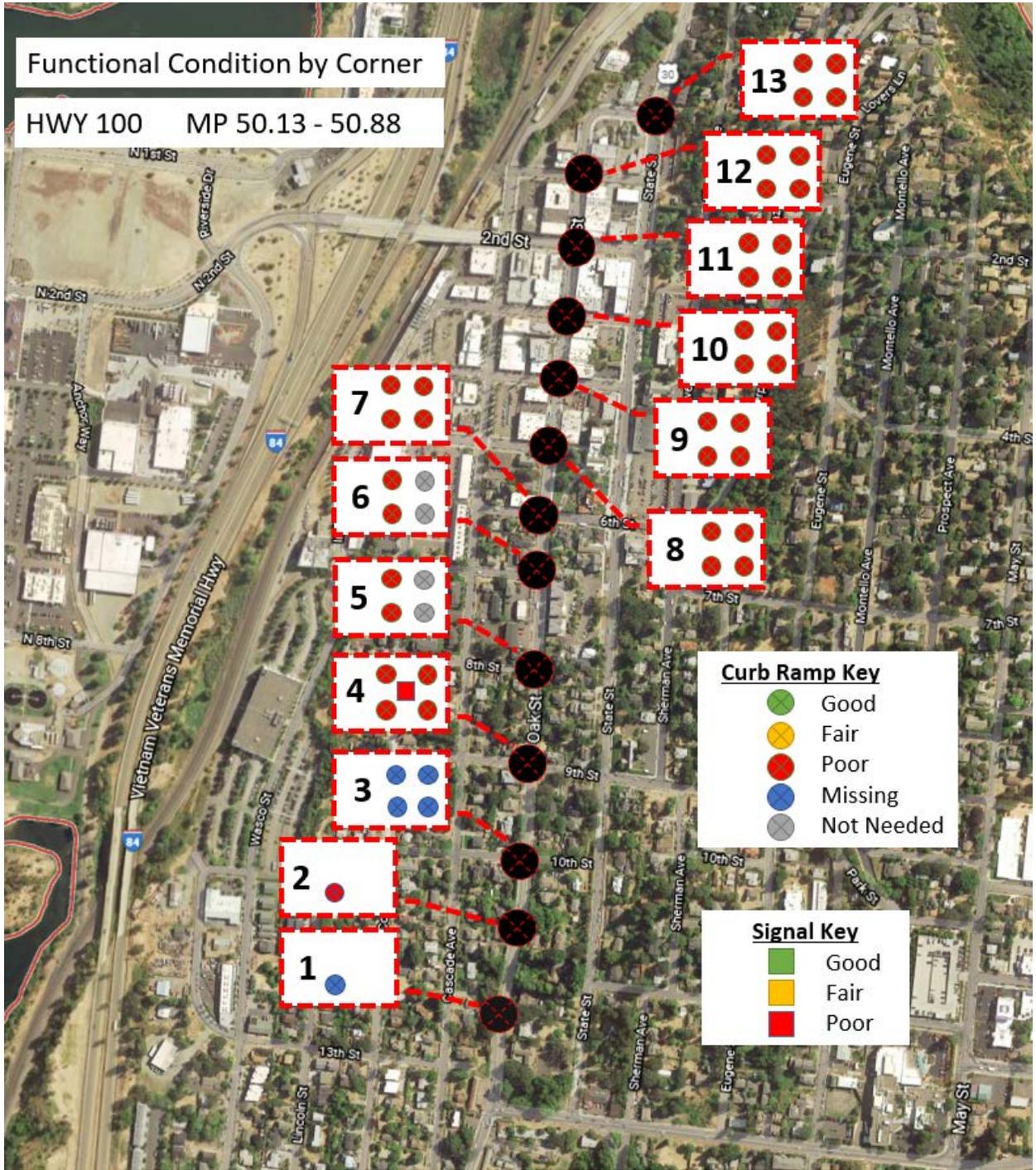
Total Curb Ramps Requiring Remediation:

NOT NEEDED: 4 Ramp Positions

POOR: 66 Ramp Positions*

MISSING: 5 Ramp Positions

*7 Locations are Diagonal Style Ramps and will need to be replaced with 2 ramps per corner to be in compliance with ODOT Standards



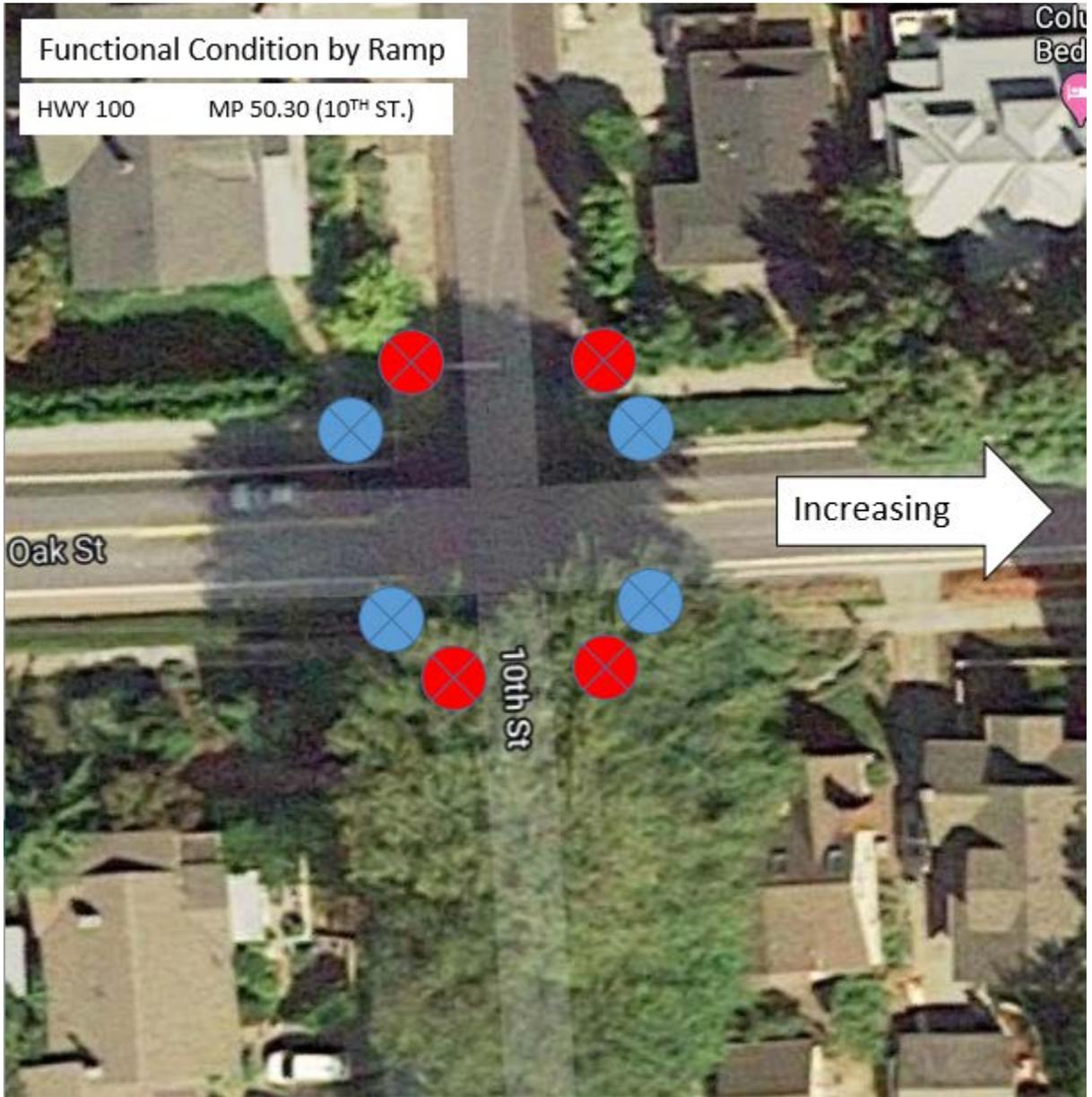
1. HWY 100 MP 50.18



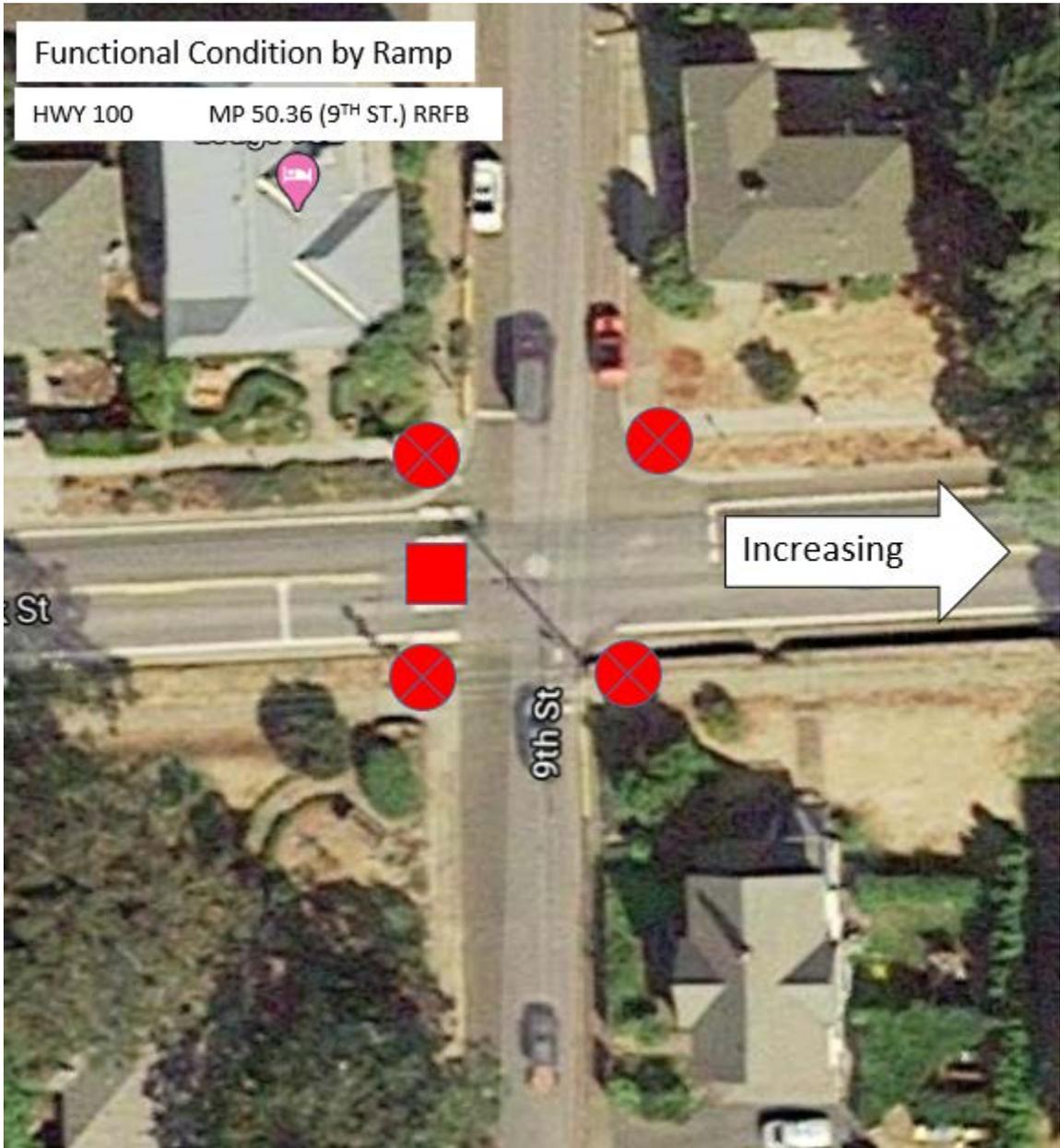
2. HWY 100 MP 50.25



3. HWY 100 MP 50.30 (10TH ST.)



4. HWY 100 MP 50.36 (9TH ST.) RRFB



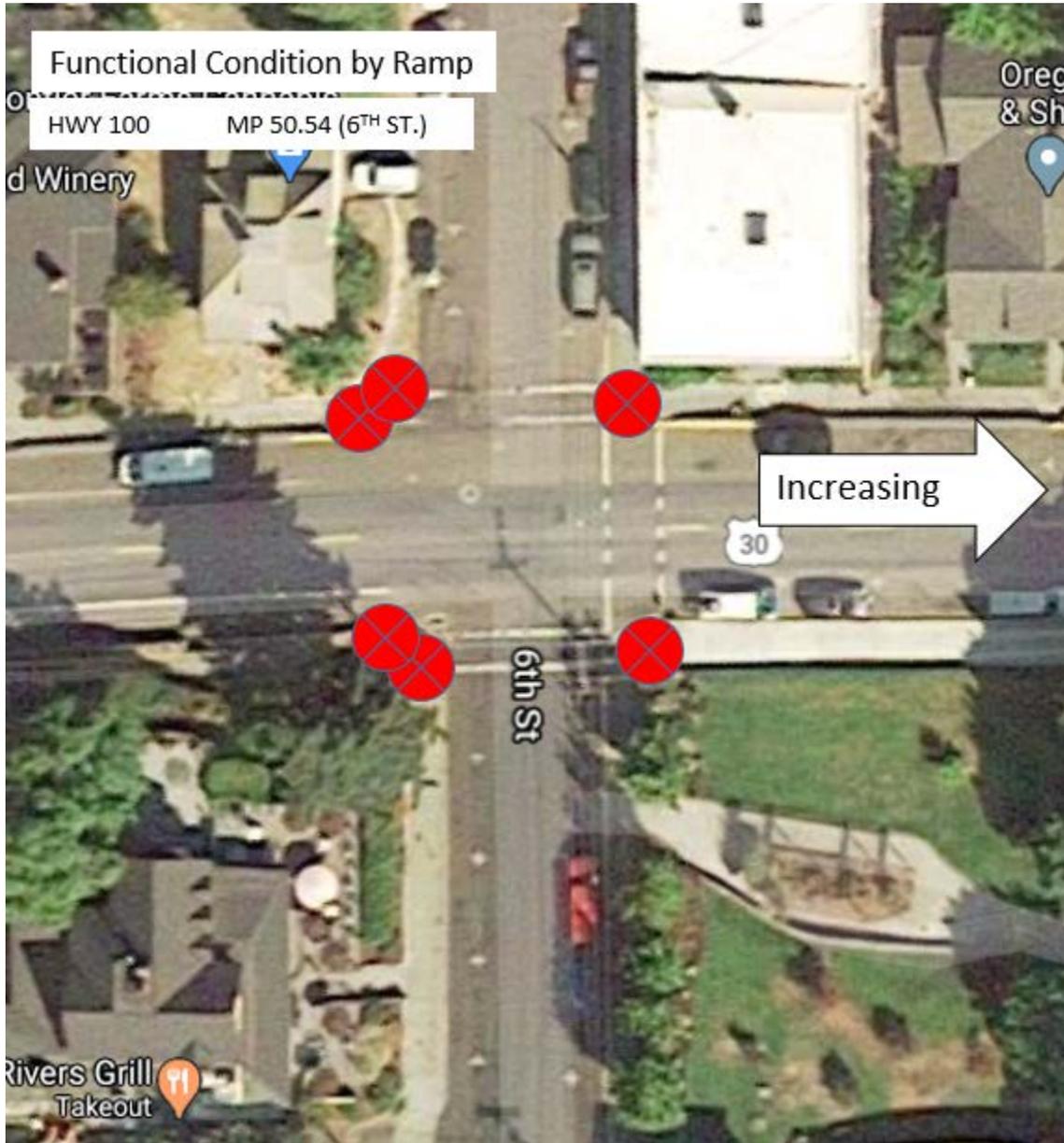
5. HWY 100 MP 50.43 (8TH ST.)



6. HWY 100 MP 50.50 (7TH ST.)



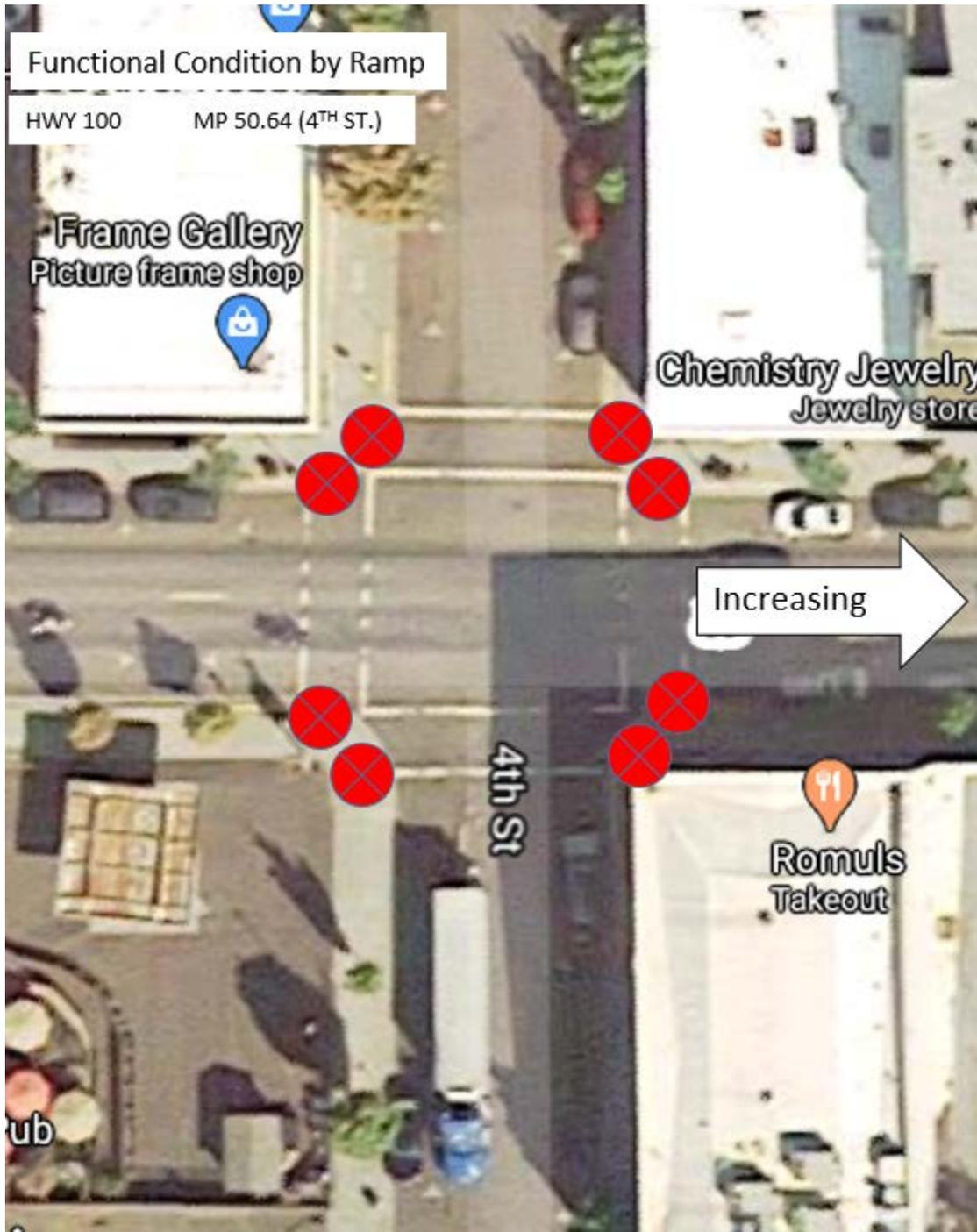
7. HWY 100 MP 50.54 (6TH ST.)



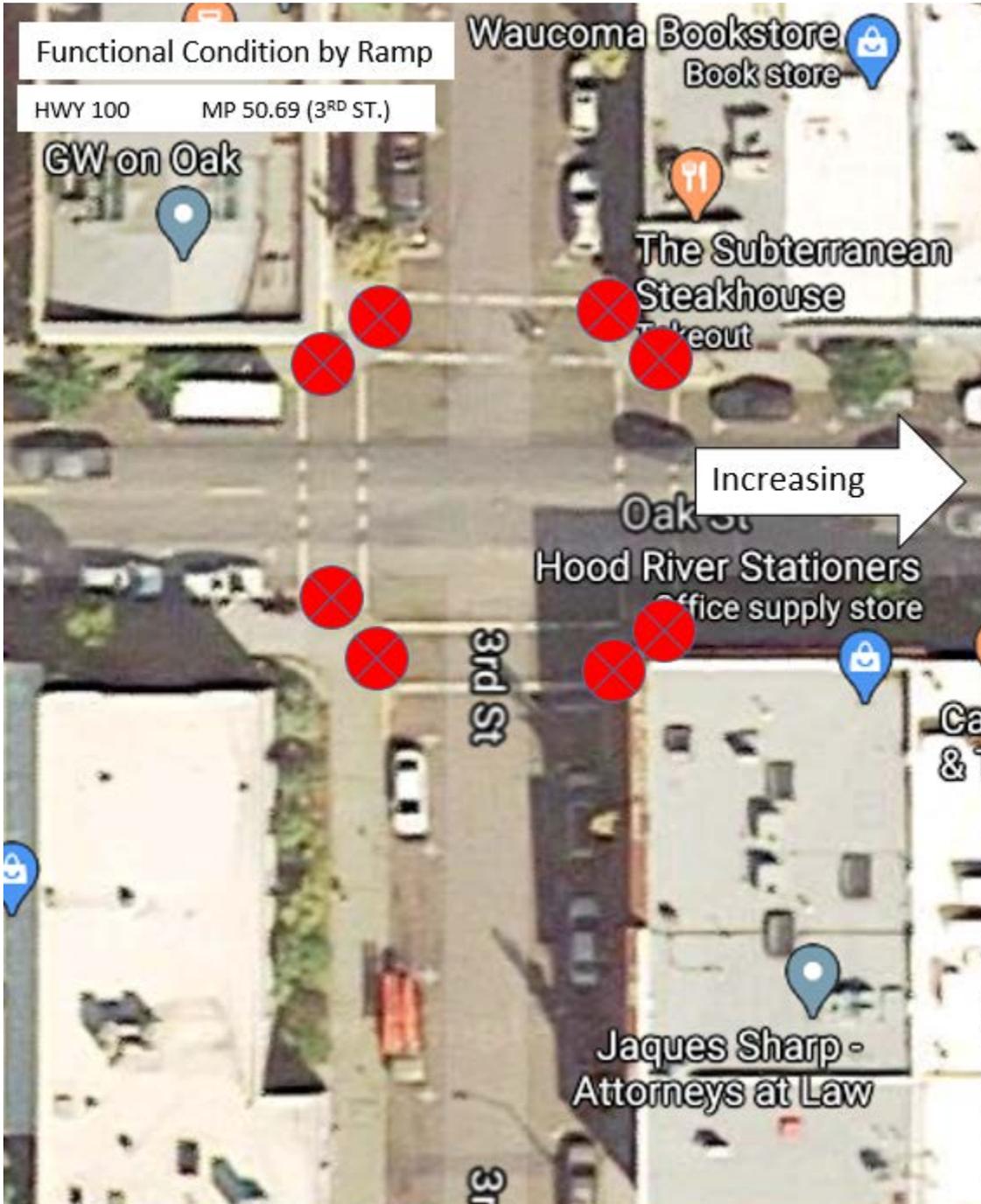
8. HWY 100 MP 50.59 (5TH ST.)



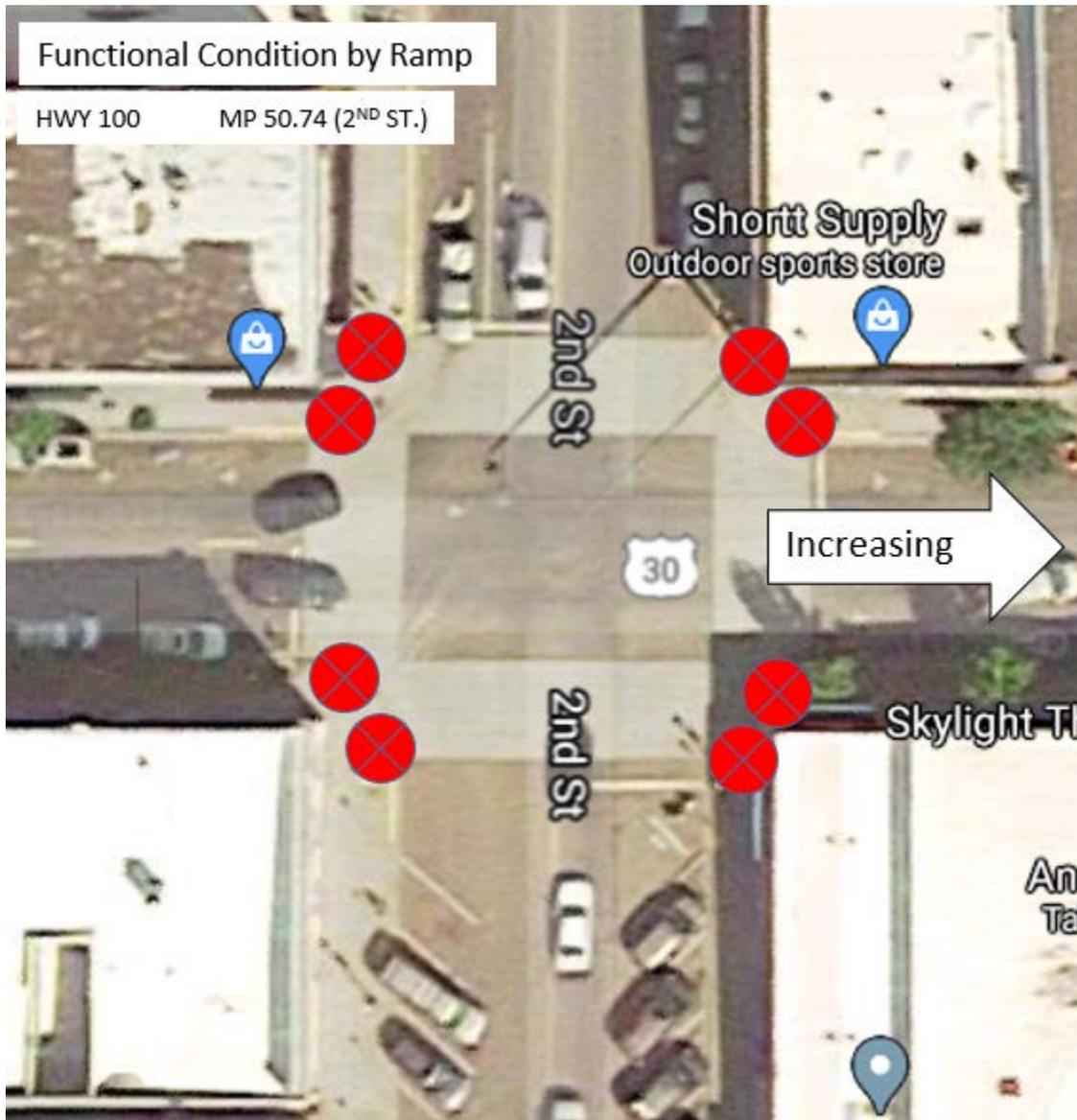
9. HWY 100 MP 50.64 (4TH ST.)



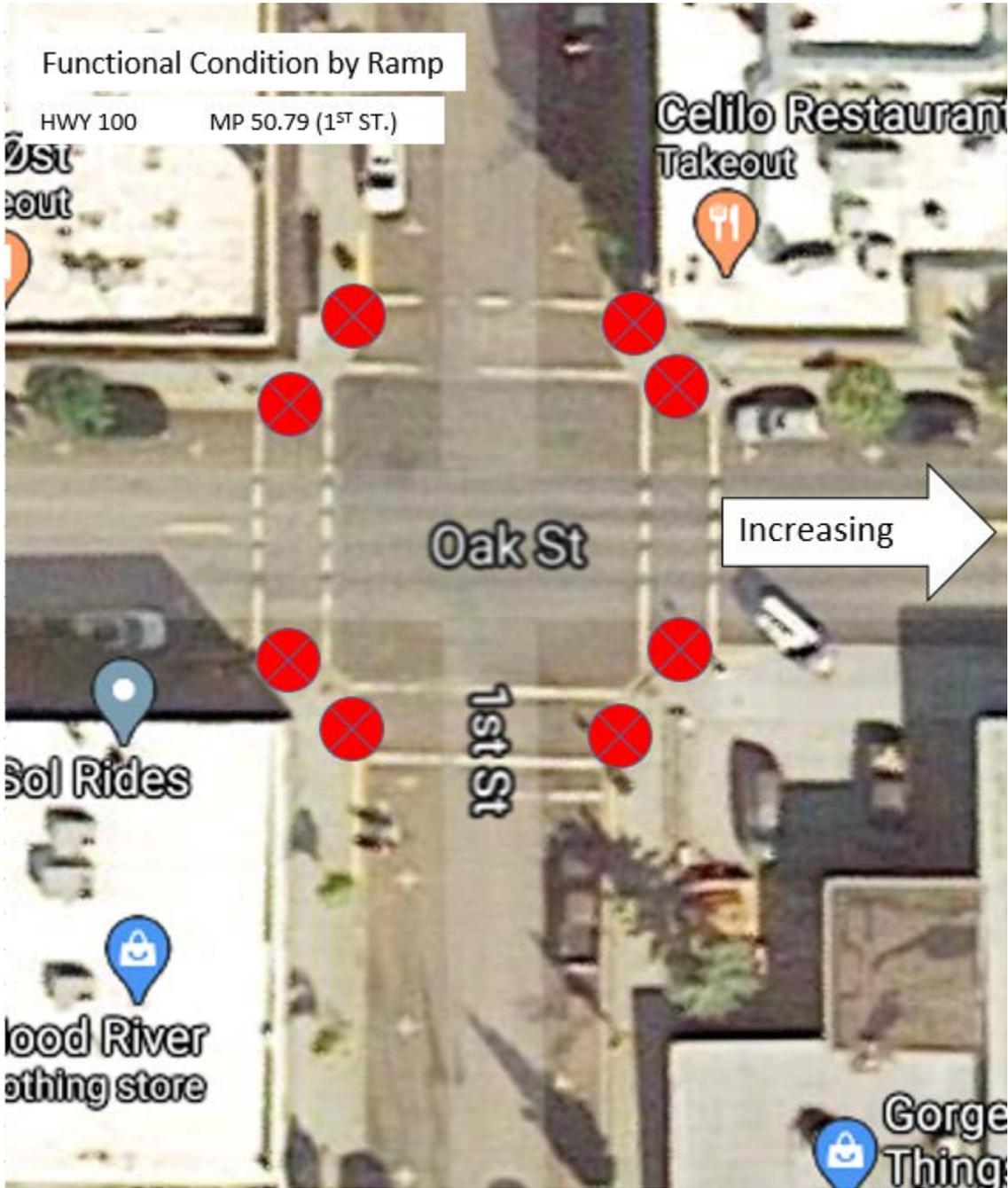
10. HWY 100 MP 50.69 (3RD ST.)



11. HWY 100 MP 50.74 (2ND ST.)



12. HWY 100 MP 50.79 (1ST ST.)



13. HWY 100 MP 50.88 (State ST.)

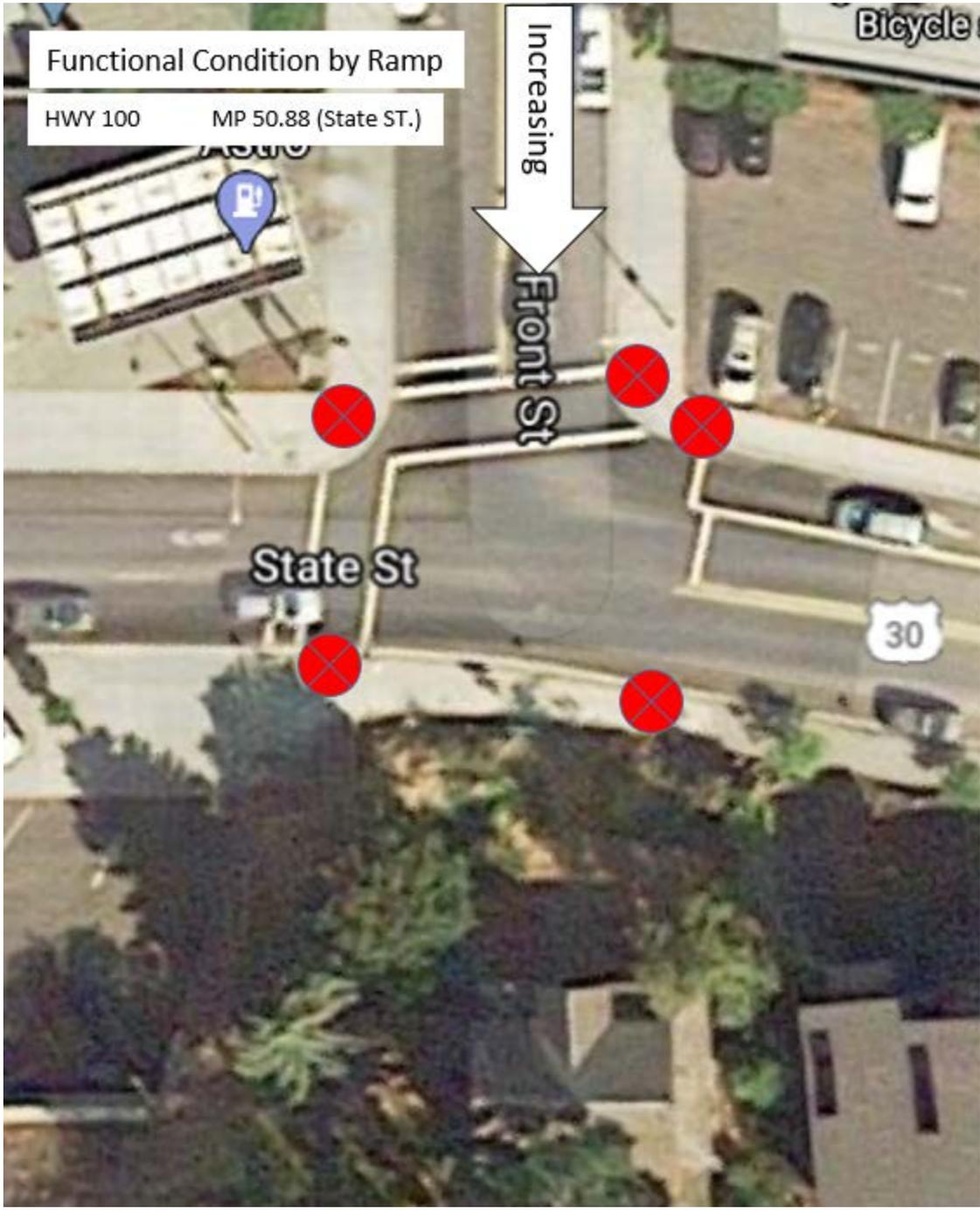
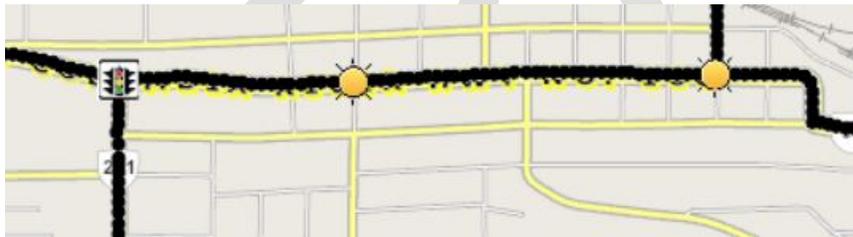


EXHIBIT D

Traffic Signal(s) and Flashing Beacons Jurisdiction and Control

Jurisdiction and control of Traffic Signal(s) and Flashing Beacons in the table below are now fully transferred to the City of Hood River. See map below. State will maintain these signals and flashing beacons and shall bill Agency annually for such costs.

	Highway Name	Side Street Name	Highway Route	Mile Point	LRM	TSSU ID
1	HISTORIC COLUMBIA RIVER HWY(US30)	HOOD RIVER FRONTAGE RD./2 ND STREET	US30, OR35	50.74	10000I00	2CF022
2	HISTORIC COLUMBIA RIVER HWY(US30)	9 TH STREET	US30, OR35	50.36	10000I00	2CF023
3	HISTORIC COLUMBIA RIVER HWY(US30)	9 TH STREET	US30, OR35	50.36	10000I00	2CF024



- 1). 2- RRFB PEDESTALS AT US30_9TH STREET.
- 2). 1- OVERHEAD FLASHER US30_2ND ST

CITY COUNCIL AGENDA ITEM COVER SHEET

Meeting Date: July 27, 2020

To: Honorable Mayor and City Council

From: Council Subcommittee

Subject: Council Resolution – Racial and Social Equity

Background:

Resolution for Racial and Social Equity submitted by the subcommittee for consideration to the Council, as discussed at the June 22 and July 13 Council meeting.

Staff Recommendation:

Suggested Motion:

Alternatives:

Fiscal Impact:

Environmental Impact:

Attachments:

1. Resolution 2020-13 Racial and Social Equity within the City of Hood River

**The City Council of
City of Hood River, Oregon
Resolution 2020-13**

Resolution for Racial and Social Equity within the City of Hood River

WHEREAS, the Hood River City Council adopted Resolution 2017-02, that declared that “the values that we hold in our city are inclusive of all people. We will fight discrimination and recklessness in all its forms” and described the City as “a place of sanctuary and safety” that nurtures “a culture of trust between police, immigrants and communities of color so all residents feel safe in their neighborhoods”;

WHEREAS, the 2019 Columbia Gorge Regional Community Health Assessment identified a sense of security and belonging as an important factor for individual physical and mental health, and the Hood River City Council adopted Resolution 2019-11 to increase a feeling of belonging through recognition of the Hood River County Community Identification Card as a valid form of identification;

WHEREAS, the Hood River City Council prioritized action in our 2020 Work Plan to create opportunities for an inclusive, equitable and diverse housing inventory, and to focus our communications on the principles of diversity, equity and inclusion to effectively engage the entire community;

WHEREAS, the City of Hood River signed the national “Mayor’s Pledge” that initiated a review of our “use of force” policies with both external entities and community input and committed to addressing identified issues;

WHEREAS, the COVID-19 pandemic and the subsequent economic crisis have disproportionately affected black, indigenous, and other people of color, highlighting systemic racism within our political and social structures;

WHEREAS, climate change will disproportionately affect communities of color, low-income communities, and other vulnerable populations;

WHEREAS, recent killings of black individuals have highlighted systemic racism in political and social structures and within institutions of public safety to which the City of Hood River is not immune;

WHEREAS, segments of our community feel distrust towards our local government/police;

WHEREAS, the Hood River City Council values peaceful demonstrations where all people feel safe to express their opinions, and recognizes that the use of social media, or other media, to encourage non-peaceful activities and the open display of firearms can be perceived as threatening and cause fear;

WHEREAS, the Hood River City Council envisions a community where every person feels safe, where trust is maintained, where all people are equitably cared for; and recognizes that local governments must be an essential participant in the movement for racial and social equity;

NOW, THEREFORE, BE IT RESOLVED, the Hood River City Council acknowledges that systemic racism and institutional inequities harm black, indigenous, and other people of color in our community, and the City supports the goal of systematic change to achieve racial and social equity in our community;

BE IT FURTHER RESOLVED, the City of Hood River commits to eliminating racial and social inequities within our staff, volunteers, and elected officials. The City will continue to listen, grow, and work towards justice and equity. The Hood River City Council acknowledges that this is a goal without an endpoint that will require our sustained effort to ensure all people in our community feel that they belong and are treated fairly;

BE IT FURTHER RESOLVED, the City of Hood River will identify and eliminate instances of bias and racial/social equity barriers in City programs and services, and will continue making changes to city policies, including land use, housing policy, and zoning, that are barriers of exclusion and segregation;

BE IT FURTHER RESOLVED, the City of Hood River will educate and train all staff, volunteers, and elected officials about the history of racism in the United States, Oregon, and in our community and the principles of equity and inclusion;

BE IT FURTHER RESOLVED, the City of Hood River will explore community-based models of safety, support, and prevention that could modify, supplement, and/or support existing public safety practices;

BE IT FURTHER RESOLVED, the Hood River City Council is committed to reducing our contributions to climate change per Resolution 2019-16 and will work towards a community-centered planning process that promotes resilience to climate effects among low-income populations and communities of color;

BE IT FURTHER RESOLVED, the City of Hood River will actively seek input from all community members, especially individuals from communities disproportionately affected by racism and other economic and social disparities;

BE IT FURTHER RESOLVED, the Hood River City Council continues to welcome community input, peaceful demonstrations, and other methods of peaceful community debate;

BE IT FURTHER RESOLVED, the Hood River City Council explicitly denounces actions that detract from a sense of community safety, including any forms of intimidation or harassment;

BE IT FURTHER RESOLVED, the Hood River City Council will coordinate our actions with community partners in recognition that it will take the work of all of us pulling together to enact real, lasting change;

BE IT FURTHER RESOLVED, the City of Hood River commits to reviewing progress and updating strategies to address the issues identified in this resolution annually.

Approved and Effective this 27th day of July 2020 by the Hood River City Council.

Kate McBride, Mayor

Attest:

Approved as to form:

Jennifer Gray, City Recorder

Daniel Kearns, City Attorney