

SUPPLEMENTAL AGENDA

REGULAR CITY COUNCIL MEETING

September 11, 2017

5:30 p.m.

CITY HALL COUNCIL CHAMBER

313 COURT STREET

THE DALLES, OREGON

Item to be Added to Consent Agenda

10. CONSENT AGENDA

- E. Approval of First Addendum to Memorandum of Understanding Between Wasco County/City of The Dalles and 4H Extension Service District

Izetta Grossman, City Clerk

**Memorandum of Understanding Between
Wasco County/City of The Dalles and 4H & Extension Service District
FIRST ADDENDUM**

August 2, 2017

To: Wasco County 4H & Extension Service District

Re: July, 2016 Memorandum of Understanding Between Wasco County/City of The Dalles and The Dalles Chamber of Commerce (the "MOU")

Wasco County and the City of The Dalles hereby agree to amend, at the request of The 4H & Extension Service District, the above referred contract:

The "immediate opportunity project" described in the MOU, as follows:

- A one-time total payment in the amount of \$30,000 to purchase a van to transport 4H afterschool program participants, camp participants and leadership youth to appropriate events. Any and all on-going costs or maintenance, including insurance, associated with said van shall be the responsibility of the District.

Shall be removed and replaced by the following immediate "opportunity project:"

- A one-time payment in the amount of \$30,000 to be used to purchase a van to be shared by Wasco County 4H and Northern Wasco County Parks and Recreation, pursuant the MOU signed by both organizations, (Exhibit A) to transport both 4H afterschool program participants, camp participants and leadership youth as well as Northern Wasco Park and Recreation District patrons to appropriate events. Any and all on-going costs or maintenance, including insurance, associated with said van shall be the responsibility of the District and/or Northern Wasco Parks and Recreation as outlined in Exhibit A.

In all other aspects, the MOU shall remain in effect.

COUNTY Date: August 2, 2017


Rod L. Runyon, Commission Chair

APPROVED AS TO FORM


Kristen Campbell, County Counsel

4H & EXTENSION SERVICE DISTRICT

Lynette Ranney Black,
State 4-H Youth Development

CITY Date: _____

Julie Krueger, City Manager

APPROVED AS TO FORM


Gene Parker, City Attorney

Date: _____

EXHIBIT A

MEMORANDUM OF UNDERSTANDING
Between
Northern Wasco County Parks
and
Recreation District and Oregon State University

This Memorandum of Understanding is entered into by and between Northern Wasco County Parks and Recreation District (hereinafter "District"), a parks and recreation district created under the laws of the state of Oregon, whose principal address is 602 W. Second Street, The Dalles, Oregon 97058, and Oregon State University for OSU Extension Service, Wasco County 4-H Youth Development program (hereinafter "OSU"), whose principal address is 1500 SW Jefferson St. Corvallis, OR 97331.

Recitals

- A. District is a Parks and Recreation district located in Wasco County, Oregon that organizes, facilitates, and operates youth programs from its geographical boundaries situated in Wasco County, Oregon;
- B. OSU Extension Service, Wasco County 4H is a ^{Public Entity} ~~non-profit corporation~~ that engages in programs to assist, educate, and train youth in Wasco County, Oregon.
- C. The parties desire to cooperate in purchasing a passenger van to transport adults and youth who are participating in their programs.
- D. OSU Extension Service, Wasco County 4H Youth Development program has received a grant in the amount of \$30,000.00 to assist in the purchase of a passenger van.
- E. Together, with other monies to be contributed by District, District desires to purchase a passenger van, subject to the terms of an agreement for joint use and responsibilities.

NOW, THEREFORE, this Memorandum of Understanding is entered into based upon the mutual covenants contained herein. The terms and conditions are as follows:

- 1. Payment to District. OSU agrees to pay to District, within thirty (30) days from the execution hereof, the sum not to exceed \$30,000.00.
- 2. Purchase of Vehicle. Within ninety (90) days of the receipt of funds from OSU, District agrees to purchase a passenger van (hereinafter "Vehicle") suitable for transporting youth and adults to recreation and OSU events. The Vehicle shall accommodate no more than twelve (12) passengers. District shall apply the monies received from OSU toward the purchase of the Vehicle. Any amount that exceeds the sum of \$30,000.00 shall be District's sole responsibility.

Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.200-30.300 and The Oregon Constitution, Article XI, Section 7,

3. Maintenance; Insurance; and Licensing . District agrees to be solely responsible to maintain, insure, and license the Vehicle during the term of this Memorandum of Understanding. Any maintenance needs that come to the knowledge of OSU employees and participants shall be brought to the attention of District. District shall maintain public liability and property damage insurance with a combined single limit of not less than \$1,000,000.00 and \$100,000.00 for damage to property. Such insurance shall be written on an occurrence basis and shall be primary with respect to all other insurance covering any of the insured risks; shall cover all risks arising directly or indirectly out of the parties' activities, on or any condition of the Vehicle, whether or not related to an occurrence caused or contributed to by the parties' negligence; shall include a contractual liability clause to protect District against the claims of OSU on account of the obligations assumed by District hereunder; and shall protect OSU and District against claims of third persons. Such policies shall be written in such form, with such terms and by such insurance companies reasonably acceptable to OSU. District shall deliver to OSU certificates of coverage from each insurer containing a stipulation that coverage will not be canceled or diminished without a minimum of ten (10) days' written notice to OSU.

4. Indemnification.

4.1 District's Indemnification of OSU. District shall indemnify and hold OSU harmless and, at OSU's election, defend OSU from and against any and all claims, losses, damages, fines, charges, actions, or other liabilities of any description arising out of, or in any way connected with, District's possession or use of the vehicle, District's conduct with respect to the vehicle, or any condition of the Vehicle to the extent the same is not caused or contributed to by OSU or District's breach of any warranty or representation made by District in this Memorandum of Understanding. In the event of any litigation or proceeding brought against OSU and arising out of, or in any way connected with, any of the above events or claims against which District agrees to defend OSU, District shall, upon notice from OSU, vigorously resist and defend such actions or proceedings in consultation with OSU through legal counsel reasonably satisfactory to OSU.

4.2 OSU's Indemnification of District. OSU shall indemnify and hold District harmless and, at District's election, defend District from and against any and all claims, losses, damages, fines, charges, actions, or other liabilities of any description arising out of, or in any way connected with, OSU's possession or use of the Vehicle, OSU's conduct with respect to the Vehicle, or any condition of the Vehicle to the extent the same is not caused or contributed to by District, or OSU's breach of any warranty or representation made by OSU in this Memorandum of Understanding. In the event of any litigation or proceeding brought against District and arising out of, or in any way connected with, any of the above events or claims against which OSU agrees to defend District, OSU shall upon

notice from District, vigorously resist and defend such actions or proceedings in consultation with District through legal counsel reasonably satisfactory to District.

4.3 **Indemnification Scope.** Wherever this Memorandum of Understanding obligates a party to indemnify, hold harmless, or defend the other party, the obligations shall run to the directors, officers, agents, ~~partners~~, and employees of such other party and shall survive any termination or satisfaction of this Memorandum of Understanding. Such obligations, with respect to the acts or omissions of either party, shall include the acts or omissions of any director, officer, ~~partner~~, agent, employee, contractor, ~~tenant, invitee, or permittee~~ of such party.

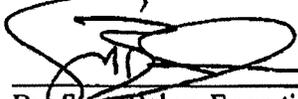
4. **Term.** This Memorandum of Understanding shall be in effect for a period of 7 years or the life of the vehicle whichever is greater, at which time all rights and obligations of the parties shall terminate and the Vehicle to be purchased hereunder shall remain the sole property of District without further obligation to OSU.
5. **Payment by ~~4H~~.** Notwithstanding the above, OSU agrees to pay to District the federal mileage rate for its use of the Vehicle. Any such amount shall be paid to District within thirty (45) days of the use by OSU of the Vehicle.
6. **Use of Vehicle.** District agrees to make the Vehicle to be purchased hereunder available to OSU for all of its Wasco County programs. In addition, the Vehicle shall be available to OSU during the hours of operation of public school and two (2) days per week after school. Use during public school breaks, including summer break, shall be shared equally by the parties.
7. **Default.** Time is of the essence of this Memorandum of Understanding. A default shall occur under any of the following circumstances:
 - 7.1 Failure to make a payment within forty-five (45) days after it is due; and
 - 7.2 Failure to perform any other obligations contained in this Memorandum of Agreement within forty-five (45) days after notice from OSU specifying the nature of the default or, if the default cannot be cured within forty-five (45) days, failure within such time to commence and pursue curative action with reasonable diligence.
 - 7.3 In the event of a default by OSU, District shall have no further obligations to provide use of the vehicle to OSU and this agreement shall terminate.
 - 7.4 In the event of a default by District, OSU shall have the right to specifically enforce the terms of the Memorandum of Understanding in equity.

8. Waiver. Failure of either party at any time to require performance of any provision of this Memorandum of Understanding shall not limit the party's right to enforce the provision except to the extent expressly set forth in writing, signed by such party, nor shall any waiver of any breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.
9. Successor Interests. This Memorandum of Understanding shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns; but no interest of District shall be assigned, subcontracted, or otherwise transferred, voluntarily or involuntarily, without the prior written consent of OSU. Consent by OSU to one transfer shall not constitute consent to other transfers or waiver of this section. District, and any other person at any time obligated for the performance of the terms of this Memorandum of Understanding, hereby waives notice of, and consent to, any and all extensions and modifications of this Memorandum of Understanding or the release of any person or persons from liability under the Memorandum of Understanding granted by OSU. Any such extensions, modifications, or releases will not in any way release, discharge, or otherwise affect the liability of any person at any time obligated under this Memorandum of Understanding.
10. Prior Agreements. This document is the entire, final, and complete Memorandum of Understanding of the parties pertaining to the purchase of the Vehicle and supersedes and replaces all prior or existing written and oral agreements (including any earnest money agreement) between the parties or their representatives relating to the Vehicle.
11. Notice. Any notice under this Memorandum of Understanding shall be in writing and shall be effective when actually delivered in person or within thirty (30) days after being deposited in the U.S. mail, registered or certified, return-receipt requested, postage prepaid and addressed to the party at the address stated in this Memorandum of Understanding, or such other address as either party may designate by written notice to the other.
12. Applicable Law. This Memorandum of Understanding has been entered into in the state of Oregon and the Vehicle to be purchased will be located in the state of Oregon. The parties agree that the laws of the state of Oregon shall be used in construing the Memorandum of Understanding and enforcing the rights and remedies of the parties.
13. Costs and Attorney Fees. If this Memorandum of Understanding is placed in the hands of an attorney due to a default in the payment or performance of any of its terms, the defaulting party shall pay, immediately upon demand, the other party's reasonable attorney fees, collection costs, costs of either a litigation or a foreclosure report (whichever is appropriate), even though no suit or action is filed thereon, and any other fees or expenses incurred by the non-defaulting party. •

• not withstanding the foregoing, OSU is

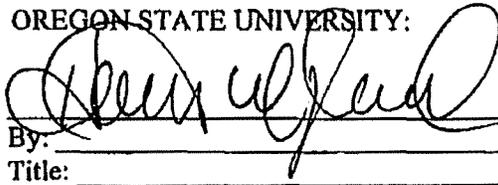
14. **Number, Gender, and Captions.** As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Memorandum of Understanding
15. **Survival of Covenants.** Any covenants, the full performance of which is not required, before the closing or final payment of the purchase price and delivery of the deed, shall survive the closing and the final payment of the purchase price and the delivery of the deed and be fully enforceable thereafter in accordance with their terms.

NORTHERN COUNTY PARKS AND RECREATION DISTRICT:


By: Scott Baker, Executive Director

7/20/17
Date

OREGON STATE UNIVERSITY:


By: _____
Title: _____

7-18-17
Date

Heather Wyland, C.P.M., A.P.P.
Procurement Manager