

**MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT,
PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE**



**STUDY SESSION AGENDA
CITY COUNCIL – CITY OF ONTARIO OREGON
THURSDAY, OCTOBER 8, 2020, 6:00 PM, MT**

Pursuant to the Public Meetings Laws and Rules within the Oregon Revised Statutes, the City Council has the authority, ability, and standing to take action on any items on the Agenda, or add items to the Agenda, during the Study Session or Regular Meeting, as long as all public meeting notice requirements have been met.

1) CALL TO ORDER

Roll Call: Freddy Rodriguez _____ Marty Justus _____ Ramon Palomo _____ Dan Capron _____
Michael Braden _____ Norm Crume _____ Mayor Riley Hill _____

2) PLEDGE OF ALLEGIANCE

This Agenda was posted on October 6, 2020. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) MOTION TO ADOPT THE AGENDA

4) PUBLIC COMMENTS Citizens may address the Council; however, Council may not be able to provide an immediate answer or response. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

5) PRESENTATIONS

- A) Councilor Freddy Rodriguez on Second Amendment Sanctuary City
- B) AV Fuel Presentation
- C) Trademark/Wayfinding

6) OLD BUSINESS

- A) Beck Lease and Clyde Esplin Tenancy
- B) Bid Award: Contract for Audio Visual Improvements at City Hall

7) NEW BUSINESS

- A) Resolution #2020-136: CARES Act Funding
Bid Award: City Service Automation

8) PUBLIC HEARING

- A) Ordinance #2779-2020: Planning Action 2020-07-28RZ, NASCOSTO, LLC, a Zoning Map Amendment and Rezone of a Parcel of Land from C-2H General Heavy Commercial to C-2 General Commercial, located at 1321 NE 3rd Street; Owner is Nascosto, LLC, on First Reading by Title Only

9) DEPARTMENT HEAD UPDATES

- A) Finance: Monthly Report
- B) Community Development: Quarterly Report
- C) Airport: Quarterly Report
- D) Police: Quarterly Report

The City Council may recess/adjourn to Executive Session under ORS 192.660(2) as follows: (a) Employment of Public Officers, Employees, or Agents; (b) Discipline of Public Officers, Employees, or Agents; (c) Labor Negotiations; (d) Real Property Transactions; (e) Exempt Public Records; (f) Trade Negotiations; (g) Litigation /Consult with Legal Counsel; (h) Performance Evaluation of Public Officers and Employees; (i) Trade Negotiations; and/or (j) Labor Negotiations.

The City of Ontario does not discriminate in providing access to its programs, services and activities on the basis of race, color, religion, ancestry, national origin, political affiliation, sex, age, marital status, physical or mental disability, or any other inappropriate reason prohibited by law or policy of the state or federal government. Should a person need special accommodations or interpretation services, contact the City at 889-7684 at least one working day prior to the need for services and every reasonable effort to accommodate the need will be made.

10) DISCUSSION ITEMS

- A) Camera Policy
- B) City Manager Evaluation Discussion
- C) Discussion of Providing Public Feedback Opportunities for Temporary Winter Sheltering
- D) Tennis Court Discussion

11) HAND-OUTS

- A) Monthly Department Stats:
 - Public Works Sep 2020
 - Fire & Rescue Sep 2020
 - Police Sep 2020
 - Code Enforcement Sep 2020
- B) Agenda: SREDA 10-06-2020
- C) Minutes:
 - County Court 09-09-2020; 09-23-2020

12) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

- A) Councilor Dan Capron/Steps for Councilor Appointment

13) ADJOURN



**AGENDA REPORT
OLD BUSINESS
October 8, 2020**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: BID AWARD: CONTRACT FOR AUDIO VISUAL IMPROVEMENTS AT CITY HALL

DATE: October 5, 2020

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE AWARD OF CONTRACT FOR AUDIO VISUAL UPGRADES TO CITY HALL IN THE AMOUNT OF \$35,880.

SUMMARY:

The need for better technology has been made more visible by the pandemic, in which we are limited in the number of people who can participate in public meetings in person and the demand for web access is much higher. Upon approval from Council and the awarding of Coronavirus Relief Funds, staff solicited and received bids to upgrade the audio visual system in the Council Chamber at City Hall. We are now requesting award of contract to move forward with the technology improvements.

BACKGROUND:

City staff have presented to Council previously about using the city's allotted Coronavirus Relief Funds to facilitate better online meetings for the public. Following our original conversation in the late summer, staff requested proposals from three vendors.

CURRENT SITUATION:

The Council Chambers are not only used by the City Council, but also by the Planning Commission, Airport Committee, and Diversity Advisory Committee. Upgrades will be useful for all committees desiring to stream and record meetings. Staff received proposals from three vendors.

TVPBN - \$35,880

Swagit - \$47,560

Lightwerks - \$88,192.98

The low bid vendor will recreate the system that has been used over the last few months. We have received positive comments on the service of the current broadcast platform.

There are elements in the other proposals, that have other desirable features, but are outside of our budget. Staff believes we can be successful with the platform being used now.

ANALYSIS:

- A. **STRATEGIC PLAN** This purchase could fall under the activities in the strategic plan to "Promote the City" and to have "More Council Exposure in the Community."
- B. **FINANCIAL** The city has a total of \$338,502 in Corona Virus Relief Funds that must be spent before December 31, 2020. A budget was proposed for the Corona Virus Relief Funds in September and is anticipated to be approved at this same meeting. The original proposed budget for AV upgrades was \$40,000.
- C. **TIMING** The purchase needs to be approved so that we can award a contract, order items, and have services complete before the end of the calendar year.
- D. **POLICY/LEGAL** The City Council has approval authority for this purchase.

ALTERNATIVES:

Take No Action: The city has been using the live services of TVPBN. We cannot continue to pay for live coverage and we will return to lower quality video service done by in-house staff. We lose funds if they are not used by the end of the calendar year.

RECOMMENDATION:

Staff recommends award of the Audio Visual system upgrades at City Hall to TVPBN in the amount of \$35,880.

ATTACHMENTS:

- 1. City of Ontario AV Proposal 10-2-20 P-903517_Lightwerks
- 2. Swagit Proposal - Ontario OR_AVIOR_CCPM_SME_9_8_2020
- 3. Ontario City Council Chambers Livestream AV System proposal October 5, 2020

Project Proposal

City of Ontario

Council Chamber

Project #: P-903517

444 SW 4th St.
Ontario, Oregon 97914
(541) 709-4001



Presented By:

Jacob Booher

701 East Gardena Blvd.
Carson, CA 90248
(888) 454-4489
<https://lightwerks.com/>





LIGHTWERKS

P-903517

LightWerks Communication Systems, Inc

701 East Gardena Blvd.
Carson, CA 90248
(888) 454-4489
<https://lightwerks.com/>

Account Executive:

Jacob Booher

Terms:

See bottom of quote

Printed On:

10/2/2020

Bill-To Address:**City of Ontario**

444 SW 4th St.
Ontario, Oregon 97914
(541) 709-4001

Ship-To Address:**City of Ontario**

444 SW 4th St.
Ontario, Oregon 97914
(541) 709-4001

Scope of Work:

City of Ontario would like to update their current chamber space. This room is 33x26 with 9 foot drop tile ceilings. To that end LightWerks will supply and install the following:

LW will replace 9 XLR gooseneck microphones with SHURE push to talk and master mute microphones. LW will also supply three additional handheld SHURE microphones and a single lavalier microphone. LW will utilize the OFE SONY PTZ camera and will add two additional SONY cameras to the system. The new cameras will be placed so the entire council is picked up and another camera in the stage left corner behind the dias to view the lectern.

This space has a dedicated PC and the customer uses Civic Clerk to time presentations. There will also be HDMI inputs at the podium and at the dias. LW will add a Crestron AM-200 wireless presentation device to the system allowing guests or users to present from their own device.

LW will install a new SONY WXGA 5000 lumen laser projector along with new mounting hardware and an 85" 4K commercial grade SONY TV along with a wall mount.

LW will install a new amplifier and audio processing unit along with size speakers divided into two zones. One zone being above the dias speakers and the other zone over the attendees. These speakers are to have uplift from the in room microphones.

LW will provide an program a 7" black Crestron control panel to be located at the dias with the option to move it to the back of the room near the rack. Pricing includes a year of remote support from LightWerks with a device that can reboot the system and troubleshoot from afar.

*This is a budgetary estimate only at this point. Final pricing to be determined after technical site walk including travel and permit fees. Does not include high voltage power.

Equipment Details

Council Chambers

Line	Quantity	Description	Unit Price	Price
1	1	ARLINGTON LV1, Low Voltage Mounting Bracket	\$11.63	\$11.63
2	3	ARLINGTON LV2, Low Voltage Mounting Bracket	\$0.00	\$0.00
3	1	BIAMP Tesira EX-LOGIC, Tesira PoE logic expander with 16 logic GPIO (4 GPIO are configurable for potentiometer interface)	\$392.50	\$392.50
4	1	BIAMP TESIRA FORTE AVB CI, TesiraFORTE DSP fixed I/O server with 12 analog input, 8 analog output, 8 channel configurable USB audio, 128 x 128 channel of AVB, and Sona acoustic echo cancellation technology (all 12 input)	\$2,311.25	\$2,311.25
5	1	BIAMP Tesira RMK-1, Single unit rack mount kit for Tesira amplifier	\$87.50	\$87.50
6	1	BIAMP TesiraCONNECT TC-5D, 5-port expansion device with AVB to Dante Bridging	\$1,000.00	\$1,000.00
7	1	BIAMP SYSTEMS Tesira EEC-4, Expander card is an optional card that can be installed in Tesira EX-MOD	\$463.75	\$463.75
8	1	BIAMP SYSTEMS Tesira EIC-4, Tesira 4 channel mic/line input card for EX-MOD expander	\$227.50	\$227.50
9	1	BIAMP SYSTEMS Tesira EX-MOD, Tesira modular expander capable of using up to 3 expander card	\$1,180.00	\$1,180.00
10	1	Blackmagic Design BMD-BDLKWEBPTR, Blackmagic Web Presenter	\$509.85	\$509.85
11	1	Blackmagic Design BMD-CONVNTRM/YA/RSH, BlackMagic Teranex Mini - Rack Shelf	\$85.00	\$85.00
12	1	Blackmagic Design BMD-CONVNTRM/YA/SMTPN, BlackMagic Teranex Mini - Smart Panel	\$85.00	\$85.00
13	1	Blackmagic Design HYPERD/STM, HyperDeck studio mini recorder	\$0.00	\$0.00
14	1	CHIEF CSMP9X12, Component Storage Panel, Interface	\$36.25	\$36.25
15	1	CHIEF LTM1U, Large fusion micro-adjustable tilt wall mount	\$223.75	\$223.75
16	1	CHIEF RPAU, Universal and custom ceiling projector mount	\$156.25	\$156.25
17	1	CISCO SG350-28MP-K9-NA, Cisco SG350-28MP 28-Port Gigabit PoE Managed Switch	\$1,075.44	\$1,075.44
18	1	CLOCK AUDIO TS003, Touch sensitive switch and RGB Halo ring combination designed for remote switching from DSP	\$148.50	\$148.50
19	4	COVID 9TBF-0119, 9-Pin D-Sub Female Connector, Terminal Block	\$10.69	\$42.76
20	1	CRESTRON AMP-X300, X Series Amplifier	\$500.00	\$500.00
21	1	CRESTRON CEN-IO-COM-102, Wired Ethernet Module with 2 COM Ports	\$231.25	\$231.25
22	1	CRESTRON DMPS3-4K-350-C-AIRMEDIA, 3-Series® 4K DigitalMedia™ Presentation System 350 with AirMedia®	\$6,750.00	\$6,750.00
23	2	CRESTRON DM-RMC-4KZ-SCALER-C, DigitalMedia 8G+® 4K60 4:4:4 HDR Receiver and Room Controller with Scaler	\$1,125.00	\$2,250.00
24	1	CRESTRON DM-TX-200-C-2G-B-T, Wall Plate DigitalMedia 8G+® Transmitter 200, Black Textured	\$875.00	\$875.00
25	1	CRESTRON HD-MD4X1-4K-E, 4x1 4K HDMI® Switcher	\$437.50	\$437.50
26	2	CRESTRON HD-RX-101-C-E, DM Lite – HDMI® over CATx Receiver, Surface Mount	\$206.25	\$412.50
27	2	CRESTRON HD-TX-101-C-E, DM Lite – HDMI® over CATx Transmitter, Surface Mount	\$206.25	\$412.50
28	1	CRESTRON PW-5430DUS, High-Efficiency Power Pack	\$187.50	\$187.50

29	1	CRESTRON RMK-IFE-1U, IFE Rack Mount Kit.	\$81.25	\$81.25
30	6	CRESTRON SAROS ICE6T-W-T-EACH, Saros® Express 6.5" 2-Way In-Ceiling Speaker, White Textured, Single (must be ordered in multiples of 2)	\$113.75	\$682.50
31	1	CRESTRON TSW-760-B-S, 7 in. Touch Screen, Black Smooth	\$875.00	\$875.00
32	1	CRESTRON TSW-760-TTK-B-S, Tabletop Kit for TSW-760 and TSS-7, Black Smooth	\$125.00	\$125.00
33	1	ICE CABLE EZ Cat 5e/6 Shielded, ezEX Cat 6A Shielded Connectors, Jar of 50	\$155.30	\$155.30
34	1	LIBERTY AV CCSLA-RHIM-PWR-RJ, Full rack-header with Support Info, power outlet, and service port	\$47.11	\$47.11
35	1	LIBERTY AV CCSLA-WQ604148, Custom Wall Plate with XLR-M for Press Feed	\$34.99	\$34.99
36	1	LIGHTWERKS B-12, THE MANAGED TLC NETWORK INTERFACE RAM: 512MB DDR3L Storage: 8GB eMMC Network Connectivity: 1 x Gigabit port Additional Connectivity: 1 x USB 2.0 port and 1 x Micro USB for power	\$100.00	\$100.00
37	1	LIGHTWERKS INSTALLMATS, INSTALLMATS	\$312.50	\$312.50
38	450	LIGHTWERKS P-CAT6-S, PLENUM-RATED CATEGORY 6 CABLE - SHIELDED	\$0.36	\$163.13
39	100	LIGHTWERKS P-SPEAKER-16, PLENUM-RATED SPEAKER CABLE 16 GAUGE	\$0.21	\$21.25
40	200	LIGHTWERKS P-TWISTEDPAIR, PLENUM-RATED SHIELDED TWISTED PAIR CABLE FOR AUDIO AND CONTROL - 22 GAUGE	\$0.11	\$22.50
41	1	LIGHTWERKS SHIPPING, SHIPPING /HANDLING CHARGE	\$487.98	\$487.98
42	1	MIDDLE ATLANTIC BR1, 1SP PANEL W/BRUSH GROMMET	\$44.38	\$44.38
43	8	MIDDLE ATLANTIC EB1, 1SP FLANGED ECONO BLANK	\$7.44	\$59.52
44	1	MIDDLE ATLANTIC ERK-2725-CONFIG, 27SP/25D ERK CONFIG	\$1,378.75	\$1,378.75
45	1	MIDDLE ATLANTIC FD-27, 27SP SOLID FRONTDR, UNIV.	\$196.88	\$196.88
46	2	MIDDLE ATLANTIC FT-FAN, (1)4"DC FAN KIT,FTA	\$39.38	\$78.76
47	1	MIDDLE ATLANTIC HP, 100PC 10-32 RACK SCREWS W/WASH	\$19.84	\$19.84
48	3	MIDDLE ATLANTIC UTR1, 1SP UNIVERSAL HALF-RACK T	\$28.13	\$84.39
49	1	MONOPRICE 16183, Monoprice Viper Series HD-SDI RG6 BNC Cable_ 6ft	\$11.24	\$11.24
50	8	MONOPRICE 2302, Monoprice Cat6 Ethernet Patch Cable - Snagless RJ45_ Stranded_ 550Mhz_ UTP_ Pure Bare Copper Wire_ 24AWG_ 7ft_ Black	\$2.51	\$20.08
51	1	MONOPRICE 3435, Monoprice Cat6 Ethernet Patch Cable - Snagless RJ45_ Stranded_ 550Mhz_ UTP_ Pure Bare Copper Wire_ 24AWG_ 10ft_ Black	\$3.20	\$3.20
52	1	MONOPRICE 5438, Monoprice USB Type-A to USB Type-B 2.0 Cable - 28/24AWG_ Gold Plated_ Black_ 6ft	\$1.91	\$1.91
53	13	MONOPRICE 9303, Monoprice Select Metallic Series High Speed HDMI Cable - 4K@60Hz_ HDR_ 18Gbps_ 28AWG_ YUV 4:4:4_ 6ft_ Red	\$8.74	\$113.62
54	1	MONOPRICE 9304, Monoprice Select Metallic Series High Speed HDMI Cable - 4K@60Hz_ HDR_ 18Gbps_ 28AWG_ YUV 4:4:4_ 10ft_ Red	\$10.13	\$10.13
55	1	OFE Clerk PC, Clerk PC	\$0.00	\$0.00
56	1	OFE Rack PC, Rack PC	\$0.00	\$0.00
57	1	OFE Sony PTZ Camera, Sony PTZ Camera	\$0.00	\$0.00
58	2	SCT RCM-SR1, RCM series wall mount for Sony SRG-120DH & SRG-300H camera	\$117.65	\$235.30
59	9	SHURE MX418D/C, Cardioid-18" Desktop Gooseneck Condenser Microphone, Attached 10' XLR Cable, Logic Functions, Programmable Switch and LED Indicator, Attached Desktop Base	\$262.50	\$2,362.50

60	1	SHURE MXW1/O, Hybrid bodypack transmitter with integrated Omnidirectional microphone and 4 pin mini connector (TA4M).		\$457.19	\$457.19
61	1	SHURE MXW2/SM58, Handheld Transmitter with SM58® Microphone (Includes one SB902 Battery)		\$493.75	\$493.75
62	3	SHURE MXW8, Gooseneck microphone base transmitter		\$455.00	\$1,365.00
63	1	SHURE MXWAPT8, Eight channel access point transceiver		\$2,790.63	\$2,790.63
64	1	SHURE MXWNCS8, 8-CH NETWORKED CHARGING STATION		\$1,531.25	\$1,531.25
65	1	SHURE WL184, Microflex® Supercardioid Lavalier Microphone		\$110.00	\$110.00
66	1	SONY FW-85BZ35F, 85" BRAVIA 4K HDR professional display		\$4,310.59	\$4,310.59
67	1	SONY SRG120DH/PAC4, PTZ camera package with SRG-120DH and RC4-SRG kit		\$3,238.82	\$3,238.82
68	1	SONY SRG300H/PAC4, PTZ camera package with SRG-300H and RC4-SRG kit, Black		\$3,744.71	\$3,744.71
69	1	SONY VPLFWZ60, 5000 Lumen WXGA laser projector HD-Class video quality with reality creation		\$3,605.88	\$3,605.88
70	1	SOUND CONTROL TECHNOLOGIES RC-RK2, RC-RK2 Rack Shelf		\$125.00	\$125.00
71	1	WATTBOX WB-800-IPVM-12, 800 Series IP Power Conditioner - 12 Individually Controlled & Metered Outlets		\$479.94	\$479.94
72	500	WINDY CITY WIRE 22-2PREPSP-WHT, 22 AWG 2 Pair Bare Copper, Individually Shielded Plenum UL Listed C(UL)US CMP [White]		\$0.21	\$104.05
73	1	ZACK ELECTRONICS M21-1500-427, Label Cartridge for BMP21 Series Printers, White/Translucent		\$45.73	\$45.73
74	1	ZACK ELECTRONICS MP3526/27BLACK, VELCRO 1" HOOK & LOOP		\$39.06	\$39.06
75	1	ZACK ELECTRONICS T18L0M4, WIRE TIES 8" 18lb 1000PK BLACK		\$50.61	\$50.61
76	24	LIGHTWERKS DRAWINGS	SYSTEM DRAWING SERVICES	\$128.57	\$3,085.71
77	12	LIGHTWERKS ENGINEERING	SYSTEM DESIGN/ENGINEERING	\$128.57	\$1,542.86
78	125	LIGHTWERKS INSTALL	INSTALLATION SERVICES	\$121.43	\$15,178.58
79	48	LIGHTWERKS PROGRAMMING	PROGRAMMING SERVICES	\$128.57	\$6,171.43
80	14	LIGHTWERKS PROJECT COORDINATION	PROJECT COORDINATION SERVICES Scheduling, Inventory Tracking, Documentation, Etc.	\$107.14	\$1,500.00
81	32	LIGHTWERKS PROJECT MANAGEMENT	PROJECT MANAGEMENT SERVICES	\$128.57	\$4,114.28
82	1	LIGHTWERKS TLC-MANAGED-LARGE-3	MANAGED TLC SUPPORT FOR "LARGE" SYSTEMS LightWerks Remote Monitoring and Support, On-Site Support as Needed, Service available 10 hours/day, 5 days/week, 3-Year Coverage, Priced per Room, Pricing "Locked" for 3 Years Please review T's and C's at https://lightwerks.com/TLC/terms/	\$6,171.43	\$6,171.43
83	1	LIGHTWERKS TLC-MANAGED-LARGE-SETUP	SYSTEM CONFIGURATION AND SERVICE TURN-UP FOR LARGE SYSTEMS Please review T's and C's at www.lightwerks.com/TLC/terms	\$114.29	\$114.29

Council Chambers Total

\$88,192.98

Pricing Summary

Equipment:	\$50,314.40
Labor:	\$37,878.58

Estimated Monthly Payment*:	\$1,745.34
Or	
Total Purchase Price:	\$88,192.98

* Based on 5-year, fair-market-value financing; with approved credit; other terms and conditions apply; see more information at <https://lightwerks.com/services/financing/>.

Pricing on this quote is good for 30 days after receipt, unless otherwise stated. Custom items and subscription services cannot be returned for credit. Other returned items will be subject to a minimum 25% re-stocking fee.

Terms and conditions are subject to change without notice.

Thank you for considering LightWerks for this order!

Terms/Payment Schedule

Amount

40% Initial Deposit - Due with Order	\$35,277.19
30% On Commencement of Onsite Work - Net 15	\$26,457.89
20% Progress Payment - Net 15	\$17,638.60
10% Upon Beneficial Use/Substantial Completion - Net 15	\$8,819.30

Client accepts quote, inclusive of its Scope of Work, Pricing, and Payment Terms.

If client chooses the "Total Purchase Price" option, they will need to send an Initial Deposit of 40% (or whatever dollar amounts are shown in the "Terms/Payment Schedule" above). If client chooses the "Monthly Payment" option, they will need to execute a formal financing document to finalize this acceptance.

Upon receipt of the initial deposit or execution of the financing agreement, LightWerks agrees to furnish the equipment and materials listed and perform the work in a workmanlike, professional, and expeditious manner.

City of Ontario

Accepted by

Date

Assumptions and Exclusions

Unless otherwise specified, the following standard assumptions are the basis for the price and completion date of our work:

- Work is to be conducted during "normal business hours" meaning, no after-hours work or double shifts.
- There will be no delays of the start date of our installation, nor the times of day that we will be permitted to work.
- Rooms will be available for our work without them being in use for other purposes, and without our team being obstructed by other trades.
- Work that must be complete by other trades (e.g. ceiling, dry-walling, flooring, electrical, cable pulls and testing/certification, millwork, painting, etc.) must be finished on schedule and prior to the work that we must perform as part of our scope.
- Our teams must be allowed to perform contiguous installation, meaning we expect that we will be able to complete the contracted work in large blocks of time rather than having to do piece-meal work with multiple extra visits.
- Owner-furnished equipment (OFE), if any, must be present when work commences and is assumed to be in good working order, unless testing of the OFE has been contracted to us as part of our scope of work.
- Work-site will be in a tidy state, meaning no pre-installation clean-up will be required by our teams.
- "Substantial completion" of our scope is defined as "systems have been delivered and are installed and working. Punch-list items may remain but the systems are effectively 'useable' by end-users."
- "Beneficial use" is defined as your "productive use of some or all of the installed system to conduct the primary function for which it was purchased." For example, if a teacher is able to use a new system to teach students, even if the system is not 100% complete, such use will be deemed to be "beneficial use."

This project is also subject to the following assumptions:

- Any additional man-hours required by LightWerks to complete work due to a shift in our agreed upon schedule by others, or due to room readiness issues caused by others, will be billed out at a minimum of the following rates:

• Engineering (Design & Field)	\$160/hour
• Project Management	\$160/hour
• Installation Labor (Shop & Field)	\$150/hour
• Programming	\$160/hour
• Training	\$150/hour

The following multipliers affect work done outside of normal business hours:

- Monday through Friday, 5pm to 8am, 1.5x the quoted hourly rate.
- Saturday and/or Sunday, 2x the quoted hourly rate.
- Holiday, 3x the quoted hourly rate.

Assumptions and Exclusions

The following multipliers affect work done by technical personnel beyond an ordinary 8-hour work-day:

- 8 hours to 11 hours and 59 minutes, 1.5x the quoted hourly rate.
- 12+ hours, 2x the quoted hourly rate.

Unless otherwise specified, the following work is not included in our scope of work:

- All conduit, high voltage wiring, breakers, relays, boxes, receptacles, etc.
- Concrete saw cutting and / or core drilling.
- Customer-side network or PC configuration.
- In-wall backing for support of heavy equipment on wall.
- Fire wall, ceiling, roof and floor penetration.
- Necessary sheet rock replacement and or repair.
- Necessary ceiling tile or T-bar modifications, replacement and/or repair. Any and all millwork (moldings, trim, etc.).
- Painting and patching.
- Permits (unless specifically provided for elsewhere in the contract).
- HVAC and plumbing relocation.

POTENTIAL UPCHARGES

Per the discussion above, following are issues that sometimes occur, and the up-charges the project will incur if we are not able to do our work for you at our scheduled times:

- ***Delays to Start of Installation:*** Delays caused by no fault of LightWerks will be billed at \$100 per man-hour and will be calculated in ½ hour increments.
- ***Installation Cancellation/Rescheduling:*** Cancellation or rescheduling of installations will be subject to the following charges (all cancellations/ rescheduling must be submitted in writing):
 - Less than 24 hours notice: \$1,000
 - Less than 48 hours notice: \$500

These fees will be waived if LightWerks is able to replace the installation with another project.

- ***Room Availability:*** The Room(s) where the install(s) is(are) to occur MUST be made available to LightWerks for the duration of the pre-scheduled installation and testing period. This means that no other events or meetings can be scheduled in the room(s) while LightWerks is working on-site. Any deviation from this condition may result in installation completion delay and T&M rate (\$150 per man-hour) billing for crew downtime.

Assumptions and Exclusions

- **Construction Schedule Delays/Changes/Additions:** Delays to the start or completion of a technical installation that are beyond the control of LightWerks, WILL result in delay of technical installation completion. If, however, the customer still requires LightWerks to meet the original completion date in the event of such a delay, the customer agrees to pay extra labor costs and expenses necessary for LightWerks to expedite installation. Extra billing (change orders) must be agreed to in writing in advance of expedited installation
- **Contiguous Installation:** Unless otherwise negotiated, jobs are quoted with the expectation of contiguous installation, meaning we expect that we will be able to complete the contracted work in large blocks of time rather than having to do piece-meal work with multiple extra visits. In the event that it becomes necessary for LightWerks to add additional site visits and/or additional equipment rental to accommodate for equipment delivery issues, construction schedules, or major changes in customer's installation requirements, customer may be asked to compensate LightWerks at \$100 per additional man-hour, to be calculated in ½ hour increments, including drive-time.
- **Owner-Furnished Equipment (OFE):** LightWerks does not install any wiring or equipment that does not meet State regulations. Any customer requiring LightWerks to work with old OFE agrees to pay for any extra labor expended due to problems or failures experienced with old wiring or equipment. This labor will be billed at T&M rates. Any equipment provided to LightWerks will not be deemed as "working" until it functions within the LightWerks -provided system. LightWerks will not be held liable for any OFE that is not, or cannot be demonstrated to be functional prior to our installation. Also, LightWerks cannot be held liable for unsafe conditions that existed prior to our work on any job-site (e.g. faulty mounting of pre-existing equipment).
- **Site Conditions and Client-Provided Information:** LightWerks will make every effort to work with your site conditions as they actually exist. However, should the site circumstances prove to be substantially different than those originally defined and agreed upon by LightWerks (e.g. unusable conduits, lack of access to ceilings or equipment closets, etc.), there may be additional time and charges required to offset or overcome previously undisclosed or unknown challenges.
- **Site Clean Up:** If a site is in an untidy or dirty state, any necessary pre-installation clean-up done by LightWerks may be billed at a T&M rate and may result in a delay in the completion of the installation. At a minimum, removal of existing trash from rooms upon LightWerks arrival will be billed as follows:
 - Basic Removal (one room): \$500
 - Extended Removal (multiple rooms): \$1,000

Warranties and Training

WARRANTIES

FREE 90-Day Shake-Down/Break-In Period

For a period of ninety (90) days from the date of first beneficial use, LightWerks will provide "reasonable" changes/adjustments to the installed system(s) to ensure your satisfaction. Requests for these changes should be made through our Service portal located at www.LightWerks.com/HelpDesk. The definition of what is "reasonable" will be at the sole discretion of LightWerks. For example, corrections for user errors, non-authorized changes made to the system(s), and additional parts or scope of work, will be chargeable services.

Standard Project Workmanship Warranty

LightWerks warrants the Audiovisual System furnished to be free from defects in workmanship (i.e. cables, connections, and structures) for a period of one (1) year from the date of acceptance or first beneficial use, whichever occurs first. Warranty service for such defects will be handled in a reasonable and timely manner from the time of notification to LightWerks by the Owner or their agent. Requests for service should be made through our Service portal at www.LightWerks.com/HelpDesk. If problems are found to have been caused other than by defects of workmanship, visits to correct these problems will be chargeable at a rate of \$450 - \$550 per Technician per visit, unless the client has purchased a TLC (Technology Loving Care) maintenance agreement from LightWerks.

Manufacturer's equipment warranties are of varying lengths (usually 90 days to 1 year). LightWerks will warranty this equipment for the term established by the manufacturer on a DEPOT BASIS ONLY. All equipment warranties cover only depot (carry-in) service. If a projector, flat panel, or other equipment is installed, it will need to be uninstalled and reinstalled after it's fixed. This is not covered by any manufacturer or reseller warranty. We offer a variety of TLC service plans that you should discuss with your Account Manager. Otherwise, if you're not on any sort of service plan, we will be happy to uninstall and reinstall your equipment on a time and materials basis (minimum \$450 - \$550 per Technician per visit). Or, you may deliver warranty repair equipment to LightWerks, Attention: Service Department. Please include a copy of your invoice with each piece of equipment.

Warranty does not apply to any owner-furnished equipment (OFE) or product that has been subject to misuse, neglect, accident, operational error, modification, or damage by the introduction of new components to the system described herein.

Extended Maintenance Options

LightWerks offers a variety of TLC Support options. For more information on currently available offerings, please visit <https://lightwerks.com/support-contracts/> or speak with your LightWerks Account Executive.

Warranties and Training

KNOWLEDGE-TRANSFER (aka TRAINING)

Unless otherwise specified in the Scope of Work and/or Pricing, only basic orientation training is included in the project. If requested by the Customer's designated representative, this training can be conducted by a LightWerks representative upon close-out of our work, and would include a simple explanation, and demonstration, of the functions and use of the system.

If more than 30 minutes of training are required, or if a return visit specifically related to training is requested, this training will typically be done at an additional charge.

If not already included/charged as part of your project scope, additional formal training may be available, covering system usage and/or maintenance and trouble-shooting. This training may be conducted either on-site or remotely via video conferencing. If you are interested in this service, please ask your LightWerks Account Executive about available offerings.



Swagit Productions, LLC

12801 N. Central Expressway
Suite 900
Dallas, TX 75243
214-432-5905
swagit.com

City of Ontario **Proposal**

For EASE™ Hands-Free Streaming and
AVIOR™ Hands-Free Broadcast Solutions

Ontario, Oregon

September 8, 2020



Swagit Productions, LLC
12801 N. Central Expressway, Suite 900
Dallas, TX 75243

September 8, 2020

The City of Ontario
ATTN: Adam Brown
444 SW 4th Street
Ontario, OR 97914

Swagit Productions, LLC would like to thank you for your time and the opportunity to earn the City of Ontario's business. In an overpriced, complicated and hands-on video industry, Swagit has created an affordable, simple and **hands-free** solution that offers the most current advancements in video streaming technology.

Swagit provides an easy solution for improved transparency to your constituents — without the additional workload. Initially specializing in turnaround streams for television stations and newspapers, Swagit has grown significantly to a diverse client list that includes cities, counties, states, school districts, newspapers, television stations, specialty districts, and health providers.

Swagit proposes to provide hardware and monthly services for your meeting video streaming and archiving needs, using our proprietary Extensible Automated Streaming Engine (EASE™) solution. EASE™ is a hands-free tool that eliminates the need for your staff members to index, edit, or time-stamp your video content. Each EASE™ package includes On-Demand Archiving, a 24/7 LIVE Stream via both internet and PEG, streaming to mobile devices, and up to 120 hours of additional specialty content each year.

The unique advantages of Swagit's sole-source **EASE™** solution include:

- Completely **hands-free** recording, uploading, and archiving
- **Hands-free** indexing, time-stamping and cross-linking
- An open API, which allows for seamless integration with any agenda management software
- Agenda integration with video player
- Latest software upgrades, no upgrade fees
- High Definition (HD)
- 99.99% uptime
- No training needed
- Unlimited storage
- On-demand video search by metadata text and Sound Search™
- Captioning options for live and on-demand
- 24/7 support and customer service

Some of the distinctive advantages of Swagit's sole-source **Avior™** HD solution are:

- Fully automated
- 4+ HD camera solution
- Hands-free broadcast system
- Video graphics/titles overlay
- Real-time captioning support
- Free software updates
- Free 24/7 support and customer service
- Integrates and works with existing A/V equipment
- Small footprint — equipment is self-contained on its own rack

Sincerely,

Russell Towers
Account Manager
Swagit Productions, LLC
214-432-5905
rtowers@swagit.com
www.Swagit.com

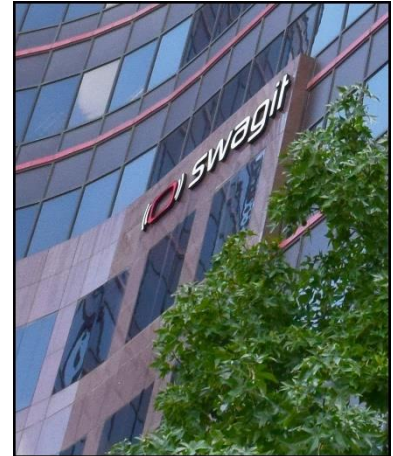
EXECUTIVE SUMMARY

Company History and Information

Swagit Productions, LLC, founded in 2003, is a privately held company headquartered in Dallas, Texas. Swagit is a progressive company that is pioneering the broadband multimedia communication service industry by providing clients a **hands-free** approach to always being connected to end-users' information needs. In combining Swagit's EASE™ and Avior™ HD solutions, clients are offered the most comprehensive **hands-free** experience possible.

Swagit specializes in providing streaming media solutions to cities, counties, states, school districts, and health providers. In addition, Swagit is a complete video production entity, providing services such as post-production, studio and recording booth sessions.

Swagit began with a mission to supply clients an affordable solution to stream their own content in an overpriced, complicated, hands-on video industry. From its beginnings as a company specializing in turnaround streams for cities, counties, states and school districts, Swagit has grown significantly and provides an open API which allows for integrations with all major Agenda/Document Management and Voting Solutions. This lets our clients choose the best Agenda/Voting Solution for their unique needs.



With Swagit's EASE™ streaming video solution, clients are able to stream their public content live and on-demand through the jurisdiction's website. HTML5 compatibility makes getting to the content even easier and more convenient as viewers are able to access all of the video content via their computers, smart phones or tablets. Archived meetings are indexed and broken up into clips by agenda item for a superior end-user experience.

Avior™ HD is Swagit's hands-free broadcast solution is a complete package of 4+ HD cameras, professional video switching equipment, and associated components that allows either Swagit's video department to remotely control the cameras or on-site camera control by government staff. When bundled with Swagit's hands-free EASE™ video streaming system, Avior™ HD can offer a full end-to-end hands-free broadcast solution that requires no client staff involvement for operation of cameras and streaming of an event or meeting.

The Swagit network stretches across North America, guaranteeing that you and your constituents are always connected. Swagit's network insures fast connect times from the closest point-of-presence (POP) to an end-user's location. In addition, Swagit's network is fully redundant, giving clients the peace of mind of redundancy and keeping with the Swagit motto of "Always Connected."

Points of Difference

- Swagit's EASE™ solution is completely **hands-free** and requires no staff time or resources
- Sound Search™ allows residents to search for the spoken word in a meeting which is synced to video
- Swagit's open API allows integrations with agenda management solutions
- Swagit is the only government streaming provider that has developed its own content delivery network, ensuring quick and reliable connections for your constituents
- Unlimited storage for Specialty Content and Meetings
- Swagit's unique **hands-free** solutions typically qualify as a sole-source purchase, allowing for quick deployments

OVERVIEW OF PROPOSED SOLUTION

Paperless Agenda and Voting

Swagit's **Agenda Management** offerings are web-based agenda software applications designed to simplify the agenda management process from start to finish. The simple, intuitive design makes creating agenda items fast and easy. Clerks and Agenda Managers are able to create, finalize and web publish their agendas within a single, affordable, easy-to-understand application. Council members, Board members and Commissioners can quickly and easily navigate the system to view agendas and supporting documentation – anywhere, anytime, with any device.

Swagit's EASE™ solution also integrates with all major non-Swagit Document/Agenda Management and Voting solutions.

EASE™ Hands-Free Streaming

Swagit's **Extensible Automated Streaming Engine (EASE™)** solution meets all current and future needs for government without creating additional work for staff. EASE™ is a hands-free tool that eliminates the need for client staff members to index, edit, or time-stamp their video content. Each EASE™ package includes on-demand archiving, a 24/7 live stream via internet and PEG, streaming to mobile devices, and up to 120 hours of additional generic specialty content each year. If live streaming is not applicable, clients can upload media via FTP.

Swagit's EASE™ streaming appliances offer broadcasters and other administrators the ability to stream live events to cable television providers, over the internet through a high-speed connection, or to mobile devices. In addition, EASE™ appliances can record and archive all media for on-demand viewing.

Avior™ HD Broadcast System

Swagit's **Avior™ HD Broadcast System** is a complete package of high-definition PTZ (Pan, Tilt, and Zoom) cameras, professional video-switching equipment, and associated components, that enables any client to fully outsource the operation and production of a multi-camera broadcast for public meetings. Avior™ also offers video graphics/titles overlay and Real Time Captioning support.

Social Media eXstream

Social Media eXstream connects meetings and events with live social platforms such as Facebook Live and YouTube Live. Jurisdictions can instantly live-stream local events to followers and engage with viewers in real time with Swagit's Social Media eXstream Package.

Captioning Services

CaptionLive is Human Assisted Real-time Transcription (HART); captions are created as an event takes place, utilizing a live transcriber. (A specific captioning appliance is required for this service.)

CaptionPM is human assisted post-meeting captioning for video on demand, completed and aligned with event video within 4 business days of broadcast.

Speech-to-Text Document is a basic text file created from spoken words in a meeting audio. It is not a word-for-word legal transcript, and does not include non-audio information such as speaker identification or graphic presentations.

Non-package captioning rates are calculated in full hours only; they are based on total length of meeting or event, which includes breaks, closed sessions, and other non-captioned events during that length of time. Specific captioning appliances are required for some services. Swagit meets FCC-mandated ADA requirements for closed captioning.

Note: Some features listed in this document may be system options or may require options not included in the provided pricing proposal.

EASE™ Streaming Appliance

Video Capture, Encoding, and Streaming

The Extensible Automated Streaming Engine (EASE™) is a software framework consisting of foundation and extension modules that work together to automate many otherwise manually intensive tasks. This completely hands-off solution meets the current and future needs of your entity without creating any additional work for your clerks or webmasters.

■ **Video Capture and Encoding**

EASE™ Streaming Appliance records content according to your broadcast schedule and transfers the recorded audio/video to the Swagit Content Network via a secure Virtual Private Network (VPN) connection, making it available for live and/or on-demand streaming.

■ **Indexing and Cross Linking**

Using your published meeting agendas as a guide, Swagit's Managed Service Division (SMSD) indexes the meetings without any work from the city. SMSD will annotate your content by adding jump-to points with specific item headings, giving users the greatest flexibility to find the specific content they need. With these jump-to points, users can step through video by searching for or clicking specific items.

■ **Agenda Management Integration**

If meeting packets or other related information is available online, SMSD will link them directly to the video player for easy access.

Swagit's EASE™ solution integrates with all major Document/Agenda Management solutions.

■ **Archiving**

Client audio/video can be stored securely on the Swagit Content Network indefinitely. Fault tolerance and high availability is assured through replication of audio/video content to multiple, geographically redundant, Storage Area Networks (SAN). Our packages offer unlimited storage.

■ **Presentation**

By navigating through the video library, users can view a list of meetings chronologically and once in a selected meeting you can unleash the power of the jump-to markers to search for specific points within individual audio/video clips.

■ **Delivery**

In order to deliver on-demand content to end users in a format that is compatible with their computer's operating system, Swagit can deliver content in all major streaming video formats: Flash, Windows Media, QuickTime, Real, and HTML5. Swagit is proud to support Flash as its default format, which has proven itself as the format of choice from such vendors as YouTube, Google Video, ABC and NBC/Universal. With HTML5 streaming, Swagit provides content to mobile devices including iPhones, iPads and Android devices.

Currently, Flash has a 99% ubiquity rate amongst all the platforms. Swagit can provide Windows Media format (70% ubiquity); however, using Windows Media format may exclude iOS & Android users.

■ **Monitoring**

Swagit is monitoring all aspects of the Swagit Content Network to ensure its health and availability. This monitoring extends to cover remote Swagit EASE™ streaming appliances that are deployed on client premises. In the rare event of trouble our engineers are promptly notified so that they may dispatch a swift response in accordance with our support procedures.

■ **Statistics**

Swagit collates log files from our streaming servers monthly and processes them with the industry recognized Google Analytics. Google Analytics generates reports ranging from high-level, executive overviews to in depth quality of service statistics. These reports help to highlight growth trends and identify popular content.

■ **Support**

Beyond our proactive monitoring and response, Swagit offers ongoing, 24/7 technical support for any issues our clients may encounter. While our choice of quality hardware vendors and a thorough pre-installation testing phase go a long way toward ensuring trouble-free operation of our EASE™ streaming appliances, we do recognize that occasionally unforeseen issues arise. In the event that our engineers detect a fault, they will work to diagnose the issue. If necessary, next business day replacement of parts will be completed. Swagit offers continual software updates and feature enhancements to our services and products for the life of your managed services contract.



RECOMMENDED HARDWARE

Avior™ Hands-Free Broadcast System

HD Video Capture, Encoding, Broadcast, and Streaming System

Built on years of industry experience and developed to address the growing transparency needs of government, Swagit's Avior™ HD Broadcast System is a complete package of HD PTZ (Pan, Tilt, and Zoom) cameras, professional video-switching equipment, and associated components, that enable any client to fully outsource the operation and production of a multi-camera broadcast for public meetings.

Avior™ HD cameras are installed by Swagit personnel in one or multiple positions within a meeting room. As a meeting is being recorded, Swagit's video department controls the Avior™ system from their Dallas, Texas headquarters — switching between cameras (for views of the podium, presentation slides, and dais), while also directing and controlling those cameras through selective panning, close-ups, and wide shots. The Avior™ HD broadcast-quality robotic cameras are able to tilt and pan through wide angles of motion and can zoom through large ranges.



Avior™ enables detailed direct camera positioning (pan, tilt, zoom, focus, and more), preset-positions, and video settings (white balance, backlight, brightness) for the robotic cameras. Additionally, Avior™ communicates with the switcher to allow direct operation of the 'wipe' function from the camera control GUI. With this powerful package you or Swagit can control all your cameras individually and switch video sources on a video switcher locally or remotely. Avior™ is an invaluable integration of camera-control with switcher operations for use with live production setups like city chambers, churches, meeting rooms, and more.

Avior™ includes 4+ robotic (computer-controllable pan/tilt/zoom) cameras. These popular robotic cameras have excellent video quality and performance, with the ability for panning through wide angles of motion, tilting through large ranges with superb optical zoom, and dual video output of Y/C and composite. They also support both RS232 and RS422 (long distance over 1000 meters) control signals. In addition, the cameras can be mounted either "up" or "hanging upside down" for your convenience (they have built-in reversal of the picture and left/right/up/down motion controls).

Avior™ HD is a remotely operated one-of-a-kind hands-free transparency suite that will save your jurisdiction time and money. When bundled with Swagit's hands-free EASE™ video streaming system, Avior™ can offer a full end-to-end hands-free broadcast solution that requires no client staff involvement for operation of cameras and/or streaming of an event or meeting.

- Fully automated
- 4+ HD camera solution
- Hands-free broadcast system
- Video graphics/titles overlay
- Real-time captioning support
- Free software updates
- Free 24/7 support and customer service
- Integrates and works with all existing A/V equipment
- Small footprint — equipment is self-contained on its own rack

Avior™ Broadcast System Diagram



Hands-Free Broadcast Case Studies

■ **Broadcast Case Study 1: Addison, Texas**

Addison's unique solution for a challenging problem was Swagit's hands-free broadcast system. The town faced three key problems: 1) they lacked staff resources to operate broadcasting and streaming equipment, 2) they did not have a PEG or other broadcasting station, and 3) they wanted a complete hands-free end-to-end solution for displaying town meetings online.

Swagit's solution for the Addison provides complete hands-free remote operation of a multiple camera broadcast system, including a video switcher and audio mixer. By combining the remote broadcast system with Swagit's Extensible Automated Streaming Engine (EASE™), Swagit is able to control, broadcast, and stream town meetings without the need for Addison broadcast staff. It is all done from Swagit's headquarters in Dallas, Texas.

Addison citizens expect the best and latest technology on their town's website. By adding the on-demand feature, Addison has improved its citizens' accessibility to videos of town council and planning commission meetings as well as agenda information for those public meetings.

■ **Broadcast Case Study 2: Richardson, Texas**

The City of Richardson began live broadcasting of City Council meetings and work sessions as part of a wide-ranging transparency in government initiative that was included in the City Council's 2009-2011 Statement of Goals. The live broadcast is available to Time Warner Cable subscribers on channel 16 and streamed on the City's Web site, www.cor.net.

The City contracted with Swagit Productions, LLC as their video streaming service provider. "We have installed two wall-mounted cameras in the City Council Chamber and the work session room," said Richardson's Chief Information Officer Steve Graves. "During the meetings, Swagit personnel operate them remotely from their facility and zoom in and switch from camera to camera depending on who is speaking. The broadcast signal goes through a switch that sends it to Swagit and also to our cable television channel."

Graves explained that the live webcast is routed through a City computer server and is recorded as it is being sent to Swagit. "If for some reason the live internet connection is lost, we have a saved copy that can be posted on our site," he said.

As a work session or Council meeting is streaming live on the Web, Swagit employees tag each agenda item. At the conclusion of the meeting, they create an index on the City's website, and visitors can choose to view individual agenda items rather than watch the entire video. Council and work session meetings will be archived on the site for up to two years. The City's cable channel 16 will replay broadcasts.

Visit <http://richardson.tx.swagit.com/play/09222009-48/0/> to view the City of Richardson's initial video press release that explains the service to their residents.

SERVICE DESCRIPTIONS

1st Quarter 2020

Captioning for Compliance

Streaming Video Enhancement



Captioning for streaming media is the method of displaying a text version overlay for the spoken words within a video. It helps viewers who may be deaf or who have reduced hearing.

Federal agencies, contractors and employers should be acutely aware that their live streaming and broadcast events must now be captioned for accessibility, as mandated by recent updates to Section 508 of the Rehabilitation Act, plus changes to state laws that now require accessibility for federally-funded organizations such as colleges, universities, and research facilities. Even when Section 508 doesn't apply, many non-federal websites and their video content must still be accessible under other laws such as Section 504 of the Rehabilitation Act of 1973.

Swagit can help meet your accessibility obligations with captioning for live streaming and broadcast events. Whether for your one-off events or longer-term fixed placements, Swagit can provide hands-free support with compliant turnkey live video services.

FEATURES

- Meets FCC mandated ADA requirements for closed captioning
- Hands-free captioning service
- Live and/or on-demand
- Multiple captioning options
- Visible on mobile devices
- Captioning for TV broadcast
- Captioning of archival video
- Dedicated staff to exceed expectations



Captioning Services

Streaming Video Enhancement



Real-Time (Live) Captioning

Swagit can provide real-time captioning for live programming, as well as sync those captions for on-demand usage after the event has come to its completion. Captioning through Swagit can be distributed to both TV and the Web simultaneously, if needed.

- **CaptionLive**

Human Assisted Real-time Transcription (HART); captions are created as an event takes place, utilizing a live transcriber. (Specific captioning appliance required for this service.)

Post-Event (On Demand) Captioning

- **CaptionPM**

Human assisted post-meeting captioning for video on demand, completed and aligned with event video within 4 business days of broadcast.

Additional Captioning Services

- **Speech-to-Text Document**

A basic text file created from spoken words in a meeting audio; does not include non-audio information such as speaker identification or graphic presentations. It is not a word-for-word legal transcript.

Captioning rates are calculated in full hours only, and are based on total length of meeting or event, which includes breaks, closed sessions, and other non-captioned events during that length of time.

Swagit meets FCC mandated ADA requirements for closed captioning.

Specific captioning appliance may be required for these packages and services.

Social Media eXstream

Social Live Video Streaming

Instantly stream live your jurisdiction's local events to followers and engage with viewers in real time with Swagit's Social Media eXstream Package. Live streaming is the future growth of social media and has become a part of culture that government can easily use to reach more residents online. Users can watch live broadcasts, whether on PC or mobile device, in a matter of seconds. Social Media eXstream connects your meetings and events with live social platforms such as Facebook Live and YouTube Live.

- ▶ Live multi-destination streaming
- ▶ Multi-bitrates
- ▶ Affordable and simple
- ▶ Additional resident accessibility to meetings and events
- ▶ Expanded reach and audience growth
- ▶ Increased distribution channels

Streaming to social media live platforms can immediately expand your audience and increase distribution channels. For example, Facebook engages your viewers by sending a notification alert to your followers before the stream begins. Residents can then easily connect, interact and follow your event in real time.



Warranties and Support

Swagit offers onsite installation, configuration, and training.

Swagit's EASE™ streaming appliance has a full 3-year warranty; cameras and other broadcast equipment have a limited 1-year warranty.

Our team is dedicated to providing you with the best answer to any of your questions. Beyond our proactive monitoring and response, Swagit provides ongoing, 24/7 technical support for any issues our clients may encounter.

While our choice of quality hardware vendors and a thorough pre-installation testing phase go a long way toward ensuring trouble free operation of our EASE™ streaming appliances, we do recognize that occasionally unforeseen issues arise. In the event that our engineers detect a fault, they will work to diagnose the issue. If necessary, next business day replacement of parts will be completed.

Swagit offers continual software updates and feature enhancements to our services and products for the life of your managed services contract.

Efficient Video Streaming Delivery

The Swagit EASE™ streaming appliance sends a single stream from your network to the Swagit CDN as well as to an internal stream reflector.

External internet users are served from Swagit's Content Delivery Network (CDN) POPs. This way there is no additional burden to your network, no matter how many external users are watching meetings simultaneously.

Internal users are directed to an internal stream reflector to view content and are not dependent on working internet connectivity. Internal users may be served a lower quality stream to further conserve the intranet's network resources.

COST SUMMARY

AVIOR™ plus EASE™ with Monthly Managed Services

Hardware, Licenses, Setup, and Support Services

Item & Description	Unit Cost	Quantity	Up-Front Cost
Avior™ HD - Four (4) Camera Setup 4 HD PTZ Cameras, 4 Camera Power Connectors, 4 Camera Mounts, 5 Sony - Visca DS-Cables, 2 EASE™ C Encoding Appliance, BM Studio HD Live Production Switcher with Multi-View Monitor, BM HyperDeck Studio Mini with SD cards, Mini Converter SDI Distribution and Bi-Directional HDMI, Avior™ Control Software, PDU Remote Power Switch and Management including Battery Backup, Control Monitors (comes as pair for rack mount; sub required for non-Swagit rack), Presentation Converter/Scaler, Cables, Connectors, Converters, 16U Rack, Rack Shelving and Hardware necessary for installation, CG for Video Graphics/Titles Overlay, Labor required for install	\$ 42,565.00	1	\$ 42,565.00
Avior™ Setup, Deployment, and Installation	\$ 4,995.00	1	\$ 4,995.00
Total One-Time Cost:			\$ 47,560.00

Yearly Managed Service Package

Item & Description	Monthly Rate	Quantity	Yearly Cost
Avior™ + EASE™ 25 - Up to 25 indexed and archived meetings per year with remote video production - Up to 120 hours of specialty content per year 24/7 Live Stream - Hands-Free – We do it all for you!	\$ 1,295.00	12	\$ 15,540.00

Additional Services

Item & Description	Monthly Rate	Quantity	Yearly Cost
CaptionPM 25 - Closed Captions added to up to 25 Archived Meeting Videos per year - Cost based on a 2-hour average meeting duration 4-day turnaround - Transcript Included	\$ 360.00	12	\$ 4,320.00
Social Media eXstream Additionally, stream to Facebook Live or YouTube Live	\$ 200.00	12	\$ 2,400.00

Package Overages

Item & Description	Cost
Additional Indexed and On-Demand Meetings (cost per meeting)	\$ 150.00
Additional Remote Switching (cost per event)	\$ 250.00
Additional CaptionPM (cost per meeting)	\$ 170.00

* Price and hardware model are subject to change after 60 days without prior notice.

We offer a Price Match Guarantee for all services that are equivalent in class, features and performance.



Quote Date: 10/5/2020

City of Ontario, Oregon
Adam Brown
City of Ontario, Oregon
444 SW 4th Street
Ontario, OR 97914

Project Declarations:

System Details: System One
3 Cameras, 85" TV monitor, Labor, training and One year of service maintenance included

- 3 Birddog P200 camera
- 1 LPU Switcher
- 1 Cisco 250 switch
- 1 40" 4K Monitor
- 1 Streamdeck 32
- 1 Automation Pro
- 9 Audio-Technica AT8647QM/S Mute
- 1 Audio-Technica PRO 49QL podium
- 1 X32 Rack
- 1 TV Wall Mount
- 1 Sony XBR-85X900 85" Monitor
- 1 Cables
- 1 LiveToAir
- 1 VMix 4K
- 2 TCI-53
- 1 Behringer NX1000D

- 1 Labor

Final Price: \$35,880.00

I agree to the stated quote and order the system as stated:

Signature: _____ Date _____



**AGENDA REPORT
NEW BUSINESS
October 8, 2020**

To: Mayor and City Council

FROM: Peter Hall, Human Resources Manager
Kari Ott, Finance Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **RESOLUTION #2020-136: CARES ACT FUNDING
BID AWARD: CITY SERVICE AUTOMATION**

DATE: September 28, 2020

PROPOSED MOTION:

**FIRST MOTION: I MOVE THE CITY COUNCIL APPROVE RESOLUTION #2020-136: A
RESOLUTION APPROPRIATING FUNDING FOR UNEXPECTED CARES ACT GRANT FUNDING**

**SECOND MOTION: I MOVE THE CITY COUNCIL AWARD THE AUTOMATED SERVICE BID TO
IWORQ SYSTEMS FOR \$41,625.**

SUMMARY:

City service automation refers to making services available online. This includes permits, licenses, and forms. These systems allow citizens to complete and submit applications and payments online and follows a work flow where staff members can immediately follow up on submissions and track their progress.

City staff met regularly with three businesses who provide these systems and selected an option which will satisfy the needs of the city at an affordable rate.

Three years of services will be paid for by CARES Act funding. Resolution #2020-136 will approve all future CARES Act fund expenditures as outlined in the City Manager's presentation to Council during the September 15 City Council Meeting.

BACKGROUND:

Closures prompted by COVID-19 exposed gaps in online services at the City. Most forms, applications, and fees must be processed in-person. Providing these services online will give citizens a convenient option. It will also decrease in-person transactions at City Hall.

CURRENT SITUATION:

Currently, with the exception of utility billing, all forms, applications, and transactions must be submitted in-person. With the acquisition of these services all of these requests will be able to be done online.

Staff met with iWorq, CivicClerk, and OpenGov and have chosen iWorq as the most feasible option.

ANALYSIS:

- A. **STRATEGIC PLAN** This corresponds with Lifestyle goal of the City Council Strategic Plan, specifically under Strategy 5: Internal Improvements. Services will be more conveniently accessible online. It will also improve internal processes and help with renewal processes.
- B. **FINANCIAL** The one-time set up fee is \$4,125. The annual fee for services is \$12,500. The City will use CARES Act funding to pay for three years of service. The full payment will be \$41,625. iWorq's system also includes a Code Enforcement portal which would lower our current annual costs for the Citizen Serve portal. With the reduction in the cost of the current code enforcement system, our net increased cost will be just over \$5,000.

The attached resolution appropriates the entire amount for CARES Act grant funding, including the amounts for the online services. With this approval all categories of the budget for the Coronavirus Relief Fund can start to be spent.

- C. **TIMING** CARES Act funding must be spent by December 31, 2020. iWorq is also providing the City a discount on set-up fees which will expire at the end of the week. The agreement with iWorq will be made as soon as the bid is awarded.
- D. **POLICY/LEGAL** The City Council is required to make the budget and appropriation approval and the contract award.

ALTERNATIVES:

The City Council may choose OpenGov or CivicClerk as the vendor, ask staff to continue reviewing other businesses, or not award the bid to anyone. The Council may also wish to approve expenditures on an individual basis instead of with one resolution.

RECOMMENDATION:

City staff recommends the Council approve Resolution #2020-136.

City staff recommends awarding the bid to iWorq to set up and maintain automated services for City Hall.

ATTACHMENTS:

1. Resolution #2020-146 CARES Act Funding
2. Proposal_CivicClerk_08 17 2020
3. Proposal_iWorQ Systems_09 28 2020
4. Proposal_OpenGov_09 17 2020



RESOLUTION #2020-136

A RESOLUTION APPROPRIATING FUNDING FOR UNEXPECTED CARES ACT GRANT FUNDING

- WHEREAS,** The State of Oregon Awarded the City of Ontario \$338,502.41 in grant funding from the Corona Virus Relief Fund; and
- WHEREAS,** This grant is a pass-through federal grant under the CARES Act CFDA #21.019; and
- WHEREAS,** The grant funds are required to be expended on necessary expenditures due to the public health emergency with respect to COVID-19 and were not accounted for in the budget; and
- WHEREAS,** The City Manager reported to the Council the proposed uses for the funds on September 15, 2020, which included City Council Virtualization, Online Services, Community Programs, and Personal Protection Equipment; and
- WHEREAS,** The funds are required to be spent before December 31, 2020; and
- WHEREAS,** The city desires to modify the 2020-2021 budget to appropriate the grant funding.

NOW THEREFORE, THE CITY OF ONTARIO RESOLVES to approve the adjustments to the fiscal year 2020-2021 budget:

Line Item	Item Description	FY 20-21 Budget	Amount of Change	Adjusted Budget
GENERAL FUND				
001-009-613500	General Supp & Maintenance	\$ -	\$45,502	\$43,300
001-009-615550	Contract Services	\$ -	\$88,000	\$88,000
001-009-612300	Community Support Program	\$ -	\$205,000	\$190,000
001-000-469231	COVID Relief Fund	\$ -	\$338,502	\$338,502

PASSED AND ADOPTED by the Common Council of the City of Ontario this 8th day of October, 2020, by the following vote:

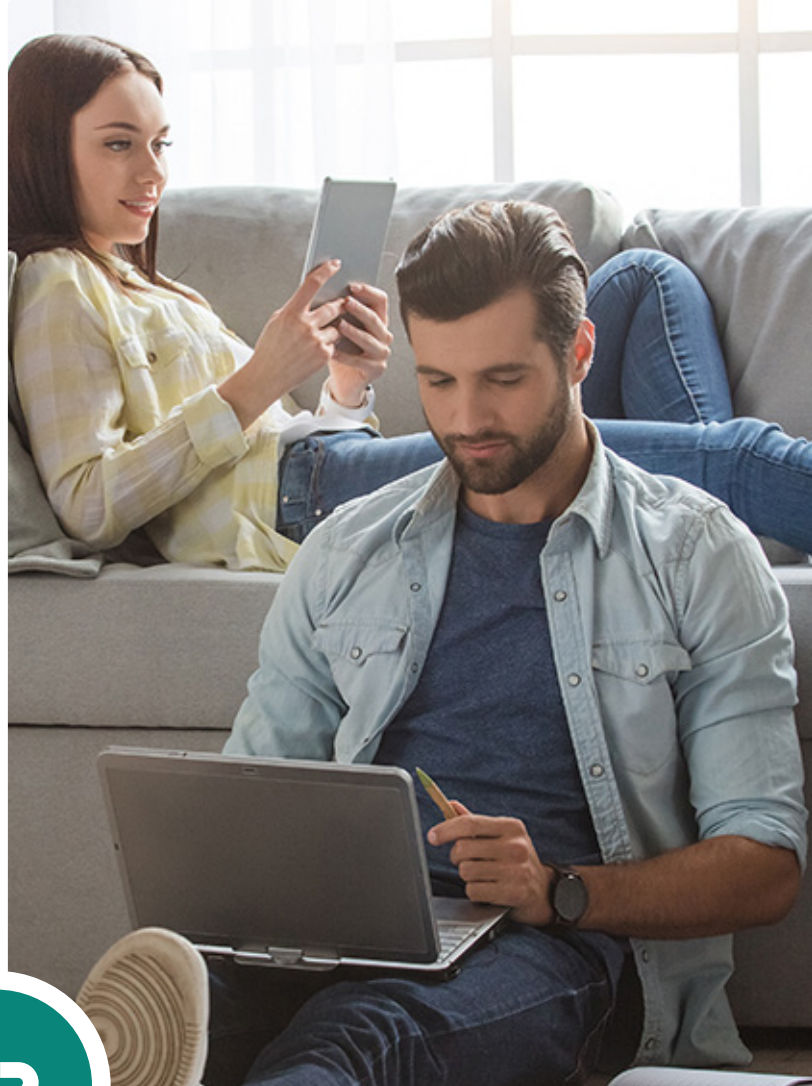
AYES:
NAYS:
EXCUSED:
ABSENT:

APPROVED by the Mayor this 8th day of October, 2020.

ATTEST:

Riley J. Hill Mayor

Tori Barnett, MMC, City Recorder



CIVICOPTIMIZE
PRODUCTIVITY

City of Ontario,
Oregon

AUGUST 10, 2020



Scott Gartner | CivicOptimize Account Executive | gartner@civicplus.com | 785-323-4784

302 S. 4th Street | Manhattan, KS 66502 | 888-228-2233 | www.civicplus.com

CIVICPLUS



Project Cost



Pricing is valid for 60 days from August 10, 2020.

Development

- Set-up for up to 50 Staff App Users
- 15,000 Monthly Authenticated User Submissions
- Unlimited Citizen/Constituent App Users
- Up to 100 GB of storage
- Management Console
- User Management
- Analytics Dashboard
- High-Availability Infrastructure
- SDK Developer Access

Annual Services

- Hosting and security
- Software maintenance including service patches and system enhancements
- 24/7 Technical support and access to the CivicPlus Help Center
- Dedicated Client Success Manager
- Annual Services are subject to a cumulative 5% technology fee increase beginning Year 3 (for non-CPA payment projects) and beyond

Implementation

- Connectors for Active Directory, Asset Visibility Integration
- Connectors for CivicPlus Platform solutions: CP Pay®, CivicReady®, and CivicEngage®
- Unlimited Self-Guided Training

2020 EARLY ADOPTER PROMO List Price \$24,000

	Year 1 (60% Discount)	Year 2 (60% Discount)	Year 3 (10% Discount)	Year 4
Discount Price	-\$14,400	-\$14,400	-\$2,400	—
Total	\$9,600	\$9,600	\$21,600	\$24,000

Your CivicPlus purchase may be eligible for CARES reimbursement. Consult with your administration to determine if this is an opportunity for your community, and please inform CivicPlus if you will be seeking reimbursement so we can help with any of your documentation needs.

CivicPlus Project Pricing & Invoicing

CivicPlus prices on a per-project, all-inclusive basis (stated in US dollars). This type of pricing structure eliminates surprise costs, the uncertainty of paying by the hour, and is overall more cost effective for our clients. It provides you with a price based on the products and features listed in this proposal that only varies if additional functionality, custom development, security, escrow requirements, or other design or project enhancements, outside of the included scope, are added prior to contract signing.

Standard CivicOptimize Productivity Invoicing

- Year 1 fees are due at contract signing
- The first-year Annual Services fee is included with your Year 1 cost
- Additional Staff App Users may be purchased and added at any time for an annual rate per User. Such cost will be pro-rated to your Annual Services depending on the time of addition in the billing cycle.
- Subsequent annual invoicing occurs on the anniversary of the contract signing date, subject to a five percent technology fee uplift each year starting in Year 5 of your contract

Customized Billing/Invoicing

- We can discuss other billing options with you before contract signing and, if feasible, develop a plan that works for all parties
- Not available with all CivicPlus products – please contact your sales representatives for more details

CivicPlus Advantage Invoicing

- Zero-interest, level payments that divide the Year 1 expense of your project over the first three years of your contract
- Each payment includes your Annual Services and any other fees if applicable
- May not be available with all products offered by CivicPlus

CP Pay Merchant Account

- CP Pay Merchant will collect and disburse all credit card monies
- CP Pay will assess a percentage + transaction fee (3% + \$0.30 per transaction)
- Merchant account fees apply and will be paid directly to Global Payments Integrated (separate from Annual Services)

CivicPlus wants our clients to succeed in providing your staff and constituents a viable, sustainable, and flexible technology solution and we will work with you prior to contract signing to determine which of our billing processes will meet both your needs for budget planning and our accounting processes.

Right to Negotiate

A successful project begins with a contract that meets the needs of both parties. This proposal is intended as a non-binding document, and the contents hereof may be superseded by an agreement for services. Its purpose is to provide information on a proposed project we believe will meet your needs based on the information available. If awarded the project, CivicPlus reserves the right to negotiate the contractual terms, obligations, covenants, and insurance requirements before a final agreement is reached. We look forward to developing a mutually beneficial contract with the City of Ontario.

Features & Functionality



Efficiency-centric, low-code, digital optimization software designed specifically for your staff, your in-field workers, and your community.

CivicOptimize Productivity consists of a set of LCAD tools and services managed from a single dashboard that allow you to build mobile application solutions that link closely into existing government IT systems. Your tools and services fall into four major categories of functionality.

Standard Productivity Tools:

- Building sophisticated mobile-optimized forms and work-guides
- Deploying forms and work guides as PWAs (Forms can be organized by tags)
- Integrating form workflows with corporate IT systems through APIs - both within the forms completion flow and upon form submission
- Administering and managing users, apps, and APIs with basic analytics plus PowerBI integration

Advanced Productivity Tools:

- Style CSS: Match your mobile app or website
- API Hosting: Host server-side code to be called from mobile or web front ends
- Dynamic Options: Pull and populate form option lists by API
- Integrations: Lookups and submissions by API
- Developer Keys: SDK access and PDF service



Key Features

Build

- CivicOptimize Productivity enables non-technical employees to quickly build PWAs and forms with associated content, including work guides or instructions and informational text to help guide end users.
- Developers can integrate forms into any native or web app with the SDK, or link form submissions directly into administrative systems using callbacks.

Integrate

- CivicOptimize Productivity comes ready with out-of-the-box integrations for your favorite CivicPlus solutions, plus Microsoft Active Directory and Microsoft Power Automate.
- Our Power Automate connector makes it easy to build time-saving workflows into everything from individual tasks to large-scale systems, with seamless integrations via hundreds of other prebuilt connectors.

Customize

- Non-technical employees can easily customize key app components such as icons, splash screens, app names, banner images, and color themes - all without coding.
- Developers can extend version one work by targeting individual form and app elements with Custom CSS and customize any aspect of the PWA interface.



Manage

- CivicOptimize Productivity allows administrators to manage users and access to apps, monitor API health, web app deployments, developer keys, and account usage.
- Budget and resource-strapped municipalities can also save money on system administrators with this software as a service (SaaS) solution running on a high-availability AWS infrastructure.

Deploy

Non-technical employees can instantly deploy digital forms as a service, or offline-first, using PWAs. Developers can also deploy their custom CivicOptimize Productivity SDK enabled web apps with a single command or by integrating a form into a third-party native app or web app.

Extend

Developers avoid wasted time and technical lock-in by simply extending version one work completed by non-technical employees into version two, enterprise-grade solutions. CivicOptimize Productivity supports many forms of system integrations and customization, and uses common programming languages such as Node.JS.

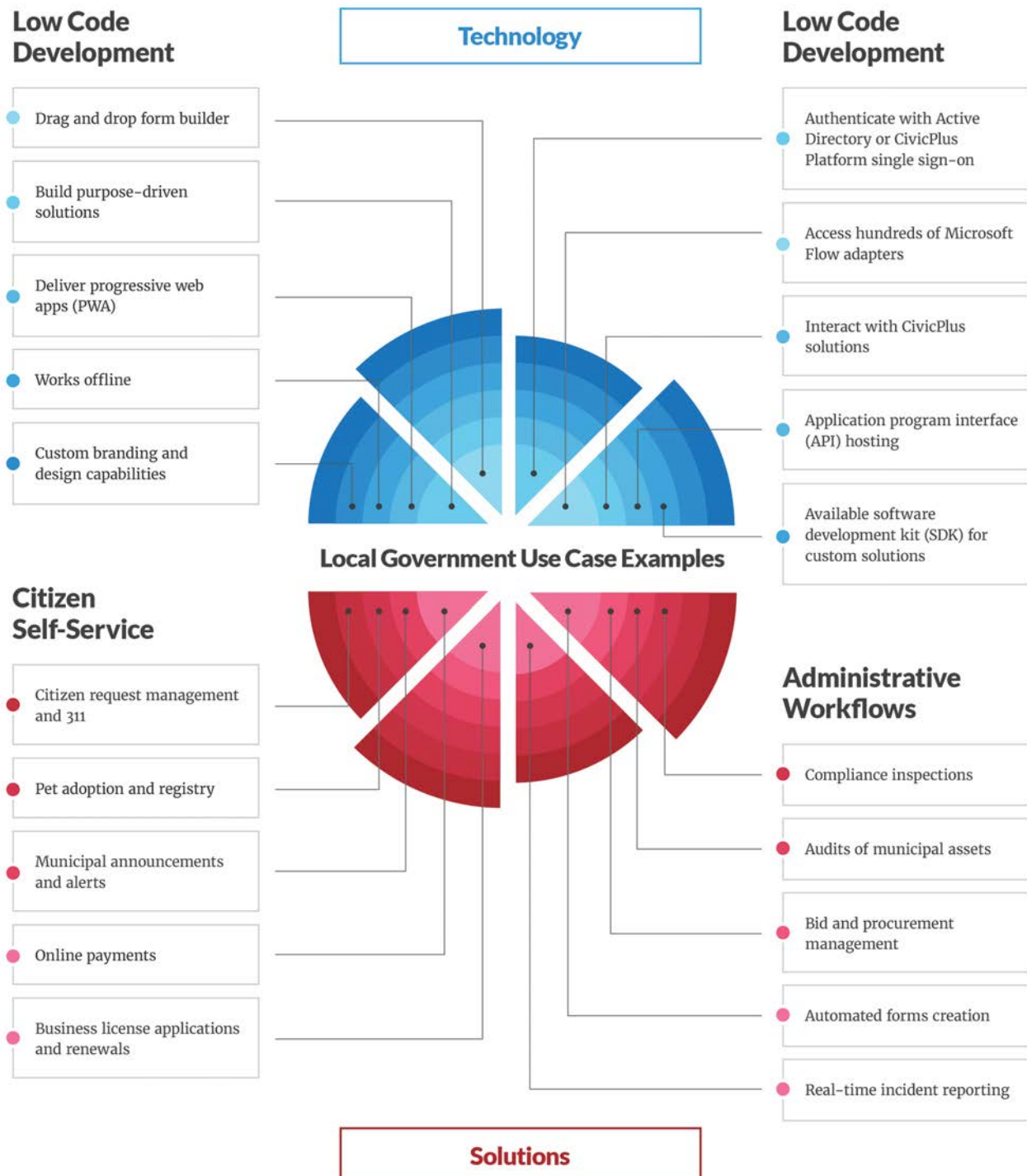
Built-in Solutions

CivicOptimize Productivity includes out-of-the-box/turnkey solutions for many community and process areas:

- Administration
- Animal Services
- City Clerk Department
- City Council
- Communications
- Community Arts & Events
- Community Development
- Economic Development
- Emergency Management
- Finance
- Fire
- Health Department
- Human Resources
- IT Department
- Parks & Recreation
- Permits
- Police
- Public Utilities
- Public Works
- Risk Management

Low-Code Development

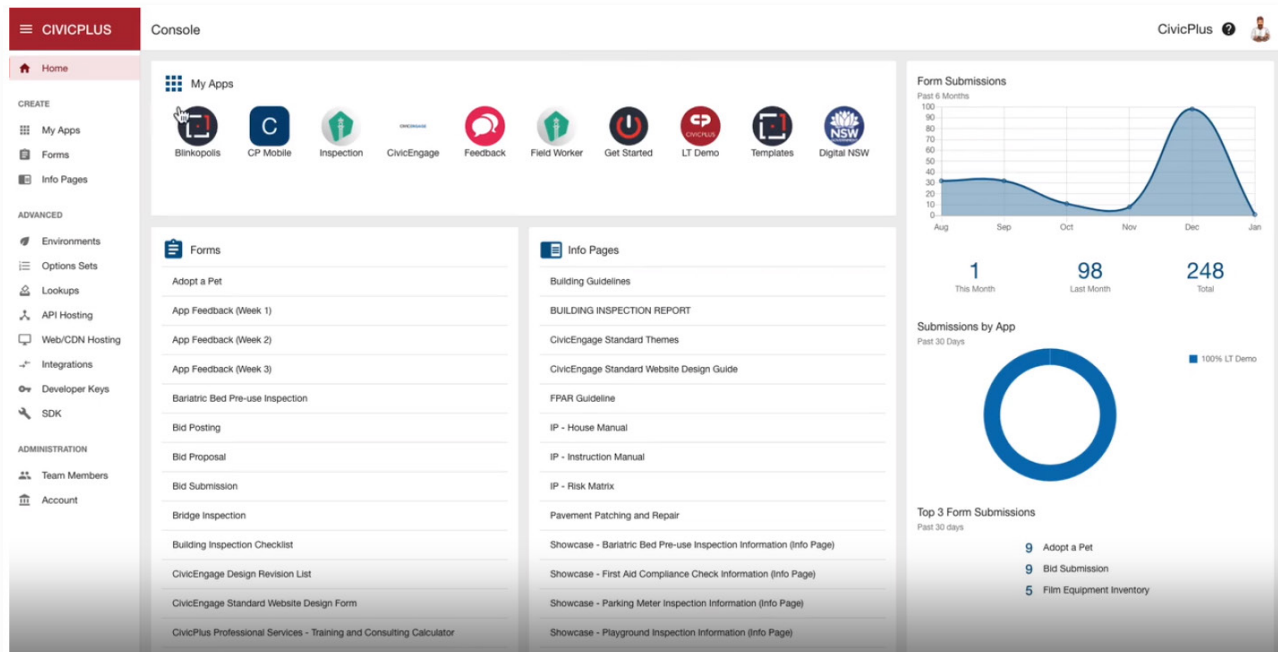
The CivicOptimize Productivity low-code development environment allows for collaboration between non-technical department leaders and programmers to develop solutions that meet your daily needs. Your in-house staff can create efficiency-centric applications, including digital forms, hosted cloud infrastructure, IoT connectivity and performance monitoring capabilities, and even custom integrations between your favorite CivicPlus solutions.



An Integrated Platform

CivicPlus' unified applications come together in a single technology platform.

- One central dashboard
- Secure, single sign-on (SSO)
- System-wide reporting capabilities
- Unified identify management
- Advanced accessibility
- Strengthened security
- Robust APIs
- A single payment gateway, CP Pay® A single payment gateway, CP Pay® - with PCI compliant hosted forms for submitting payments, receiving validation, and receipts
- An Integration Hub for simplified developer integrations and data sharing between CivicPlus solutions



Functionality Disclosure

As CivicPlus continues to evolve and improve our solution to support our clients' needs and goals, we reserve the right to upgrade, replace, modify, or terminate any of the features and functionality elements listed, at our sole discretion, and when feasible, providing reasonable notice to our clients of any changes. These features and functionality are offered on a gratuitous basis to our clients, with no monetary value per feature, and should any changes be enacted, will not affect any terms in a signed agreement with CivicPlus.

Implementation



Implementation, system configuration, integrations, and training – CivicPlus can deliver all of this and more during the development of your new CivicOptimize Productivity solution.

Once Ontario determines the final scope for your project, your implementation can begin almost immediately. Any additional scope, design elements, or your scheduling availability may cause an extension in your implementation timeline.

After the contract has been signed, we will set up your system right away. You'll be provided login credentials to begin creating forms and apps in as little as a week.

Implementation of Productivity is almost instantaneous!





Ongoing Services



Award Winning Team

In February 2020, our Technical Support Team was presented with a Silver Stevie® Award in the Front-Line Customer Service Team of the Year - Technology Industries category, and a Bronze Stevie® Award in the Customer Service Training or Coaching Program of the Year - Technology Industries category. This is the second consecutive year that CivicPlus' Technical Support Team has earned Stevie honors.

The Stevie Awards are the world's top honors for customer service, contact center, business development, and sales professionals.



Around-the-Clock Service & Support

Technical & Ongoing Support

- Live support personnel based in the U.S.
- Weekday business hours: 7 a.m. – 7 p.m. (CST)
- Contact via phone, email, and live chat
- 4-hour response during business hours
- 24/7 emergency support
- Self-Service CivicPlus Help Center for tutorials and user guides
- Assigned Client Success Manager to ensure your complete and ongoing satisfaction

Maintenance

- Regular review of site logs, error messages, servers, router activity, and the internet in general
- Full backups performed daily
- Regularly scheduled upgrades, fixes, enhancements, and OS system patches

Hosting & Security

Your information and data is in secure hands with AWS in our Ohio AWS Availability Zone. Amazon S3's web service interface allows you to store and retrieve any of your data, at any time, from anywhere on the web.

Ontario can easily manage the AWS features to organize your data and configure finely-tuned access controls to meet your specific business, organizational,

and compliance requirements. Amazon S3 is designed for 99.999% of durability, and stores data for millions of applications for companies all around the world.

Amazon S3 secures your data from unauthorized access with encryption features and access management tools and allows you to block public access to all of your objects at the bucket or the account level if needed.

Company Overview



At CivicPlus, we have one goal: to empower the public sector to accomplish impactful initiatives using innovative solutions that save them time while connecting them to the citizens they serve. We began in 1998 when our founder, Ward Morgan, decided to focus on helping local governments work better and engage their citizens through their web environment.

CivicPlus continues to implement new technologies and services to maintain the highest standards of excellence and efficiency for our clients, including solutions for website design & content management, recreation management, mass communications, agenda & meetings management, employee management, 311 & citizen requests, and digital optimization.

Our commitment to deliver the right solutions in design and development, end-user satisfaction, and secure hosting has been instrumental in making us a world leader in government web technology. We consider it a privilege to partner with our clients and provide them with solutions that will serve their needs today and well into the future.



20+

years of experience with a focus to help local governments

350+

employees, many with experience in local government

4,000+

local government clients across the United States and Canada



9-time Inc. 5000
Honoree



www.govtech.com/100

IWORQ SERVICE AGREEMENT

For iWorQ applications and services

City of Ontario here after known as ("Customer"), enters into THIS SERVICE AGREEMENT ("Agreement") with iWorQ Systems Inc. ("iWorQ") with its principal place of business 1125 West 400 North, Suite 102, Logan, Utah 84321.

1. SOFTWARE AS A SERVICE (SaaS) TERMS OF ACCESS:

iWorQ grants Customer a non-exclusive, non-transferable limited access to use iWorQ service(s), application(s) on iWorQ's authorized website for the fee(s) and terms listed in Appendix A. This agreement will govern all application(s) and service(s) listed in the Appendix A.

2. CUSTOMER RESPONSIBILITY:

Customer acknowledges that they are receiving only a limited subscription to use the application(s), service(s), and related documentation, if any, and shall obtain no titles, ownership nor any rights in or to the application(s), service(s), and related documentation, all of which title and rights shall remain with iWorQ. Customer shall not permit any user to reproduce, copy, or reverse engineer any of the application(s), service(s) and related documentation.

iWorQ is not responsible for the content entered into iWorQ's database or uploaded as a document or image. Access to iWorQ cannot be used to record personal or confidential information such as driver license numbers, social security numbers, financial data, credit card information or upload any images or documents considered personal or confidential.

3. TRAINING AND IMPLEMENTATION:

Customer agrees to provide the time, resources, and personnel to implement iWorQ's service(s) and application(s). iWorQ will assign a senior account manager and an account management team to implement service(s) and application(s). Typical implementation will take less than 60 days. iWorQ account managers will call twice per week, provide remote training once per week, and send weekly summary emails to the customer implementation team. iWorQ can provide project management and implementation documents upon request. iWorQ will do ONE import of the Customer's data. This import consists of importing data, sent by the Customer, in an electronic relational database format.

Customer must have clear ownership of all forms, letters, inspections, checklists, and data sent to iWorQ.

Data upload and storage is provided to every Customer. This includes uploading files up to 25MB and 100 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

4. CUSTOMER DATA:

Customer data will be stored on AWS GovCloud. iWorQ will use commercially reasonable efforts to backup, store and manage Customer data. iWorQ does backups twice per week and offsite backups twice per week. The subscription will renew each year on the anniversary date of this Agreement unless terminated (see 6. TERMINATION).

Customer can run reports and export data from iWorQ application(s) at any time.

Customer can pay iWorQ for additional data management service(s), onsite backups, application(s) and other service(s).

Data upload and storage is provided to every Customer. This includes uploading files up to 25MB and 100GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

5. CUSTOMER SUPPORT:

Customer support and training are FREE and available Monday-Friday, from 6:00 A.M. to 5:00 P.M. MST, for any authorized user with a login. iWorQ provides unlimited remote Customer training (through webinars), phone support, help files, and documentation. Basic support request is typically handled the same day. iWorQ provides "Service NOT Software".

6. BILLING:

iWorQ will invoice Customer on an annual basis. iWorQ will send invoice by mail and by email to the address(s) listed in Appendix A. Terms of the invoice are net 30 days. Any billing changes will require that a new Service(s) Agreement be signed by Customer.

Any additional costs imposed by the Customer including business licenses, fees, or taxes will be added to the Customer's invoice yearly.

7. TERMINATION:

Either party may terminate this agreement, after the initial 1-YEAR TERM, without cause if the terminating party gives the other party sixty (60) days written notice. Should Customer terminate any application(s) and or service(s) the remaining balance will immediately become due. Should Customer terminate any part of the application(s) and or service(s) a new Service(s) Agreement will need to be signed.

Upon termination (6. TERMINATION), iWorQ will discontinue all application(s) and or service(s) under this Agreement; iWorQ will provide customer with an electronic copy of all of Customer's data, if requested by the Customer (within 3-5 business days).

During the term of the Agreement, the Customer may request a copy of all of Customer's data for a cost of no more than \$2,500; and all provisions of this Agreement will continue.

8. ACCEPTABLE USE:

Customer represents and warrants that the application(s) and service(s) will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, and policies, terms and procedures. iWorQ may restrict access to users upon misuse of application(s) and service(s).

9. MICELLANEOUS PROVISIONS:

This Agreement will be governed by and construed in accordance with the laws of the State of Utah.

10.CUSTOMER IMPLEMENTATION INFORMATION:

Primary Implementation Contact _____ Title _____

Office Phone _____ Cell _____

Email _____

Secondary Implementation Contact _____ Title _____

Office Phone _____ Cell _____

Email _____

11. CUSTOMER BILLING INFORMATION:

Billing Contact _____ Title _____

Billing Address: _____

Office Phone _____ Cell _____

Email _____

PO# _____ (if required) Tax Exempt ID # _____

12.ACCEPTANCE:

The effective date of this Agreement is listed below. Authorized representative of Customer and iWorQ have read the Agreement and agree and accept all the terms.

Signature _____

Effective Date: _____

Printed Name _____

Title _____

Office Number _____

Cell Number _____

iWorQ Service(s) Agreement

APPENDIX A

iWorQ Price Proposal

Ontario	Population- 11901
444 SW 4th Street, Ontario, OR 97914	Prepared by: Mitch Coughlin and Ty Pebley

Annual Subscription Fees

Application(s) and Service(s)	Package Price	Billing
Community Development (Enterprise Package) *Permit Management *Code Enforcement *Portal Home Quarterly upload of parcel information to iWorQ's GIS Map Track contractors, inspections, property information Track code violations, fees, and activities Unlimited reports and ad-hoc reporting Unlimited letters and documents configured through iWorQ's template library and 3 custom letters 3 custom forms for Portal Home Premium Data (25MB Uploads & 100GB Storage) Online credit/debit card processing integrated with iWorQ (Payroc) GIS REST Services - iWorQ will publish your agency's WMS layers in iWorQ Community Development applications. iWorQ will update property details weekly. Annual fees are \$500 per layer (currently includes 2 layers) Note: If GIS configurations change (FTP location, name format, field changes, etc.) iWorQ will charge a minimum \$500 fee to accommodate new configuration adjustments (subject to additional hourly charges)	\$8,000	Annual
License Management- Animal Licenses Available on any computer, tablet, or mobile device using Chrome browser - Licensing for business, alcohol, liquor, rentals, etc. - Free letters and / or permits utilizing iWorQ's template library, and up to 3 custom letters.	\$2,500	Annual

- Reminder letter generation - Online renewal capabilities		
Additional Web Forms- 12 additional webforms for online applications	\$2,000	Annual
Subscription Fee Total (This amount will be invoiced each year)	\$12,500	Annual

One-Time Setup, GIS integration, and Data Conversion Fees

<u>Service(s)</u>	<u>Full Price Cost</u>	<u>Package Price</u>	<u>Billing</u>
Implementation and Setup cost year 1	\$8,250	\$4,125	Year One
Up to 5 hours of GIS integration and data conversion	\$500	Included	Year One
Data Conversion (see attached guidelines Appendix B)	\$4,900	Included	Year One
One-Time Setup Total (This amount will be added year 1)	\$13,650	\$4,125	Year One
Grand Total Due Year 1	\$26,150	\$16,625	

NOTES AND SERVICE DESCRIPTION

- I. Invoice for the (Annual Subscription Fee Total + One-Time Total) will be sent out 2 weeks after signature and Effective Date
- II. This subscription Fee and Agreement have been provided at the Customer's request and is valid until **October 9th, 2020.**
- III. This cost proposal cannot be disclosed or used to compete with other companies.



Statement of Work

City of Ontario, OR

Permitting, Licensing & Code Enforcement
Suite Implementation

Created By Adam J. Weems

SOW Creation Date 09/16/20

Version: 1.1

Document Number: DD-01286

1. Objective

1.1. Summary

OpenGov Inc. (“OpenGov”) will perform for City of Ontario, OR (“Customer”) pursuant to the order for Professional Services agreed to by the parties (“Order Form”) which references the Software Services Agreement or other applicable agreement entered into by the parties (the “Agreement”).

OpenGov will enable and support the Customer to deliver on the Scope of Work outlined below. The objective of this Statement of Work is to define the scope, activities, roles and responsibilities, and timeline necessary to successfully execute this deployment project.

1.2. Solution Overview

This SOW defines the scope and deliverables for a successful implementation of the Permitting, Licensing & Code Enforcement (“PLC”) suite of the OpenGov ERP Cloud. PLC is a suite within the OpenGov ERP Cloud for public-facing transactions and internal processing. The platform comprises four modules necessary to optimize the four key components of permitting, licensing, and code enforcement:

Customer Service

Offer a best-in-class business portal for community-wide citizen service. Let citizens determine the requirements they may need for their project, and let them apply, pay, track, and print permits online.

Processing

Standardize and automate permitting, licensing, and code enforcement workflows with advanced conditional logic. Enable a single source of truth for permitting and addressing data using a powerful reporting engine, and enable real-time collaboration and electronic review processes.

Inspections

Automate inspection scheduling using fine-tuned daily inspection availability settings, and monitor required inspections on the map. Conduct inspections electronically using a mobile device in the field, capturing comments, pictures, and violations. Minimize inspector travel time with automatic daily route optimization.

Renewals

Monitor renewal compliance during specified renewal periods, renew records in-office, export mailing lists, and leverage automatic just-in-time email notifications with delivery receipts. See the entire history of a renewed record over multiple years.

The four modules constitute a comprehensive, integrated system to manage permits, licenses, and cases in any department.

2. Scope

2.1. Project Scope

The project scope includes the following services and deliverables. Any items not specifically included in scope will be considered out of scope. Customer and OpenGov will jointly agree to additional limitations and exclusions during initial project management call(s).

OpenGov will provide Professional Services to implement PLC as it pertains to building out 10 Record Types to be used in customers 5 Service Areas, while also training Customer on building, configuring, and maintaining additional record types.

2.2. Deliverables

Deployment Services	Deliverables Description
PLC Reporting	3 Standard PLC reports (Daily/Weekly Cashout, Monthly Totals, and Annual Summary)
Information Gathering	OpenGov to collaborate with Customer to gather: - Existing forms - Understanding current workflows - Gathering all existing supporting documentation
Process Mapping	OpenGov will analyze and map all Customer processes according to OpenGov modules and data models.
PLC Record Type Configuration with Configuration Support Sessions	OpenGov will work with Customer to configure up to 2 record types in the PLC system for Customer's initial service area(s). - OpenGov and Customer's sessions will cover the configuration and testing of: - Forms - Workflows - Fee structures - Attachment requirements - Permit/license/letter templates - User access - Renewal processes - Inspection checklists - Public portal OpenGov will also provide 2, 90-minute configuration training sessions to enable Customer to own configuration of the remaining record types in Customer's initial services area.

	Once configuration training sessions have been completed, Customer will be responsible for maintenance and configuration of all record types.
PLC Administrator Training	During the PLC System Configuration, OpenGov will also provide Administrator Training, which will include: • How to create and customize the public portal in PLC • How to create and customize PLC record types (forms, document templates, fee schedules, workflows) • How to set up inspections in PLC • How to create datasets in PLC • The basic functions of any integrations or other customizations included in the SOW
Master Address Table-Recurring Import	• OpenGov will import all of Customer location information from your Master Address Table into PLC. This will replace the automated Google Maps Address Search. • Customer will provide a clean master address table including all of the community's location information. It must contain the parcel properties latitude/longitude coordinates, and at least 1 unique ID field. OpenGov does not take responsibility for 'dirty' data.
ESRI ArcGIS Server Integration	OpenGov will integrate the PLC suite with Customer ArcGIS Server. This will replace all Google Maps views with Customer's published ESRI map.

3. Schedule

OpenGov will schedule resources for this project upon signature of the order form. Unless specifically noted, the OpenGov assigned project manager (as identified below or such alternate designated by OpenGov, the "OpenGov Project Manager") will work with Customer to develop the project schedule for all requested deliverables under this SOW. OpenGov reserves the right to adjust the schedule based on the availability of OpenGov resources and/or customer resources, and the timeliness of deliverables provided by Customer.

4. Project Organization

4.1. Project Team

OpenGov

OpenGov will assign a Project Manager (the "OpenGov Project Manager"), an Implementation Analyst ("OpenGov Implementation Analyst") and an Integration Engineer ("OpenGov Integration Engineer") upon execution of the SOW.

The OpenGov Project Manager shall fulfill schedule and manage all responsibilities outlined in the scope of work, and will serve as the point person for all project issues. . The OpenGov Implementation Analyst will conduct all configuration and training activities for the project, and will work with the OpenGov Project Manager to complete the implementation of the PLC suite, The OpenGov Integration Engineer will oversee and execute the migration of data to the PLC suite.

Customer

Customer will assign a project manager (the “Customer Project Manager”) and technical resource prior to project kick-off.

The Customer Project Manager will be the primary contact person at Customer and will coordinate all Customer resources needed to complete the project. This includes working with the OpenGov Project Manager to schedule resources for configuration, training and testing activities, verifying completion of Customer Implementation responsibilities, providing milestone sign-offs as required, and mitigating any issues or risks that arise through the course of the implementation.

4.2. Project Responsibilities

The project responsibilities for each organization are outlined below:

OpenGov

1. Provide relevant technical details and documentation for data requirements for Customer’s environment.
2. Complete deliverables as outlined by discovery, documentation and specifications.
3. Keep Customer Project Manager informed of project progress and communicate any issues relating to the project in a timely manner.
4. Establish documentation and procedural standards for the project.
5. Review and administer project change control, as described in Section 5, Change Control Procedures.
6. Ensure that all meetings and training sessions are attended by OpenGov personnel, as scheduled.
7. Manage delivery of in-scope items in coordination with Customer.
8. Make available deliverables to Customer project team for review and verification.

Customer

1. Designate a Customer Project Manager to serve as the primary contact for OpenGov Project Manager to coordinate project activities.
2. Make available appropriate representatives with the authority to review and approve deliverables produced during the project.
3. Make available the appropriate files and specifications necessary to complete configurations.

4. Make available appropriate Subject Matter Experts (SME) to support the project needs, test integrations, validate system configurations and data migrations and provide Customer environment specific technical details.
5. Communicate any issues relating to the project to OpenGov Project Manager in a timely manner.
6. Provide acceptance of deliverables and Project in a timely manner.
7. If Integration services are purchased, Customer will be responsible for making any configuration changes or modifications to System to support integration and make available access for integration to software. The Customer will be responsible for ensuring that the versions of System running on all environments remain the same across all environments.
8. Customer will be responsible for any infrastructure required to access OpenGov, and will maintain relevant non-OpenGov software licenses and infrastructure needed for this project i.e. system licenses.
9. The Customer will be responsible for ensuring that all meetings and training sessions are attended by personnel, as scheduled.

5. Change Control Procedures

No amendments, changes or other modifications to this SOW will be effective without a written project change order. The Project Change Order will describe the change, the rationale for the change, and specify any change in the charges, estimated schedule, or other terms. The terms of a mutually agreed upon Project Change Order will prevail over those of this SOW or any previous Project Change Orders. Such Project Change Order may require additional charges, which will be set forth in the Project Change Order.

6. Fees and Expenses

6.1. Fees and Payment Terms

All fees and expenses will be paid in accordance with the Order Form to which this SOW is attached. For any Project Change Orders or for any new Professional Services, fees will be mutually agreed upon by Customer and OpenGov.

6.2. Travel Expenses

All rates and fees are exclusive of work-related travel, living and other expenses. Customer will be billed for actual expenses as incurred.

All Travel and Lodging expenses will be approved in advance in writing by the Customer Project Manager prior to OpenGov incurring any such expenses and booking non-refundable travel expenses. Such expenses shall be in compliance with Customer's travel and expense guidelines provided to OpenGov.

Travel to onsite engagements will be undertaken only with Customer approval. Travel expenses will be billed as incurred. If Customer has specific requirements on vendor travel, those requirements will have been supplied prior to contract signature for



consideration by OpenGov. Opengov associates will travel under OpenGov Travel and Expense policy.

Ontario 3 Year Up Front Proposal (5 Service Areas)				
Option 1				
Year	1	2	3	Total
ARR	\$5,075	\$15,000	\$17,500	\$37,575
Services	\$7,425	\$0	\$0	\$7,425
Total	\$12,500	\$15,000	\$17,500	\$45,000
Option 2				
Year	1	2	3	Total
ARR	\$5,075	\$16,250	\$16,250	\$37,575
Services	\$7,425	\$0	\$0	\$7,425
Total	\$12,500	\$16,250	\$16,250	\$45,000

Changes

- Reduced number of records and workflow OpenGov will create for customer from 10 to 2
- Increased 90 minute configuration training sessions from 1 to 2
- Removed 1 internal user training session

Unchanged Scope

- Unlimited users, data, forms for 5 service areas
- Standard PLC Reporting Included
- Process Mapping Session and Consulting
- Administrator Training - how to create and customize any forms, workflows and datasets in the platform
- Import of Master Address Table
- ESRI Integration



**AGENDA REPORT
PUBLIC HEARING
October 8, 2020**

To: Planning Commission

FROM: Dan Cummings, Community Development Director

SUBJECT: **ORDINANCE #2779-2020: PLANNING ACTION 2020-07-28RZ, NASCOSTO, LLC, A ZONING MAP AMENDMENT AND REZONE OF A PARCEL OF LAND FROM C-2H GENERAL HEAVY COMMERCIAL TO C-2 GENERAL COMMERCIAL, LOCATED AT 1321 NE 3RD STREET; OWNER IS NASCOSTO, LLC, ON FIRST READING BY TITLE ONLY**

DATE: October 1, 2020

PROPOSED MOTION:

A. APPROVAL:

1. I MOVE THAT THE CITY COUNCIL ACCEPTS THE RECOMMENDATION OF THE PLANNING COMMISSION AND THE FINDS OF FACTS AS OUTLINED IN THE ATTACHMENT #1 APPLICATION NARRATIVE FOR THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM GENERAL HEAVY COMMERCIAL (C-2H) TO CITY GENERAL COMMERCIAL (C-2), AS SET FORTH IN ACTION 2020-07-28 RZ, AND THE CITY COUNCIL APPROVE ORDINANCE #2779-2020 APPROVING SAID REZONE, ON FIRST READING BY TITLE ONLY.

IF THE COUNCIL UNANIMOUSLY APPROVES THE FIRST READING:

2. I MOVE THAT THE CITY COUNCIL WAIVE THE SECOND READING OF ORDINANCE #2779-2020 A REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM GENERAL HEAVY COMMERCIAL (C-2H) TO GENERAL COMMERCIAL (C-2), AS SET FORTH IN ACTION 2020-07-28 RZ AND IN ORDINANCE #2779-2020 BE RECOMMENDED FOR APPROVAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV ABOVE, SUBJECT TO THE CONDITIONS OF APPROVAL AS SET FORTH IN SECTION VII OF THIS REPORT.

B. DENIAL:

I MOVE THAT THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM GENERAL HEAVY COMMERCIAL (C-2H) TO GENERAL COMMERCIAL (C-2), AS SET FORTH IN ACTION 2020-07-28 RZ BE RECOMMENDED FOR DENIAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS STATED BELOW:

SUMMARY:

The applicant owns a parcel of land, known as 18S4702CC, tax lot 502 and 18S4703DD tax lot 100 consisting of 5.02 acres. The applicant wishes to rezone the property from General Heavy Commercial (C-2H) to General Commercial in preparation of developing a 70-unit townhouse complex.

The reason for the rezoning is residential dwellings are prohibited in the C-2H zone and in the C-2 zone multifamily dwellings units of 10 or more are allowed.

BACKGROUND:

The Ontario Municipal Code (OMC) designates the Planning Commission as the decision making body for a request for rezone, without City Council participation. State Law requires an ordinance be adopted by the local governing body to accomplish a rezone. The city's governing body is the City Council, and they are the only body that may adopt an ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels that the best procedure is consistency with state law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

On September 14, 2020, the Planning Commission sent a favorable recommendation to the City Council to approve this action.

CURRENT SITUATION:

ACTION 2020-07-28 RZ: A request for Zoning Map Amendment and Rezone of a parcel of land being located at 1321 NE 3rd Avenue (Lincoln Drive). If approved, this action will result in the Rezoning of 5.02 acres of the subject property from General Heavy Commercial (C-2H) to General Commercial (C-2) Zone. The applicant is Reece M. Hrizuk , Manager of Nascosto, LLC and the property owners are NASCOSTO, LLC.

LEGAL DESCRIPTION: The subject property is designated as Assessor's Map #18S4702CC Tax Lot #502 AND 18s4703DD Tax Lot 100.

APPLICANT/AGENT: Reece M. Hrizuk
NASCOSTO, LLC
224 SW 3rd Street
Fruitland, ID 83619
(208) 452-4000

PROPERTY OWNER: NASCOSTO, LLC, Reece M. Hrizuk, Manager
224 SW 3rd Street
Fruitland, ID 83619
(208) 452-4000

A PDAC (Preliminary Design Advisory Committee) was held with city staff and other state agencies, to review the proposed action and planned development of the property and those recommendations are reflected in the minutes of the meeting and are addressed in the Attachment 1 (Narrative) of this report.

The Community Development Director has reviewed the application and the Findings of Facts within the Application for completeness and meeting the requirements set during the PDAC's and is supportive of these findings of facts and applicant's request and therefore has forward this action with a favorable recommendation onto the City Planning Commission for a Public Hearing and Planning Commission decision.

FOR CRITERIA AND FINDINGS OF FACTS REFER TO ATTACHMENT #1, LABELED "ONTARIO COMMONS AFFORDABLE HOUSING DEVELOPMENT REZONE" BY ANGELO PLANNING GROUP MADE A PART HEREOF:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

Rezone:

The Applicant submitted a detailed Narrative (See attachment 1 "Ontario Commons Affordable Housing Development Rezone") addressing all the required findings of facts and decision criteria meeting the rezoning requirements of Title 10B-20-30.

Rezoning Conclusion: The proposed rezone is consistent with all applicable criteria and standards as stated in Attachment 1.

Findings based on the answers and information given in the Application Narrative made a part hereof as Attachment 1:

1. The applicants have paid the fees and provided the proper application with signatures.
2. The property can be rezoned because it lies inside the current city limits.
3. The property is currently zoned for Commercial use; the requested zone, General Commercial (C-2), is consistent with contiguous property and findings as per attached Narrative.

4. Findings from preceding sections of this report and attached Narrative (Attachment 1) as well Traffic analysis report attached as Attachments 2 and 3 are herein included by this reference. A change to the zoning map is necessary to rezone the property, and the rezoning of the property is consistent with all applicable Comprehensive Plan Policies.

5. Rezoning would benefit the city by increasing tax revenue, and, by providing the means to develop the property with a planned \$11 million in an affordable 70 unit Townhouse complex.

Conclusion: All criteria and standards applicable to a request for rezone have been met.

A request for the rezone of property may be recommended for approval or denial by the Planning Commission to the City Council if all applicable decision criteria and standards are found to be met, or are able to be met through appropriate conditions of approval. In this case, findings must be made by the Planning Commission that the specific criteria are either met, able to be met through conditions of approval, or not met; options and discussion are provided under "Findings:" and "Conclusion:" for each criterion within the attached "Narrative". All of the criteria and standards must be met in order for the request to be recommended for approval.

Conditions of Approval:

1. The owner will sign a lien causing any unpaid Utility bill to be a lien against the property once connected to city sewer and water.
2. The owners will make all the improvements to the site and Public utility infrastructure as per city code or sign a Deferred Improvement Agreement approved by City Staff based on development of the site.
3. Once developed the development on both parcels will be considered one parcel for planning purposes if structures cross the lot line of do not meet setback requirements.

ANALYSIS:

- A. **STRATEGIC PLAN** This action is consistent with the City Council Strategic Plan by providing Desirable lands allowing for affordable housing to the City of Ontario.
- B. **FINANCIAL** Rezoning will benefit the city by increased tax revenue, as well as provide needed affordable and work force housing.
- C. **TIMING** This Rezoning is the first step in the process of being able to develop the property; therefore there is a need to move forward as soon as possible to bring needed development to the city. The project has been awarded a \$5.3 million no interest loan from the Oregon Housing and Community Services Department to aid in development of the proposed \$11 million housing project.

- D. **POLICY/LEGAL** The quasi-judicial Zoning Map amendment procedures are designed and authorized to create new zoning classifications on the official Zoning Map within areas on the land use plan indicated for the uses allowed by the map change. Such changes shall be in conformity with the land use goals of the state. The decision of the Planning Commission shall be the final decision of the city unless an appeal is filed as authorized by this Title. (LANGUAGE IN 10B-10-05 SUPERSEDES THIS LANGUAGE) WHICH IS: The ultimate decision-making authority for legislative actions and zone changes brought under the provisions of this Title shall rest with the City Council. Certain actions of the Planning Commission are in the form of a recommendation to the City Council. The land use actions for which the Commission provides only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or Zoning Map

ALTERNATIVES:

1. The City Council could table and continue this item to a future date certain, to obtain clarification on issues raised at this Public Hearing
2. The City Council could deny the action by determining it is not in the best interest of the public to rezone this property. (Applicant would have the ability to appeal this decision to the City Council).

RECOMMENDATION:

Staff recommends the City Council approve Ordinance #2779-2020.

ATTACHMENTS:

1. Ord #2779-2020
2. 1-Zone Change Narrative-Angelo Planning
3. 2-Traffic Assessment Assmptions-Angelo Planning
4. 3-Trip Generation Assessment -Kittelson & Associates
5. 4-Site Development Map
6. 5-Tax Map
7. 6-Zoning Map Before
8. 7-Zoning Map After
9. 9-Application 2020-07-28RZ



ORDINANCE #2779-2020

AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN AND ZONING MAP FROM GENERAL HEAVY COMMERCIAL (C-2H) TO GENERAL COMMERCIAL (C-2) ZONE CLASSIFICATION FOR A PROPERTY ON TAX MAP 18S47E02CC, TAX LOT 502 AND TAX MAP 18S47E03DD TAX LOT 100; BEING A PORTION LOT 1 BLOCK 3 AND LOT 2 OF BLOCK 3 OF THE INTERSTATE SUBDIVISION TO THE CITY OF ONTARIO AND VACATED STREETS THEREOF

- WHEREAS,** Reece M. Hrizuk manager of NASCOSTO, LLC as Applicant has initiated a zone change request for the property in the City for rezoning of the property from “General Heavy Commercial (C-2H)” to “General Commercial (C-2)”, which property is described in Exhibit “A” and designated on Exhibit “B” Assessor’s Map 18S47E02CC, Tax Lot 502 and Assessor’s Map 18S47E03DD, Tax Lot 100; and
- WHEREAS,** After giving the notice required by law, the City Planning Commission held a public hearing on Planning Action 2020-07-28RZ a request for a zone change on September 14, 2020, after which the Ontario Planning Commission made findings of fact and conclusions of law and recommended that the Ontario City Council approve the zone change request for the subject property; and
- WHEREAS,** After giving the notice required by law, the Ontario City Council held a public hearing on the zone change request on September 22, 2020, and having reviewed all evidence and testimony submitted therein, makes the following findings of fact and conclusions of law with respect to the subject property:
- A. The City of Ontario Municipal Code policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; generally, if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. The applicant has demonstrated in their application that this request is consistent with Statewide Planning Goals.
 - B. The findings show that the request is within goals and conformance of the acknowledged Comprehensive Plan. Therefore, this proposal has demonstrated to be consistent with the Comprehensive Plan.
 - C. The applicant has paid the fees and provided the proper application with signatures.
 - D. The property is currently zoned for Commercial use; the requested zone, General Commercial (C-2), is consistent with contiguous property and findings as per applicant’s narrative to the application.
 - E. The properties are properly related to streets and public facilities within the public streets and the existing uses and services demonstrate that uses allowed in the proposed zone can be provided.

- F. The findings show that the conditions of the neighborhood are such that the subject property and surrounding area are zoned for Commercial uses. The proposed use that while the impact on surrounding properties will be low, with the proposed change in zoning, compliance with present City of Ontario ordinances will be essential in eliminating any issues. The permitted uses are related to low volume traffic and uses which do not lend themselves to the creation to significant amounts of noise or other discharges of dust or odor into the air is uncommon in a commercial zone.

WHEREAS, The above findings have met the criteria's of City Code Section 10B-20-30 REQUIRED FINDING, DECISION CRITERIA.

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. The Ontario Comprehensive Plan and Zoning Map are amended by changing the zone from "General Heavy Commercial (C-2H)" to "General Commercial (C-2)" for the property described on Exhibit "A" designated on Exhibit "B" Assessor's Map 18S47E02CC, Tax Lot 502 and Assessor's Map 18S47E03DD, Tax Lot 100.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2020 by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2020.

ATTEST:

Riley J. Hill, Mayor

Tori Barnett, MMC, City Recorder

EXHIBIT “A”

*Property Description for Rezone
City Action No. 2020-07-28RZ*

Land in **INTERSTATE SUBDIVISION**, City of Ontario, Malheur County, Oregon, according to the Official Plat thereof, as follows:

In Block 3: **Parcel No 2** of Partition Plat No. 91-1 as recorded Jan. 4, 1991, Inst. No. 91-47, official records.

ALSO

Land in **INTERSTATE SUBDIVISION**, City of Ontario, Malheur County, Oregon, according to the Official Plat thereof, as follows:

In Block 3: Lot 2,

AND that portion of NE 12th Street lying coincident with said Lot 2, as vacated by Ordinance

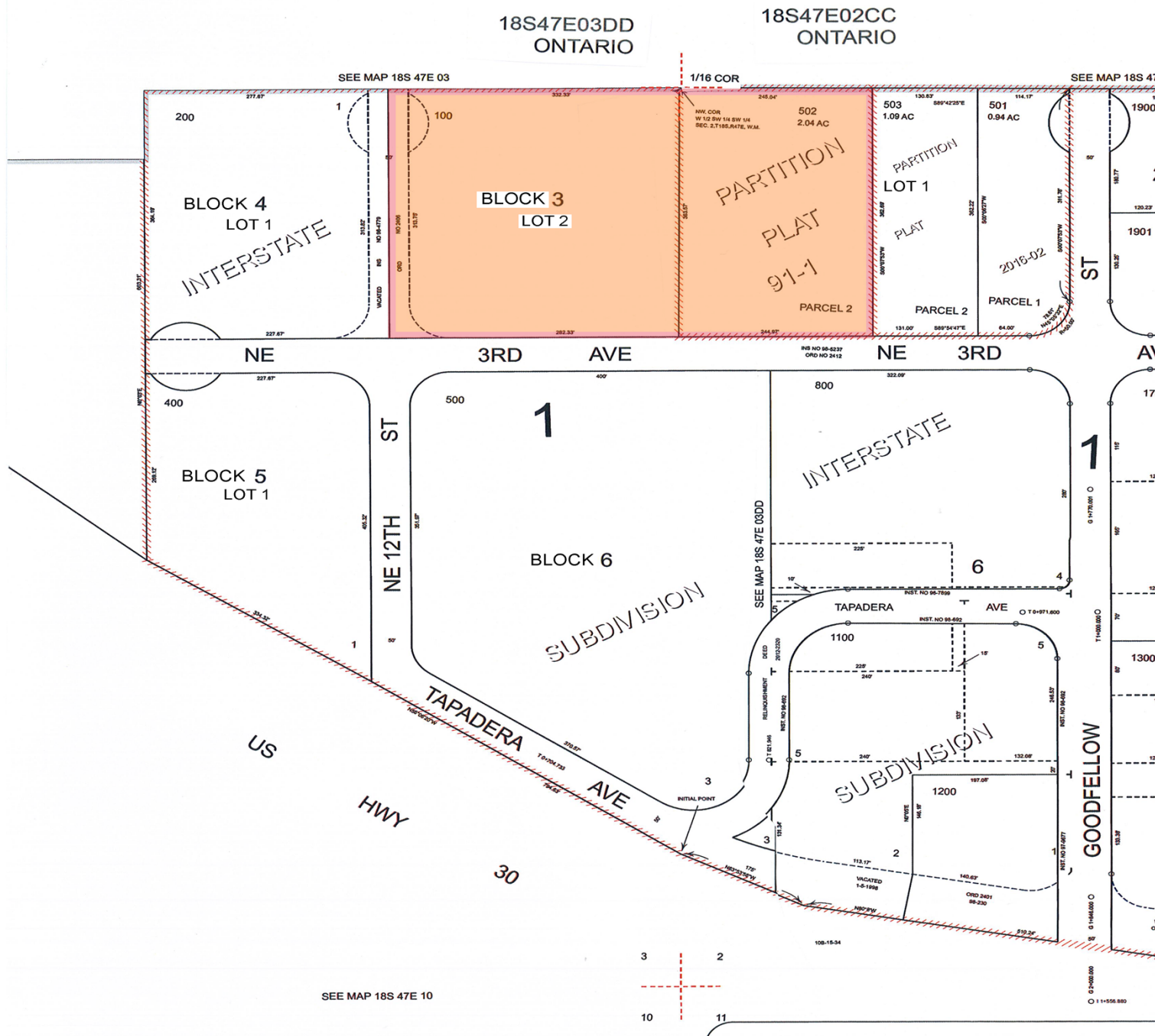
2406 recorded June 24, 1998, Inst. No. 98-4779, official records.

END OF DESCRIPTION

Subject property

S.E.1/4 S.E.1/4 SEC.3 T.18S. R.47E. W.M.
MALHEUR COUNTY
1" = 100'

S.W.1/4 S.W.
M.



Attachment #1

Zoning Map Amendment Application

Ontario Commons Affordable Housing Development Rezone

Submitted to:
City of Ontario
Planning & Zoning Department

Submitted on Behalf of:
Nascosto, LLC &
Home First Development Partners (HFDP)

Prepared by:
Angelo Planning Group



Submitted: May 2020

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EXHIBITS

- Exhibit A.** Application Form
- Exhibit B.** Site Plan for Potential Development
- Exhibit C.** Traffic Analysis

I. Proposal Summary Information

Applicant/Owner: Reece M. Hrizuk
Manager of Nascosto, LLC.
Attorney at Law
www.hrizuklaw.com
224 S.W. 3rd (Main) Street
Fruitland, Idaho 83619
[208.452.4000](tel:2084524000) office
[208.452.3044](tel:2084523044) fax

Land Use Planner: Angelo Planning Group
Attn: Frank Angelo
921 SW Washington St., Suite 468
Portland, OR 97205
503-577-4087
fangelo@angeloplanning.com

Transportation Engineer: Phill Worth
Kittelson & Associates
851 SW 6th Avenue, Suite 600
Portland OR 97204
503-228-5230
pworth@kittelson.com

Request: Zoning Map Amendment

Location: 1321 NE 3rd Avenue
Ontario, Oregon 97914

Legal Description: 18S47E02CC 502 (2.04 acres)
18S47E03DD 100 (2.98 acres)

Zoning Designation: Current: C-2-H (Heavy Commercial)
Requested: C-2(General Commercial)

Site Size: 5.02 acres

II. Project Description and Existing Conditions

A. Background

Home First Development Partners (HFDP) is proposing to develop 70 units of affordable housing in the City of Ontario. HFDP are affordable housing developers who aim to provide affordable housing, built affordably. They provide housing services ranging from Pre-Development to Property Management.

B. Site Context

The two tax lots that are the subject of this Zone Change request are located generally at 1321 NE 3rd Avenue, Ontario, Oregon 97914. The site is surrounded by primarily vacant land and commercial uses, such as office buildings, bottle drop redemption center, and a hotel (Figure 1). . The abutting zones are C-2-H, Heavy Commercial, and I2-UGA Heavy Industrial UGA (Figure 2), It has convenient access to the I-84/Idaho Ave. Interchange and businesses along Idaho Ave., both on the east and west sides of the interchange, which includes some large retailers such as Walmart and Home Depot, and several hotels.

Figure 1. Existing Conditions

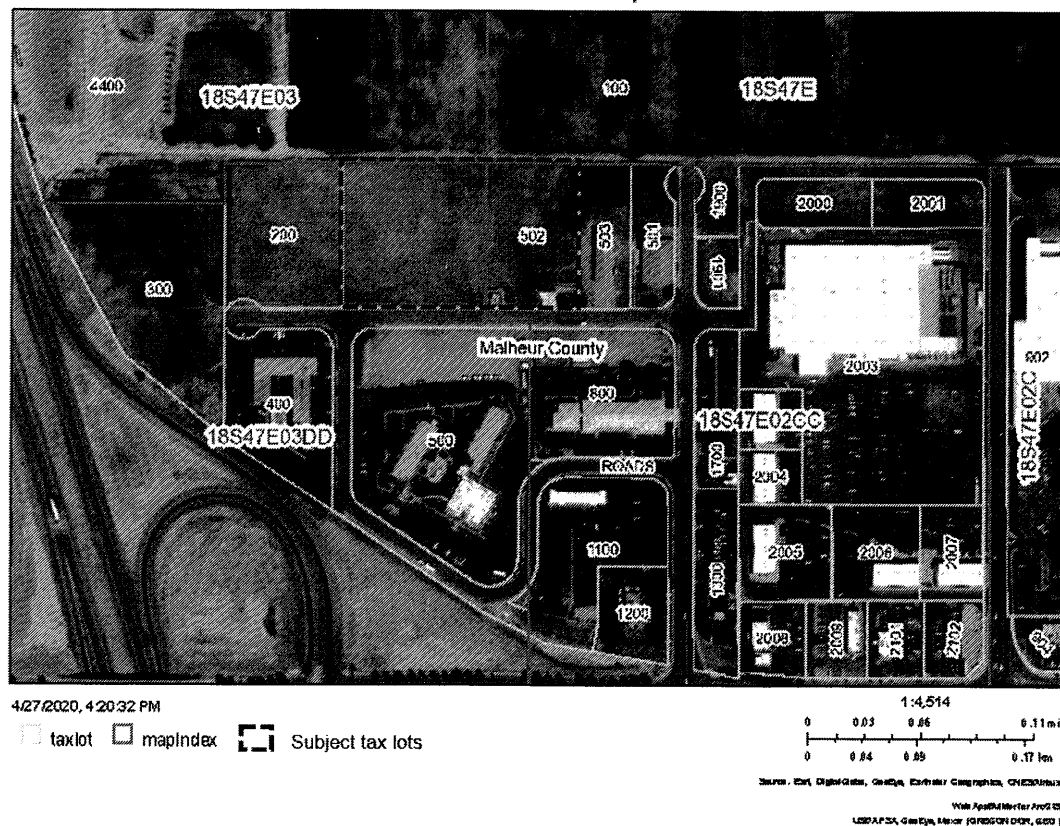


Figure 2. Current Zoning Map

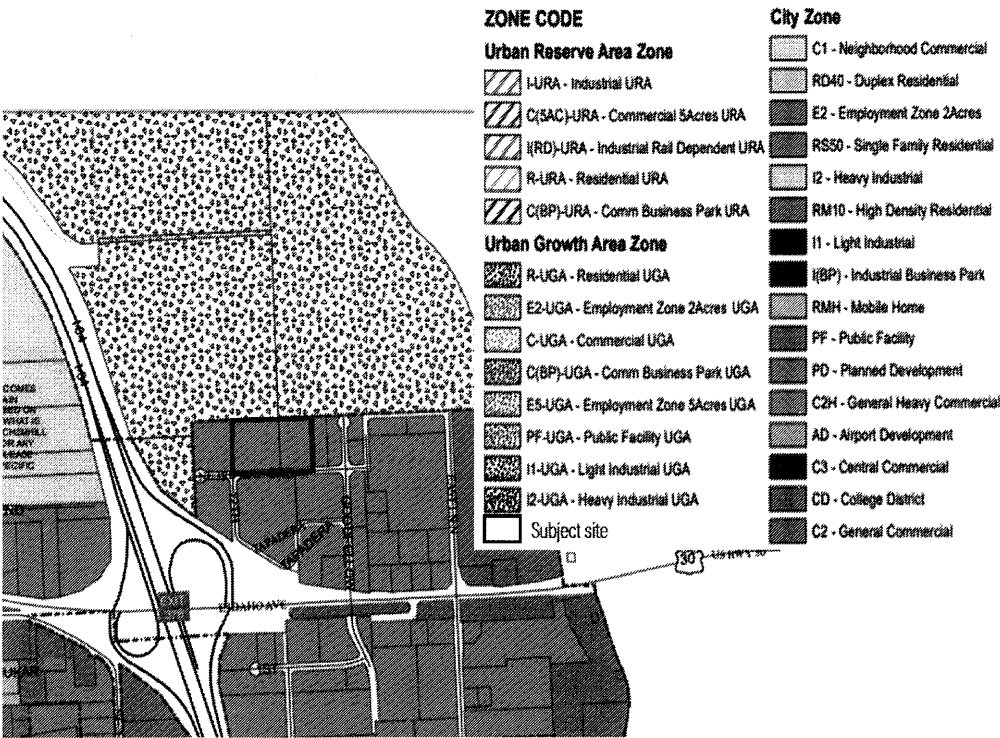
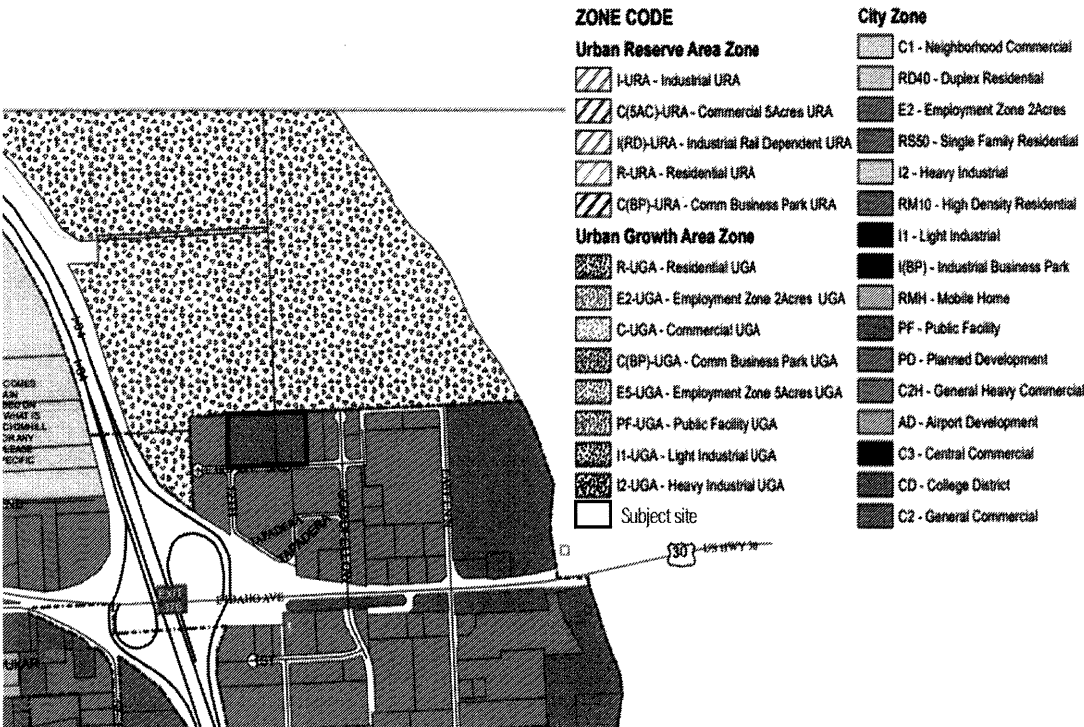


Figure 3. Proposed Zoning Map



C. Proposal

This application is for a Zone Change that will enable housing to be developed on the site. The proposed development will include 70 units of affordable housing. The site includes parking spaces for each residence, and shared spaces such as the clubhouse, courtyard, and play area for recreational use. The proposed site plan concept is shown in Exhibit B. A future development review application will present the full scope of the project to the City for review and approval.

D. Proposed Action/Requested Approval

The property's current zoning, C-2-H, Heavy General Commercial Zone, does not permit residential development:

Chapter 10A-31-05 C-2-H, Heavy General Commercial Zone – Principal Permitted Uses

The following principal uses are permitted as of right in the C-2-H Zone:

- 1. All principal uses allowed in the C-1 and C-2 commercial zones, except that dwellings are prohibited.*

The proposed action is to rezone the property to C-2, General Commercial Zone, which permits high density residential development:

Chapter 10A-29 - C-2, General Commercial Zone 10A-29-05 – Principal Permitted Uses

The following principal uses are permitted as of right in the C-2 Zone:

- 1. All principal uses allowed in the C-1, Neighborhood Commercial Zone shall be allowed in the C-2 Zone except that dwellings shall be constructed to the space limits of the RM-10, Multi-Family Residence Zone, and only Multi-Family Dwelling developments of 10 or more dwelling units are allowed.*

The Zoning Map Amendment (Zone Change) will facilitate construction of the proposed affordable housing project. The proposed housing project will have 70 units of affordable housing. By changing the zoning to C-2, General Commercial, rather than a high-density residential zone such as RM-10, the site will continue the zoning pattern of the area and will support continuation of the area as a commercial neighborhood. The site includes two tax lots totaling 5.02 acres. The two tax lots will likely be consolidated into a single tax lot as a part of the future development review application. The City's requirements for approval of a zone change are found in Chapter 10B-20 Quasi-Judicial Zoning Map Amendment of the Planning and Zoning Code Book. The Zoning Map Amendment Application form describes the specific review criteria a Zone Change application must address. The following section of this application presents the applicant's finding demonstrating compliance with the applicable rezone criteria.

IV. Conformance with Ontario Planning and Zoning Code

This section of the application contains responses that demonstrate how the Zoning Map Amendment request conforms to the applicable City of Ontario Planning and Zoning Code review criteria. Only Planning and Zoning Code text that contains applicable standards or otherwise requires a response related to the requested land use actions have been included.

10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA

In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:

- 1. Explain how the proposed zoning map amendment is in conformance with statewide planning goals and guidelines.***

Response: Statewide Planning Goals 1,2,9,10,11,12,14 apply to this zone change application.

Statewide Planning Goal 1, Citizen Involvement

Goal 1 requires that the city provide opportunities for public comment on quasi-judicial land use decisions. Once the zone change application has been submitted and determined to be Complete by the Planning Director, City staff will review the application and schedule a public hearing before the Planning Commission to make a recommendation to City Council. Public notices to property owners will be provided notifying them of their opportunity to provide comments on the project.

Response: Goal 1 will be met because the public hearings before the Planning Commission and City Council for this Zone Map Amendment will be duly notified in accordance with Ontario Zoning Ordinance Section 10A-47-110 – Public Hearings.

Statewide Planning Goal 2, Land Use Planning

Goal 2 requires coordination among governmental agencies, an adequate factual basis for decision-making, and consistency with the Ontario Comprehensive Plan.

Response: The application will follow the City's land use approval procedure, which has been designed to conform with Statewide Planning Goal 2. This will include:

- Providing 35-day notice of the initial public hearing to the Department of Land Conservation and Development.
- Coordination with the Oregon Department of Transportation (ODOT) on the transportation assessment prepared by the applicant.
- This application narrative provides an adequate factual basis for approval of the proposed zone change.
- As documented below, the zoning map amendment is consistent with the acknowledged

Ontario Comprehensive Plan.

Statewide Planning Goal 9, Economic Development

Goal 9 requires that cities provide sufficient suitable land for planned economic development consistent with the Ontario Comprehensive Plan.

Response: The subject site is currently zoned C-2-H, Heavy Commercial. The proposal would shift the 5-acre site to C-2, General Commercial. According the Buildable Land Inventory summary in the Comprehensive Plan, there is a deficit of commercially zoned land in the UGB. The proposed Zone Change does not reduce or increase the amount or availability of commercially zoned land.

Further a recent annexation into the City, approved in 2019, rezoned 9.7 acres from UGA RS-50, Urban Growth Area Residential, to I-1, Light Industrial. In the I-1 zone, heavy commercial uses permitted in the C-2-H zone are conditionally permitted; therefore, 9.7 acres could be potentially be available for the heavy commercial uses in the I-1 zone.

Statewide Planning Goal 10, Housing

Goal 10 requires that cities provide sufficient buildable residential land to meet identified housing needs.

Response: According to the City's Buildable Land Inventory there is a need for residential land for townhomes/condos equivalent to 39.4 acres by 2056. Further, the housing objective in the Comprehensive Plan (10-10-40) is "to provide for safe, sanitary, healthful and affordable housing for all Ontario citizens." The proposed Zone Change will provide an opportunity to permit multifamily development, which will ultimately increase the supply of affordable housing in Ontario by approximately 70 units through the proposed development.

Statewide Planning Goal 11, Public Facilities and Services

Goal 11 requires that public facilities be available and adequate to serve planned land uses.

Response: The subject site is located within the Ontario City limits in a developed area and has access to connect to existing City utilities. The site of the zone change is located in an area that is already served by local public facilities and law enforcement and fire protection.

Statewide Planning Goal 12, Transportation

Goal 12 requires that the zone change not have a significant adverse impact on transportation facilities that serve the site.

Response: Goal 12 aims to provide “a safe, convenient, and economic transportation system.” As described in the Trip Generation Assessment prepared by Kittelson & Associates (Exhibit C), uses in the C-2 zone will generate fewer trips on the surrounding transportation system than potential uses in the current C-2-H zone. The Kittelson & Associates memo notes: “...the proposed rezone from C-2-H to C-2 and residential development proposal is expected to generate fewer daily trips when comparing land uses that are unique to each zone”.

Because of this, it is expected that the site and surrounding transportation facilities will be able to accommodate uses in the C-2 zone and the proposed development while maintaining a safe, convenient, and economic transportation system.

Statewide Planning Goal 13, Energy

Goal 13 requires land uses developed to be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principals.

Response: The zone change will enable multifamily housing to be developed on the site. Multifamily and single family attached dwelling units are typically smaller and more efficient than single family detached dwellings and can be served much more efficiently from an energy perspective.

Furthermore, the location of multifamily development, near retail and employment areas encourages shorter distances to travel to access basic services, such as groceries, and commuting if residents of the site work at the nearby employment center.

Statewide Planning Goal 14, Urbanization

Statewide Planning Goal 14 requires that urban development be confined within Urban Growth Boundaries (UGB) and that cities and counties coordinate development within their shared UGB.

Response: The subject site is within the UGB and the Zone Change is consistent with Goal 14 as it will not result in any net change in commercially zoned property within the City limits. The proposed Zone Change will permit both commercial and residential development. As noted in the Goal 10 findings, the City’s Buildable Land Inventory has identified a need for land for townhomes/condos equivalent to 39.4 acres. This Zone Change will help the City meet its housing demand and to more efficiently use available land within the UGB, maximizing the ability to increase the availability of housing within the current UGB.

The proposed Zone Change will meet all applicable Statewide Planning Goals. Therefore, Criterion #1 is met.

2. Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive Plan.

Response: Applicable Comprehensive Plan policies, organized by chapter, are addressed below. Only applicable Comprehensive Plan policies are included.

Chapter 1: Citizen Involvement

Citizen Involvement Policies (10-1-5)

- 5) The Ontario City Planning Commission shall act as the committee for citizen involvement.*
- 6) The Council may of its own choice, or may upon the recommendation of the Commission, appoint such ad hoc citizen or agency committees, task forces, or other citizen or agency committees, task forces, or other advisory groups as are necessary to accomplish the planning needs of the community.*
- 7) The Planning Director shall be responsible for assuring that adequate publicity and information is available to the public and parties affected by planning related actions of the City. The Planning Director shall maintain contact with agencies that may have an interest in planning related actions.*

Response: The Ontario Planning Commission will make a recommendation to City Council, who will make determination on the request. Both hearings are public hearings, providing opportunities for public comment, and staff reports prepared for the hearings will be publicly available. The policies in Chapter 1 are met.

Chapter 2: Land Use Planning

10-2-4 - Policies: Land Use Planning, General

- 4. The land use planning process shall be utilized to assure an adequate supply of land, properly serviced, for the various residential, commercial, industrial, recreational and institutional needs of the community.*
- 5. Land use planning decisions, particularly quasi-judicial actions shall be in harmony with the policies adopted in this document.*

10-2-5 - Policies: Visual Image, Development Pattern

- 3. New development shall not be scattered and disjointed so as to increase the costs of supplying services and facilities.*

Response: The subject site is currently zoned C-2-H, Heavy Commercial. The proposal would shift the 5-acre site to C-2, General Commercial. According the Buildable Land Inventory summary in the Comprehensive Plan, there is a deficit of commercially zoned land in the UGB. The proposed Zone Change does not reduce or increase the amount or availability of commercially zoned land in the City

Further a recent annexation into the City, approved in 2019, rezoned 9.7 acres from UGA RS-50, Urban Growth Area Residential, to I-1, Light Industrial. In the I-1 zone, heavy commercial uses

permitted in the C-2-H zone are conditionally permitted; therefore, 9.7 acres could be potentially be available for the heavy commercial uses in the I-1 zone.

As previously noted, the proposed 70 townhomes of affordable housing that could be built in the C-2 zone will increase the housing diversity options in Ontario and will provide housing option for those who are low-income. The Buildable Land Inventory indicated a future need for land for townhome/condo development, approximately 39.4 acres by 2056. The policies of Chapter 2 are met.

Chapter 9: Economic Development

10-9-4 - Findings: Site Suitability Requirements

Table 9-2. Buildable lands zoned for employment, Ontario UGB, 2007

<i>Zone</i>	<i>Total Acres</i>	<i>Acres Unavailable for Development</i>	<i>Acres Available for Development</i>
<i>Commercial Zones</i>			
<i>C1</i>	<i>0.6</i>	<i>0.2</i>	<i>0.4</i>
<i>C2</i>	<i>4.1</i>	<i>2.6</i>	<i>1.5</i>
<i>C2H</i>	<i>14.2</i>	<i>0.0</i>	<i>14.2</i>
<i>GA_C</i>	<i>232.3</i>	<i>23.0</i>	<i>209.3</i>
<i>ES</i>	<i>59.1</i>	<i>41.6</i>	<i>17.5</i>
<i>Total</i>	<i>310.2</i>	<i>67.4</i>	<i>242.9</i>
<i>Industrial</i>			
<i>I1</i>	<i>2.7</i>	<i>0.0</i>	<i>2.7</i>
<i>I2</i>	<i>22.6</i>	<i>0.0</i>	<i>22.6</i>
<i>UGA_I1</i>	<i>41.1</i>	<i>38.9</i>	<i>2.2</i>
<i>UGA_I2</i>	<i>219.9</i>	<i>51.4</i>	<i>168.5</i>
<i>Subtotal</i>	<i>286.4</i>	<i>90.3</i>	<i>196.1</i>

Response: Table 9.2 reflects the imbalance in the availability of C-2 land in comparison to land zoned C-2-H. The proposed Zone Change will shift 5.02 acres from C-2-H to C-2, which will create a better balance of available land in both zones. It would shift the available acres for development by zone to:

- C-2-H: 9.18 acres, and
- C-2: 6.52 acres.

Further, a 2019 rezone in the City increased the available I-1 land to approximately 12 acres. The I-1 zone conditionally permits the uses allowed in the C-2-H zone. Additionally, there are still 239 acres of commercially zoned land available for development. The change in commercial zones will promote a diversity in the options for development on commercially zoned land in Ontario.

Chapter 10: Housing

10-10-2 - Findings: Housing Need

Ontario will need to provide about 2,936 new dwelling units to accommodate growth between 2007 and 2027 and 9,042 new dwelling units to accommodate growth between 2007 and 2057. Housing needs are particularly acute for lower income households, young families, active retirees, and correctional facility workers. The housing needs analysis found a deficit of units to accommodate both low- and high-income households, and a surplus of units in middle-income ranges. These housing needs will require a variety of housing types and densities.

Ontario will need about 782 buildable acres to accommodate new housing growth between 2007 and 2027 and 2,386 total acres between 2007 and 2057. The needed residential mix is 65 percent single-family, seven percent manufactured (mobile home), and 28 percent multiple family (seven percent condo/ townhomes and 21 percent multi-family). The forecast results in average residential densities of 4.9 dwelling units per net acre and 3.8 dwelling units per gross acre in 2027.

Table 10-1. Forecast of needed housing units, Ontario, 2006-2026 and 2006-2056

<i>Housing Type</i>	<i>New DU</i>	<i>Percent</i>	<i>Density (DU/net res ac)</i>	<i>Net Res. Acres</i>	<i>Net to Gross Factor</i>	<i>Gross Res. Acres</i>	<i>Density (DU/gross res ac)</i>
<i>Condo/Townhouse</i>	<i>206</i>	<i>7%</i>	<i>8.0</i>	<i>25.7</i>	<i>15%</i>	<i>30.2</i>	<i>6.8</i>

10-10-4 - Housing Objective

To provide for safe, sanitary, healthful and affordable housing for all Ontario citizens.

10-10-6 - Policies: Housing

Housing design and construction methods that result in the efficient use of land, materials, public facilities and energy shall be encouraged through land use regulations.

4. The City's capital improvement program shall take into consideration the housing needs of the community and the resulting implications for public facilities and services.

8. The City shall encourage innovation in residential design, development and redevelopment consistent with [the] land development code and any other applicable regulations and community goals.

13. As a way of increasing housing variety and affordability in Ontario and promoting development and redevelopment of downtown, City policies and implementation measures shall allow for and support housing in Downtown Ontario, particularly as part of mixed use developments with commercial and institutional uses.

Response: The proposed Zone Change to C-2 will provide increased opportunities for diverse housing types and affordable housing options in Ontario that will benefit the Ontario residents and help minimize the needs for condo/townhouse development. As previously noted, the C-2 zone allows residential development as a permitted use.

Chapter 10A-29 - C-2, General Commercial Zone

10A-29-05 – Principal Permitted Uses

The following principal uses are permitted as of right in the C-2 Zone:

- 1. All principal uses allowed in the C-1, Neighborhood Commercial Zone shall be allowed in the C-2 Zone except that dwellings shall be constructed to the space limits of the RM-10, Multi-Family Residence Zone, and only Multi-Family Dwelling developments of 10 or more dwelling units are allowed*

According to the City's Buildable Land Inventory there is a need for residential land for townhomes/condos equivalent to 39.4 acres by 2056. The proposed Zone Change will provide an opportunity to permit multifamily development, which will ultimately increase the supply of affordable housing in Ontario by approximately 70 units.

Chapter 12: Transportation

Transportation Policies (10-12-4)

- 1) Establish a transportation system that can accommodate a wide variety of travel modes and minimizes the reliance on any one single mode of travel.*
- 2) Properly plan transportation infrastructure to meet the level of service set for each type of facility.*
- 3) Maintain a level of service standard of LOS D or better for signalized intersections and a level of service of LOS E at unsignalized intersections if the intersection does not meet the most current Manual of Uniform Traffic Control Devices (MUTCD) signal warrants. If the intersection meets signal warrants, then the level of service standard for the unsignalized intersection shall be LOS D. At least two MUTCD signal warrants shall be met prior to consideration of signalization. A traffic study shall be conducted to analyze the potential installation of a signal that includes average daily traffic counts by hour on all intersection approaches, a signal warrant analysis based on the most recent MUTCD, and any other factors identified by a traffic engineer deemed as a factor for signalization such as poor sight distance, vehicle travel speed, and intersection geometric conditions. For Oregon Department of Transportation (ODOT) facilities, the City of Ontario shall defer to ODOT mobility standards described in the most recent version of the Oregon Highway Plan.*
- 4) Develop a local street plan to preserve future rights-of-way for future streets and to maintain adequate local circulation in a manner consistent with Ontario's existing street grid system.*
- 5) Require developments to construct their accesses consistent with the local street plan.*

6) *Develop an access management policy for the local arterial system and direct commercial development access to local streets wherever possible.*

Response: Kittelson and Associates prepared a Trip Generation Assessment that analyzed the trip generation potential associated with changing the zoning of the 5.02-acre site in from C-2-H: Heavy Commercial General Zone to C-2: General Commercial Zone. As described in the Trip Generation Assessment (Exhibit C), uses in the C-2 zone will generate fewer trips on the surrounding transportation system than potential uses in the current C-2-H zone. The Kittelson & Associates memo notes: "...the proposed rezone from C-2-H to C-2 and residential development proposal is expected to generate fewer daily trips when comparing land uses that are unique to each zone".

Because of this, it is expected that the site and surrounding transportation facilities will be able to accommodate uses in the C-2 zone and the proposed development while maintaining a safe, convenient, and economic transportation system. Issues related to site access, circulation and access management will be addressed during the future development review process.

Chapter 13: Energy Conservation

10-13-4 - Policies: Energy Conservation

2. *The City shall plan land uses so as to minimize the need to travel within the City by motorized vehicle. The City shall encourage alternative modes of travel such as walking, bicycling or car pooling wherever feasible and appropriate.*

Response: The proposed zone change will promote residential development near employment and commercial centers – retail, hospitality, and industrial areas, which could provide employment opportunities to residents within a short distance, encouraging use of alternative modes of transportation. Further, the short distance to retail encourages use of alternative travel modes for common retail trips.

Chapter 14: Urbanization

10-14-5 - Findings: Long Range Buildable Land Needs

Table 14-3. Land need estimates, Ontario UGB, 2006-2026 and 2006-2056

<i>Land Use</i>	<i>Land Need (acres)</i>	
	<i>2006 – 2026</i>	<i>2006-2056</i>
<i>Residential</i>		
<i>Condo/Townhomes</i>	<i>16.8</i>	<i>39.4</i>

<i>Multifamily</i>	<i>40.3</i>	<i>94.3</i>
<i>Subtotal – Residential</i>	<i>593.4</i>	<i>1,387.9</i>
<i>Non-Residential (Employment)</i>		
<i>Retail and Services</i>	<i>254.1</i>	<i>719.7</i>
<i>Industrial</i>	<i>307.3</i>	<i>626.9</i>

Response: The Buildable Land Needs show a long-term need in all housing types including multifamily and townhomes. By 2056, 39.4 acres of land zoned for condo/townhomes is needed. The proposed development will provide additional opportunities to meet the need for land for condo/townhomes.

Table 14-4: Ontario Land Need and Supply 2006-2026 (Revised 2013)

<i>Land Use</i>	<i>Need</i> <i>2006 – 2026</i>	<i>Surplus (Deficit)</i> <i>2006-2056</i>
<i>Commercial</i>	<i>254.1</i>	<i>(11.2)</i>
<i>Residential</i>	<i>593.4</i>	<i>34.5</i>

Response: The proposed Zone Change does not reduce or increase the amount or availability of commercially-zoned land in the City.

Conclusion: The proposed zoning map amendment is in conformance with all relevant Acknowledged Comprehensive Plan policies. Criterion #2 is met.

3. As applicant, you must explain how there has been a mistake or error in the original zone designation or a change in physical, social or market conditions generally affecting the area, which makes this proposed zone change appropriate.

Response: The Ontario Comprehensive Plan designations were updated in 2007. The subject properties have been zoned C-2-H since 2007 and have yet to be developed for that use. The proposed zoning amendment is to change the zoning from C-2-H, Heavy Commercial, to C-2, General Commercial. The C-2 zone permits dwellings, including multifamily development greater than 10 units. The Zone Change will facilitate construction of the proposed affordable housing project. The proposed housing project will have 70 units of affordable housing. By changing the zoning to C-2, General Commercial, rather than a high-density residential zone such as RM-10, the

site will continue the zoning pattern of the area and will support continuation of the area as a commercial neighborhood. The site includes two tax lots totaling 5.02 acres.

Since 2007 socioeconomic conditions in Ontario and the greater region have evolved and the need for affordable housing has continued to grow. The housing crisis in Oregon and Ontario, both the availability and affordability of housing has become increasingly prominent. Additionally, many of Ontario's residents are in poverty, approximately 38 percent of Ontario residents live in poverty.¹ From 2010-2014 there was a deficit of 1,850 affordable and available affordable housing units for those who make less than 80% the median family income in Malheur County. In Malheur County it is estimated 1 in 3 renters are rent burdened (spend 30% or more of income on rent) and 2 in 3 are severely rent burdened (spend 50% or more of income on rent).²

Therefore, the need for affordable housing in Ontario and the greater region is clear and the proposed location is an appropriate location for higher density residential uses. With close proximity to a retail hub in the community, the Ontario Commons can provide employment opportunities. Given the abundance of services and essentials located within a relatively short distance from the Ontario Commons, residents will be less reliant on a car, which is often a significant expense for those in poverty.

4. As applicant, you must show a public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.

Response: As previously mentioned in the response to Criterion #3, there is a significant lack of affordable housing to meet the housing needs of the community. The proposed Zone Change to C-2 will benefit the overall community and will facilitate the opportunity to provide affordable multi-family development near an employment center with retail, hospitality, and industrial jobs. In addition, the benefit of higher density housing is the ability to provide more housing in a more efficient manner from a public facilities perspective. The criterion is met.

5. Explain how the property affected by the change, if approved, is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.

Response: The proposed Zone Change would result in a zoning map amendment to change the two subject tax lots from C-2-H to C-2. Multifamily dwellings of 10 or more are permitted as a principal use in the C-2 zone but are subject to the space limit of the RM-10, Multi-Family Residence Zone, pursuant to Section 10A-29-05-1. As shown in the Site Plan (Exhibit B), the site is

¹ Source. US Census 2016 ACS Community Survey.

² Source: Oregon Housing and Community Services. White Paper Malheur County Housing Data and Demographics. Available at: <https://www.oregon.gov/ohcs/DO/shp/profiles/Malheur-County-Housing-Profile.pdf>

adequate size to develop 70 townhomes and includes space for parking and communal spaces, such as playground and a courtyard. Site Development review will be a subsequent approval process following rezoning, in which compliance with the proposed development will be reviewed for compliance with City standards. The criterion is met.

6. Explain how the property affected by the proposed change of zone is properly related to streets and other public facilities and with services adequate to meet the demands of the uses allowed in the new zone. This shall explain how this proposal will not absorb a disproportionate share of public facilities, utilities and general assets.

Response: Kittelson and Associates prepared a Trip Generation Assessment that analyzed the trip generation potential associated with changing the zoning of the 5.02-acre site in from C-2-H: Heavy Commercial General Zone to C-2: General Commercial Zone. As described in the Trip Generation Assessment (Exhibit C), uses in the C-2 zone will generate fewer trips on the surrounding transportation system than potential uses in the current C-2-H zone. The proposed Zone Change will not cause adverse effects.

The site will connect to the City's existing water, sewer, and stormwater systems which have been sized to accommodate urban / commercial level development in this area. The Zone Change from C-2-H, which allows heavy commercial uses to C-2 General Commercial will not alter the demand on existing water, sewer, and stormwater systems. Any future residential development project will evaluate and provide necessary public facilities needed to serve the future development. The criterion is met.

7. Explain how the proposed change in zoning will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

Response: The proposed Zone Change is expected to lead to the development of 70 townhomes. The townhomes will be a residential property that will not generate excess dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land that would disrupt neighboring properties. As a residential property, the City's general site performance standards in Section 10A-57-10 will apply when a development application is submitted to the City. It is expected that any future residential development will be able to comply with the City's performance standards. The criterion is met.

III. Overall Conclusion

The proposed Zone Change complies with all of the review factors found in Chapter 10B-20 Quasi-Judicial Zoning Map Amendment of the Planning and Zoning Code Book. The applicant requests that the Planning Commission recommend to the City Council approval of the Zone Change from C-2-H, Heavy General Commercial Zone to C-2, General Commercial Zoning.

Attachment #2



LAND USE PLANNING
TRANSPORTATION PLANNING
PROJECT MANAGEMENT

MEMORANDUM

Ontario Commons Affordable Housing Development Project Traffic Assessment Assumptions

DATE April 25, 2020
TO Phill Worth, KAI
FROM Frank Angelo, APG
CC

For the Traffic memo analysis can you assume that since both the current zone (C-2-H) and the proposed zone (RM-10) allow as a permitted use the medical / dental use, that the impacts would be the same. Since the zone change is being done to allow a 70 unit multi-family affordable housing development (see attached site plan) could you do the trip generation for this as well and compare to the medical / dental?

For the medical / dental, here are the site calculations I came up with. Let me know if you think they OK.

Current Zoning is C-2-H, Heavy General Commercial Zone. This zone allows all the uses in C-1 Neighborhood Commercial and C-2 General Commercial. The C-1 zone allows as a Principal Permitted Use:

19. Medical, dental or other health professional office or clinic for humans.

The C-2-H, Heavy Commercial Zone also allows as a Principal Permitted Use:

3. Wholesale stores with stock; (I take this to mean a Costco-style store – this could be the “worst case use in the current zone – but I’m not sure the large format could fit on the 5acre site with parking – but a grocery store certainly could).

Proposed Zone is RM-10, High Density, Multi-Family Residence Zone. In addition to the multi-family residential uses, this zone allows as a Principal Permitted Use:

13. Medical, dental or other health professional office or clinic for humans

Site Calculations:

RM-10 and C-2-H with Medical, Dental Offices:

Tax Lot 100 = 2.98 acres

Tax Lot 500 = 2.04 acres

Total = 5.02 acres

X 43,560

218,671sf

X .15 (landscape)

32,800sf

= 185,871sf

X .25 coverage

= 46,468sf of medical / dental space

Parking at 1 / 300sf = 46,468 / 300 = 155 spaces

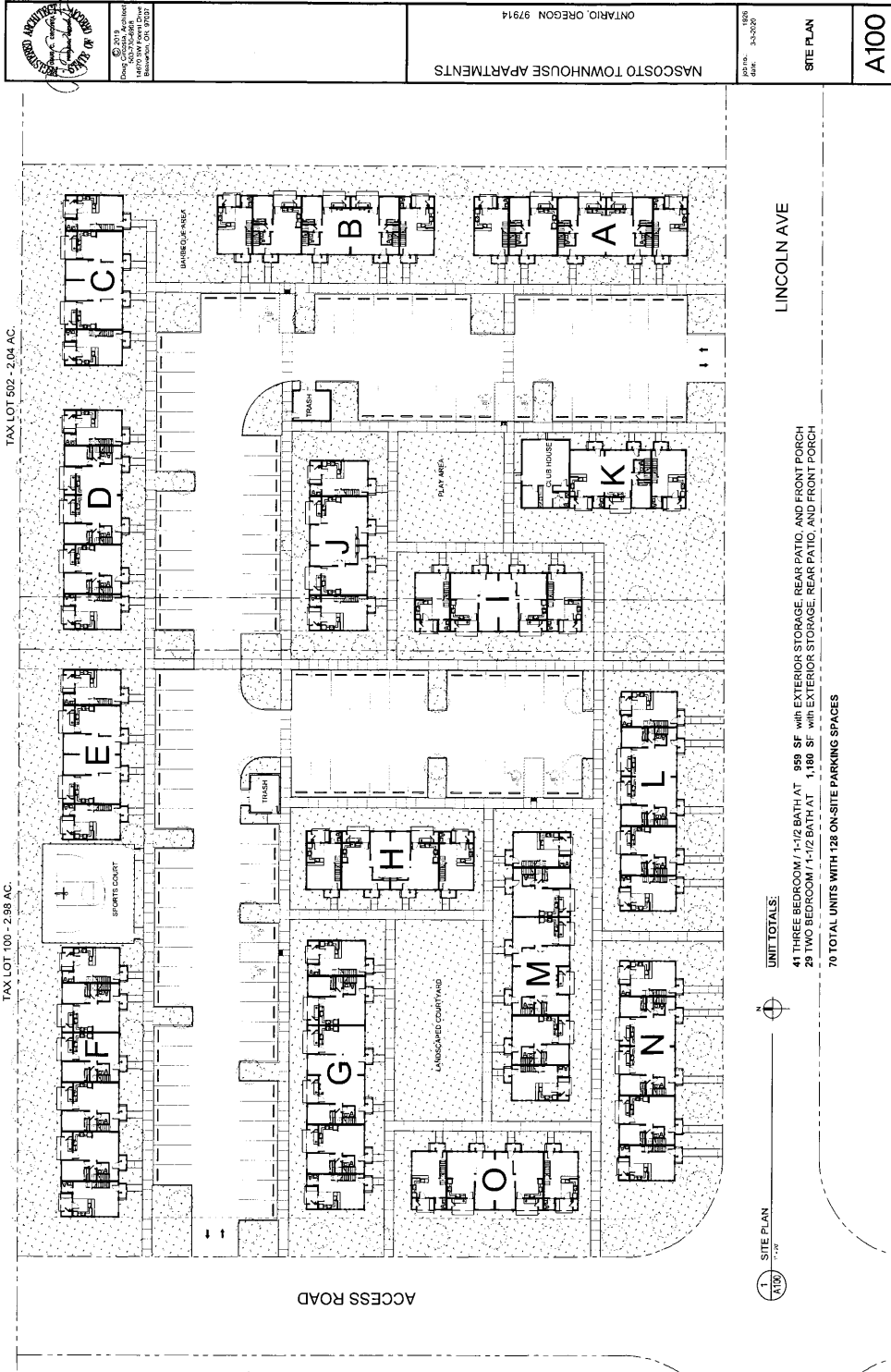
155 spaces at 900sf / space (includes circulation) = 155 x 900sf = 139,500 sf for parking area

32,800sf (landscape)

46,468sf (med/dental use)

139,500sf (parking)

218,768sf



© 2017 David C. Smith 10000 State of Oregon Professional Engineer	NASCOSTO TOWNHOUSE APARTMENTS ONTARIO, OREGON 97914	100% DATE: 03-2020
	SITE PLAN	A100

UNIT TOTALS:

41 THREE BEDROOM / 1-1/2 BATH AT 999 SF WITH EXTERIOR STORAGE, REAR PATIO, AND FRONT PORCH
 29 TWO BEDROOM / 1-1/2 BATH AT 1,186 SF WITH EXTERIOR STORAGE, REAR PATIO, AND FRONT PORCH
 70 TOTAL UNITS WITH 128 ON-SITE PARKING SPACES



325 NE Goodfellow St, Ontario, X



Show search results for 325 NE Go...

200

100

502

NE 3rd Ave

299

NE 12th St

400

500

100

Tapad

Tapadera

116°56'48"W 44°01'43"N

Oregon Statewide Imagery Program (OSIP) - Oreg...

April 29, 2020

Project #: 25200

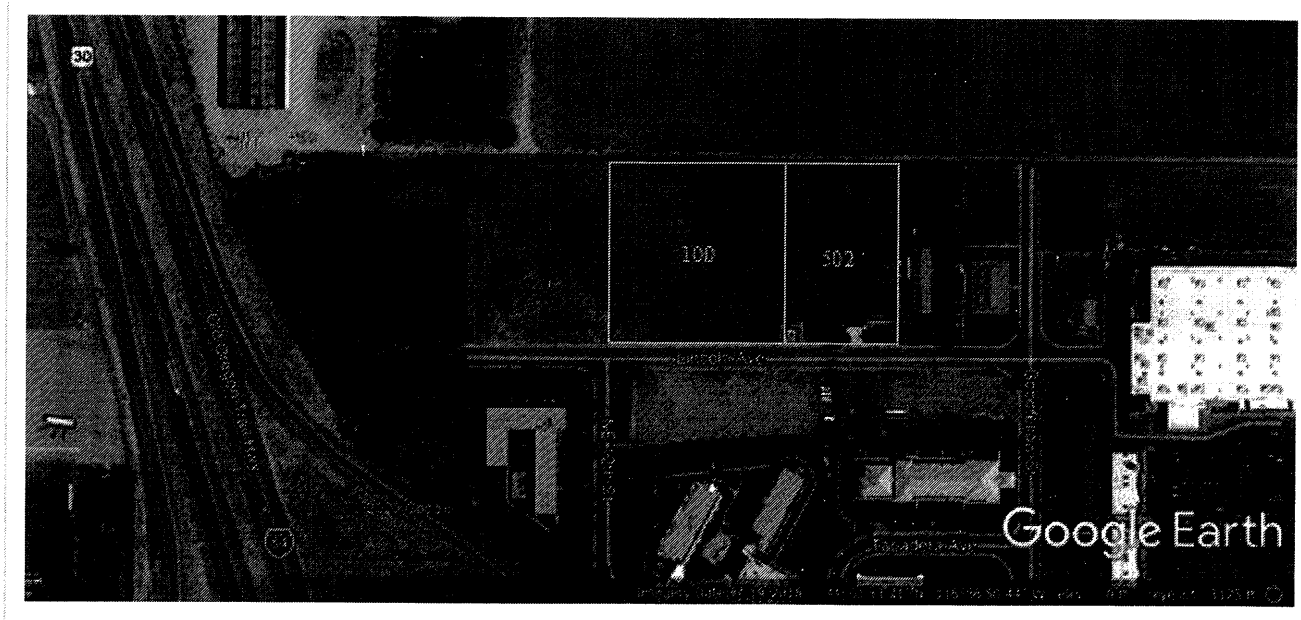
Frank Angelo
Angelo Planning Group
921 SW Washington Street, #468
Portland, OR 97205

RE: Trip Generation Assessment – Ontario Commons Rezone

Dear Frank,

This letter documents the trip generation potential associated with changing the zoning of an approximately 5.02-acre site in Ontario, Oregon from C-2-H: Heavy Commercial General Zone to C-2: General Commercial Zone. The undeveloped site is located in Ontario, on NE 3rd Avenue (Lincoln Avenue), near the intersection with NE 12th Street, and comprises two tax lots (100 and 502) with a combined development capacity of approximately 46,468 square feet¹. A site vicinity map is shown below.

Figure 1. Site Vicinity Map



The applicant seeks approval for the zone change. The purpose of this assessment is to determine if the zone change has the potential, under a reasonable worst-case comparison of allowed uses, to generate

¹ Location and developable area assumed from memorandum provided on April 25, 2020 (included as Attachment A).

more net new vehicle trips than current zoning has anticipated. Additional details of the proposed development and trip generation characteristics are provided herein.

ZONING COMPARISON

The existing C-2-H zone represents a commercial designation that does not allow for residential housing development. All commercial uses allowed in the C-2 zone are also allowed in the C-2-H zone.

Eight additional uses are allowed in the C-2-H zone that are excluded from the C-2 zone. Among these uses unique to the C-2-H zone, the highest trip generating land use is the “wholesale store with stock” designation. This designation could be interpreted to allow such uses as Discount Club, Discount Superstore, and Discount Supermarket, as defined in the Institute of Transportation Engineers’ *Trip Generation*, 10th Edition.

As stated above, the unique C-2 zone land use is residential dwellings, which has lower trip-generating characteristics than many commercial land uses. As such, the highest commercial trip generator that could be identified within the existing C-2-H zoning is thus expected to be at least equal to or greater than the highest commercial trip generator within the C-2 zone. As such, no trip generation-based impact is anticipated based on the proposed zone change.

For the proposed allowable housing development under C-2 zoning, ITE land use category Multi-Family Housing has among the highest trip generating characteristics for a site of this size. A comparison of this land use type to the reasonable maximum development for the existing C-2-H commercial zoning is illustrated in the following trip generation assessment.

TRIP GENERATION ASSESSMENT

Trip generation estimates for the proposed zone change are based on trip rates from *Trip Generation*, 10th Edition (published by the Institute of Transportation Engineers). A reasonable maximum trip generation development scenario for the existing C-2-H zoning is represented by ITE Land Use 854 (Discount Supermarket), which is consistent in size and characteristics to other commercial developments within the C-2 and C-2-H zoning designations.

The trip generation is summarized in Table 1.

As shown in Table 1, the proposed Multi-Family Housing development (70 units) is estimated to generate approximately 381 daily vehicle trips, 25 weekday AM peak hour trips, and 31 weekday PM peak hour trips. Compared to the C-2-H Discount Supermarket, the proposed C-2 Multi-Family Housing is estimated to generate 3,842 fewer daily trips, 93 fewer weekday AM trips, and 358 fewer weekday PM peak hour trips.

Table 1 Trip Generation Estimate

Land Use	ITE	Size (units or square feet)	Daily Trips	Weekday AM Peak Hour			Weekday PM Peak Hour Trips		
				Total	In	Out	Total	In	Out
Proposed Zoning									
Multi-Family Housing (General Urban/Suburban)	221	70 ¹	381	25	7	18	31	19	12
Existing Zoning									
Discount Supermarket	854	46,468 ²	4,223	118	68	50	389	195	194
Trip Differential (Proposed – Existing)			(3,842)	(93)	(61)	(32)	(358)	(176)	(182)

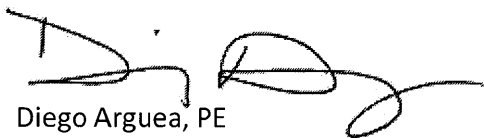
¹ – Housing units

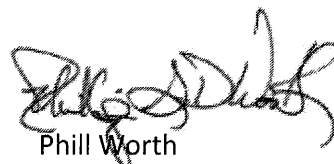
² – Square feet

SUMMARY

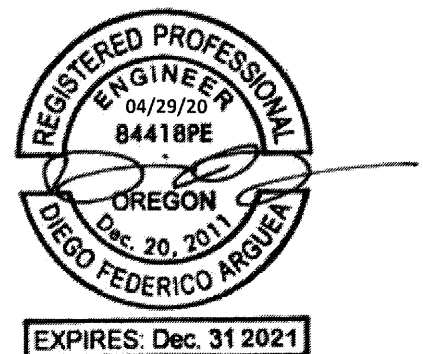
Based on the available information and the trip generation estimate provided herein, the proposed rezone from C-2-H to C-2 and residential development proposal is expected to generate fewer daily trips when comparing land uses that are unique to each zone. Please call us at 503-228-5230 if you have any questions as you review this material.

Sincerely,
KITTELSON & ASSOCIATES, INC.

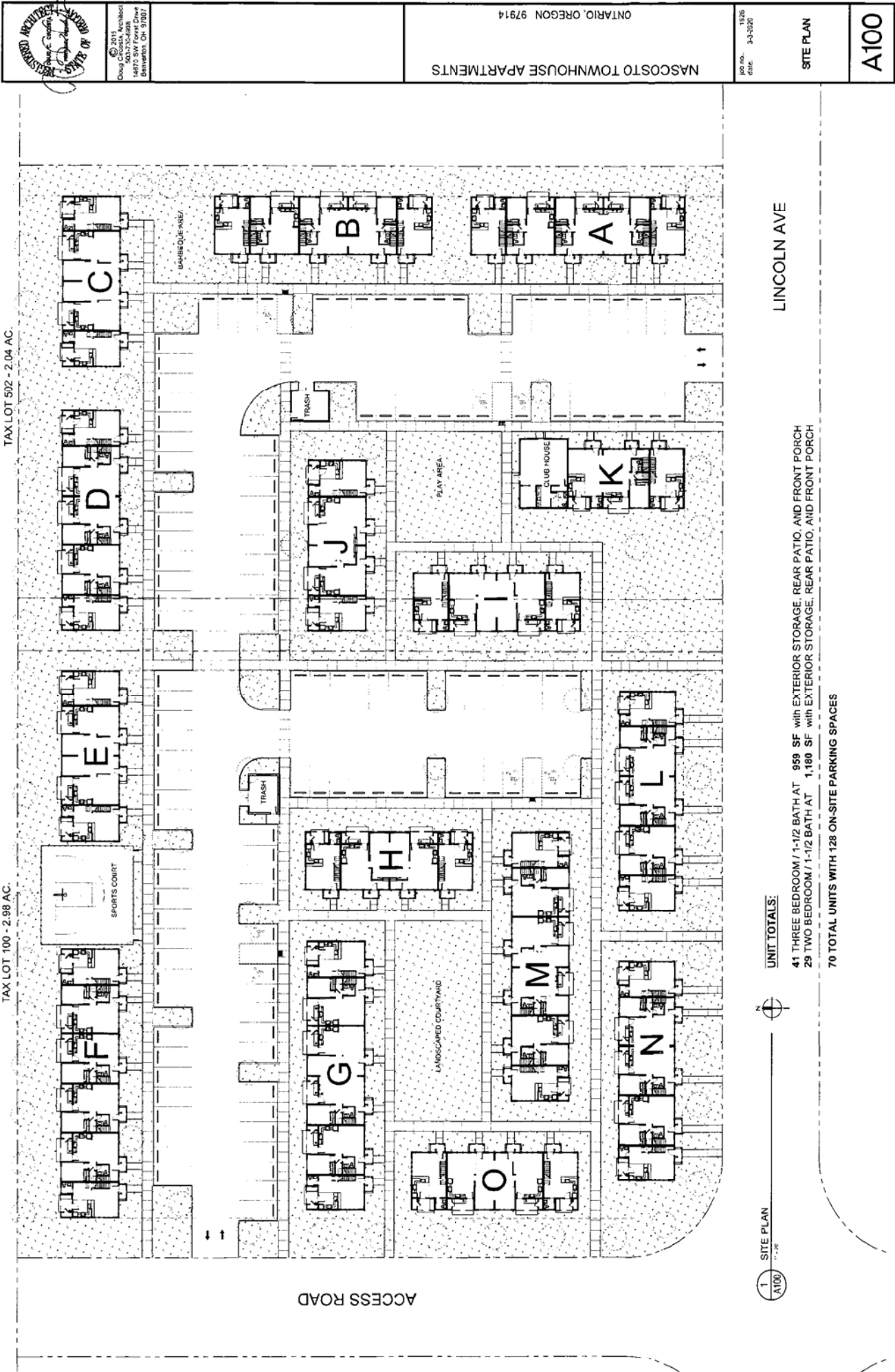

Diego Arguea, PE
Associate Engineer


Phill Worth
Principal Planner

Attachment A: Land Use Assumptions (April 25, 2020)



Attachment #4



1
A100

SITE PLAN
1" = 10'

UNIT TOTALS:

41 THREE BEDROOM / 1-1/2 BATH AT 959 SF with EXTERIOR STORAGE, REAR PATIO, AND FRONT PORCH
29 TWO BEDROOM / 1-1/2 BATH AT 1,180 SF with EXTERIOR STORAGE, REAR PATIO, AND FRONT PORCH

70 TOTAL UNITS WITH 128 ON-SITE PARKING SPACES

LINCOLN AVE

NASCOSTO TOWNHOUSE APARTMENTS
ONTARIO, OREGON 97914

SITE PLAN

A100



© 2011
Doug Calogian, Architect
901.775.6488
14971 State of Oregon
Beverly Hills, OH 51207

10/26
3-3-2020

Attachment #5

S.E.1/4 S.E.1/4 SEC.3 T.18S. R.47E. W.M.
MALHEUR COUNTY
1" = 100'

0 50 100 150 200 Feet

S.W.1/4 S.W.
M.

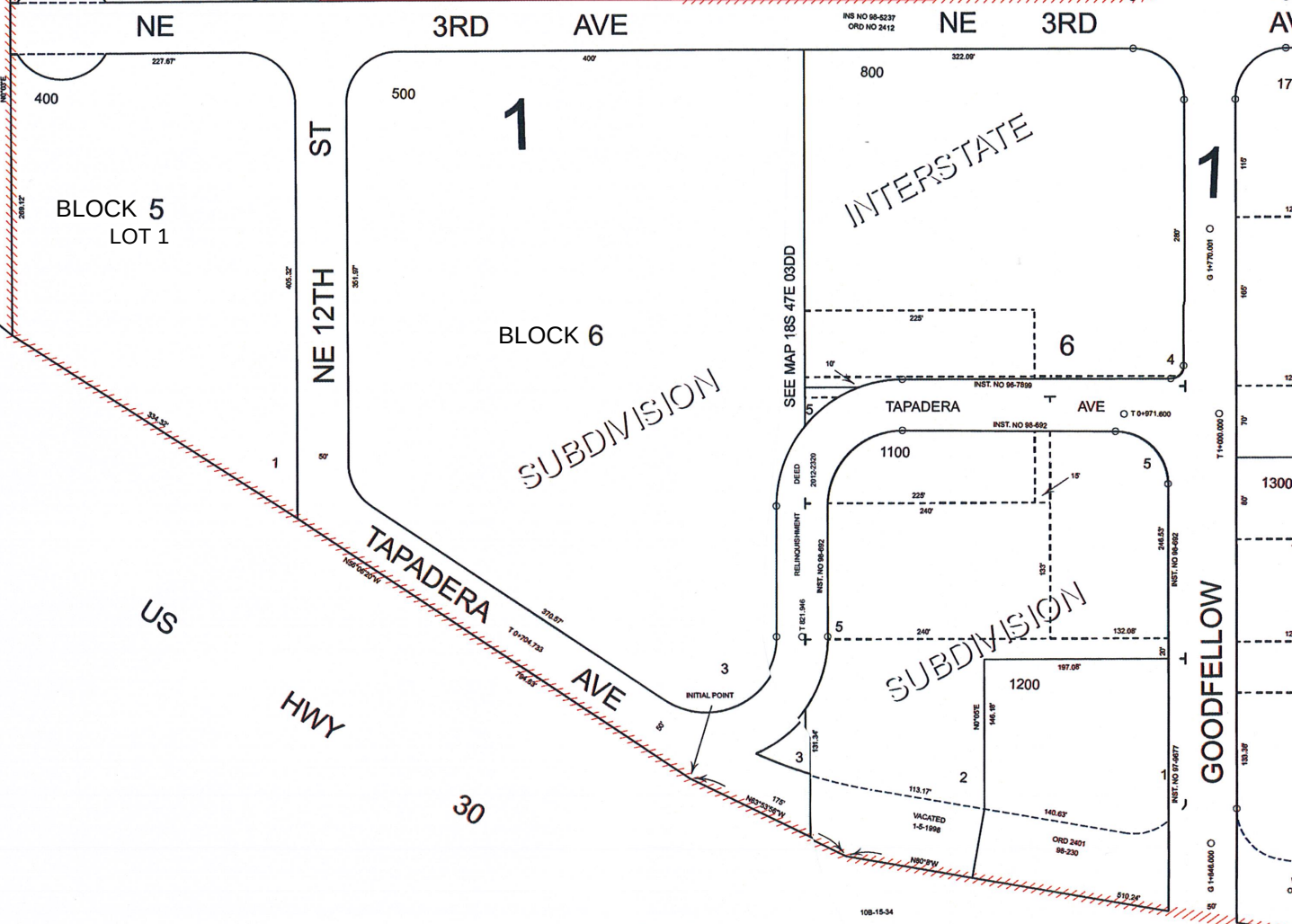
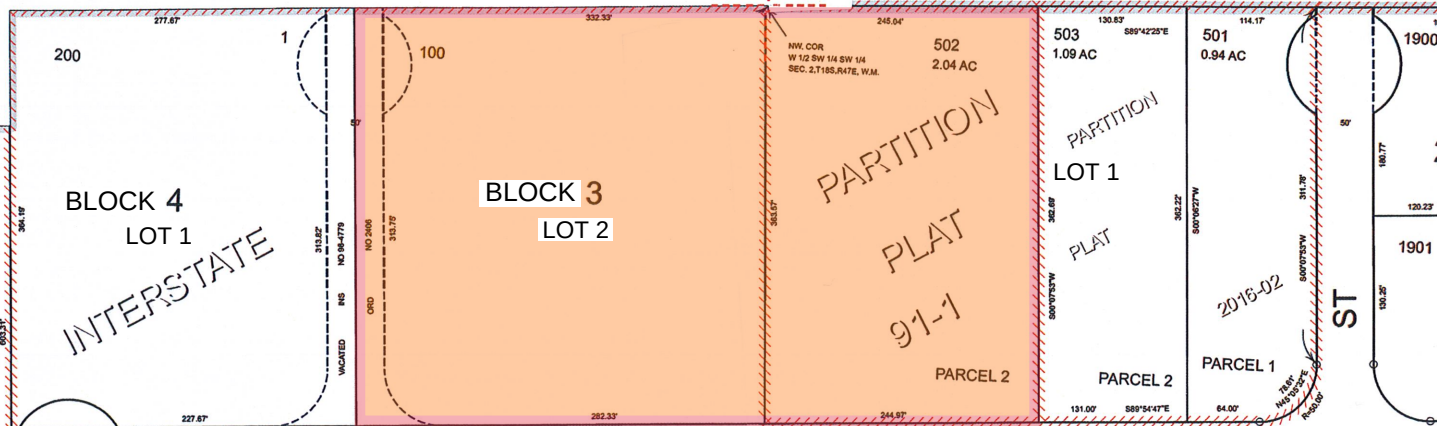
18S47E03DD
ONTARIO

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ONTARIO

SEE MAP 18S 47E 03

1/16 COR

SEE MAP 18S 47E 04



SEE MAP 18S 47E 10

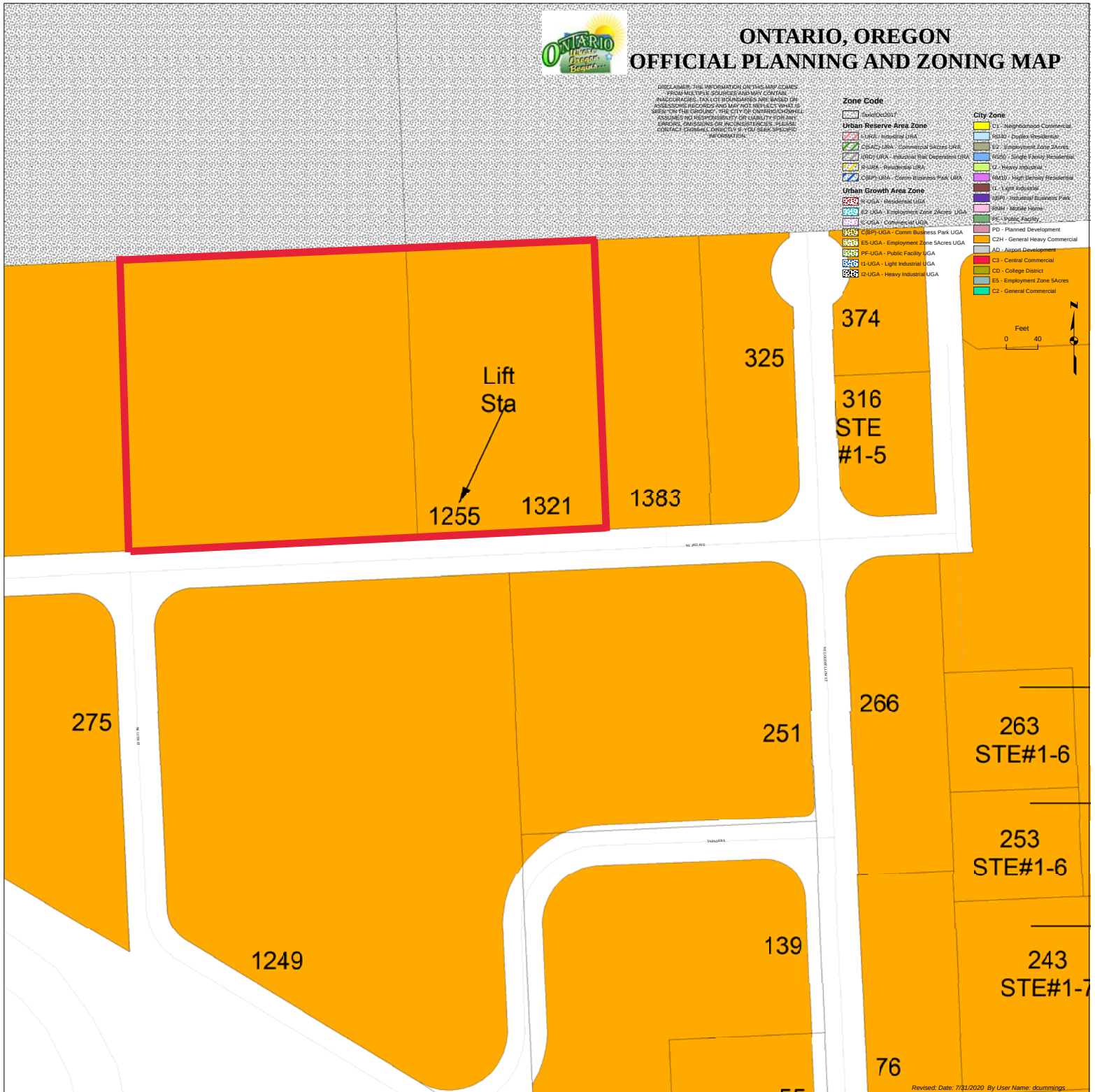
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Attachment #6

ONTARIO ZONING MAP

APPLICATION 2020-07-28RZ

BEFORE: GENERAL HEAVY COMMERCIAL



Attachment #9



City of Ontario Planning and Zoning Application Form

444 SW 4th Street, Ontario, OR 97914

Permit Center Annex: 458 SW 3rd Street

Voice (541) 881-3224 / (541) 881-3222

Fax (541) 881-3251

REZONE APPLICATION

FILE # 2020-07-28RZ

Date Received 7/15/2020

Fee: \$330.00 + \$220 = \$550.00 pd JH100p

Time Received 3:50pm

(Mailing & Advertising \$220.00)

Accepted as Complete 7/15/2020

Applicant(s) – attach additional sheets as necessary

Name Reece M. Hrizuk

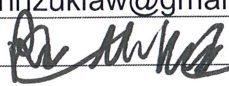
Address Nascosto LLC.

224 S.W. 3rd (Main) Street

Fruitland, Idaho 83619

Telephone 208.452.4000

email reecehrizuklaw@gmail.com

signature 

Property Owner(s) – attach additional sheets as necessary

Reece M. Hrizuk

Manager of Nascosto, LLC.

Attorney at Law

224 S.W. 3rd (Main) Street

Fruitland, Idaho 83619 / 208.452.4000

www.hrizuklaw.com

Description of proposed action: Zoning Map Amendment from C-2-H to C-2. See attached narrative for more information.

If this request involves a change in the Comprehensive Plan map, please submit a Comprehensive Plan Change application form.

If the application includes any site plans or other drawings, please submit electronic copies in pdf format

OFFICE USE ONLY

120 day time limit

DLCD 45-day notice required

Notice of PC Hearing

Notice to media

Hearing dates

Notice of Decision

Associated applications

Accepted as complete _____

Y/N _____ Date mailed _____

Date mailed _____

Publication date _____

PC _____

Date mailed _____

Final decision by _____

Date of first hearing _____

Posted on site _____

Emailed _____

CC _____

Appeal deadline _____

REZONE JUSTIFICATION

THE FOLLOWING INFORMATION MUST BE COMPLETED IN FULL. AN APPLICATION WILL NOT BE ACCEPTED FOR A ZONE CHANGE REQUEST WITHOUT THIS INFORMATION

THE CITY WILL USE THESE ANSWERS IN ITS ANALYSIS OF THE MERITS OF THE APPLICATION

PLEASE PRINT CLEARLY OR TYPE

A. DESCRIPTION OF PROPERTY:

Township 18 S Range 47 E Section CC & DD, Willamette Meridian

Tax Lot # 18S47E02CC 502 (2.04 acres), 18S47E03DD 100 (2.98 acres)

Lot Size 5.02 (both lots) Current Zoning C2H (both lots)
(ACRES OR SQUARE FEET)

Property Address 1321 NE 3rd Avenue

Name of Subdivision N/A

EXISTING RECORDED EASEMENTS:

Purpose & Description: N/A

Book & Page No. _____ Inst. # _____

EXISTING DEED RESTRICTIONS:

Purpose & Description: N/A

Book & Page No. _____ Inst. # _____

B. SPECIFICATION OF REQUEST

Zone Requested C-2 (General Commercial)

Intended use under new zone (Explain in detail, including all operational characteristics, use extra sheets.) See attached narrative

C. JUSTIFICATION

PROPOSED FINDINGS

In preparing findings of fact to support a Zoning Map Amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required finding clearly does not apply to the current proposal.

Explain in detail, using extra sheets as needed, how the proposed zone change complies with the following required findings:

1. Explain how the proposed zoning map amendment is in conformance with statewide planning goals and guidelines.

See attached narrative

2. Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive Plan.

See attached narrative

3. As applicant, you must explain how there has been a mistake or error in the original zone designation or a change in physical, social or market conditions generally affecting the area, which makes this proposed zone change appropriate.

See attached narrative

3. As applicant, you must show a public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.

See attached narrative

5. Explain how the property affected by the change, if approved, is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.

See attached narrative

6. Explain how the property affected by the proposed change of zone is properly related to streets and other public facilities and with services adequate to meet the demands of the uses allowed in the new zone. This shall explain how this proposal will not absorb a disproportionate share of public facilities, utilities and general assets.

See attached narrative

7. Explain how the proposed change in zoning will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

See attached narrative

10B-05-15 BURDEN, CRITERIA OF PROOF.

1. The proponent of proposals shall have the burden of proving the justification of the request. The greater the impact of the request on an area, the greater is the burden upon the proponent.
2. The requested proposal must be supported by proof that it conforms to all applicable standards and criteria of the OMC. The Planning Official may require that proponents submit written evidence, facts and/or written findings substantiating such conformance, as part of the application.

CHAPTER 10B-20 QUASI-JUDICIAL ZONING MAP AMENDMENT

10B-20-05 PURPOSE, AUTHORITY. The quasi-judicial zoning map amendment procedures are designed and authorized to adjust zone boundaries and create new zoning classifications on the official zoning map within areas on the land use plan indicated for the uses allowed by the map change. Such changes shall be in conformity with the land use goals of the state. The decision of the Commission shall be the final decision of the City unless an appeal is filed as authorized by this Title.

10B-20-25 HEARING DECISION. The Commission shall hold a public hearing on the action and shall approve, deny, or modify the proposed zoning map amendment and shall make findings as appropriate to support the decision. The Planning Director shall notify the applicant of the decision of the Commission and notify any person appearing at the hearing in person, if they are not present when the final decision is rendered, or if the person has appeared in writing. During the hearing, persons appearing shall be advised that they must testify in favor of or in opposition to the action to gain standing to appeal the Commission's decision to the Council. Persons testifying shall be advised that they must address one or more of the criteria or required findings set forth in this Title for quasi-judicial zoning map amendment decisions in order to establish standing to appeal the final local decision to the Oregon Land Use Board of Appeals.

10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:

1. The zoning map amendment is in conformance with statewide planning goals and guidelines.
2. The zoning map amendment is in conformity with the acknowledged comprehensive plan.
3. The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.
4. A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.
5. The property affected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.
6. The property affected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.

The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

Note:

Rezone applications are decided by the City Council. However, the application must first go to the Planning Commission for a recommendation on the new zone. Applicants should allow a minimum of two months for an application to be processed by the City; additional time may be necessary if the request involves a Comprehensive Plan change.

REZONE

FILE # 2020-07-28RZ

Applicant is:

- ☒ The owner of the property
____ The purchaser of the property under a duly executed written consent of the owner to make such application
____ A lessee in possession of the property who has the written consent of the owner to make such authorization
____ The agent of any of the above, who is duly authorized in writing by the principal

AUTHORIZATION:

I hereby consent that I am authorized to make the application for a rezone and the statements within this application are true and correct to the best of my knowledge and belief. I verify that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by the City of Ontario may be revoked if it is determined that the authorization was issued on account of false statements or misrepresentation.



Signature of applicant

7-16-2020

Date

Signature of applicant

Date

Signature of property owner

Date

Signature of property owner

Date

Signature of property owner

Date

Incomplete applications, or insufficient information, may result in delay or denial of the application.

SUPPLEMENTAL INFORMATION TO SUBMIT WITH APPLICATIONS:

The following additional data may be required at the discretion of the Planning or Public works Official:

1. Any data required by OMC land development regulations.
2. Finished floor elevation related to curb, street, or other established grade or benchmark.
3. Drainage patterns. All lots shall show grading and drainage and finished grades or contours (clearly indicated).
4. The size and location of all existing and proposed public and private utilities, easements, or right of way.
5. The size, setback dimensions, and height of all proposed structures, and all existing structures to be retained on-site, and the use of each structure. The locations may be indicated by construction site envelopes showing possible legal locations near the spot, building dimensions including height, and building separation.
6. Location, dimensions and names of adjacent streets and proposed internal streets, showing centerline radii and curb return radii.
7. The location and dimensions of existing and future sidewalks shall be shown.
8. The proposed layout of parking lots including the location and dimensions of parking spaces, curbed islands, internal planter strips, maneuvering aisles, and access driveways with indication of direction of travel.
9. The location of all signs, exterior lighting and fencing to be used to divide properties and to screen mechanical equipment and trash containers.
10. Existing physical features including drainage ways and structures with indication as to which are to be retained. Adjacent properties and their physical features within 50 feet of the property line shall be identified, including setback dimensions of adjacent structures.
11. The location of existing trees and scrubs and notation of which are to be retained on the property; location and dimensions of proposed landscaped areas; location and types of all proposed plant material and ground cover; location and type of irrigation systems; and, all other pertinent landscape features.
12. Location of all recreational amenities such as open play areas, swimming pools, tennis courts and recreational equipment.
13. Statement of maintenance responsibility for all improvements shown on the site plan.
14. Site data in tabular form including:
 - a. Total area of the property in square feet.
 - b. Building coverage in square feet and percent total.
 - c. Parking lot in square feet and percent total.
 - d. Landscaped area in parking lot in square feet.
 - e. All other landscaped areas in square feet.
 - f. Number of parking spaces provided.
 - g. Number of residential units if appropriate.
 - h. Existing and proposed gross floor area in square feet.

If the applicant is not the property owner, the Planning Official may require documentation of consent to represent the owner including:

- A. A description of the property and the specific action for which approval is sought
- B. Signature of owner
- C. Date of consent
- D. Party to whom consent is given
- E. Notarization of consent

If you are providing large or detailed plans, please provide electronic copies with your application, or make arrangements to email them to staff.

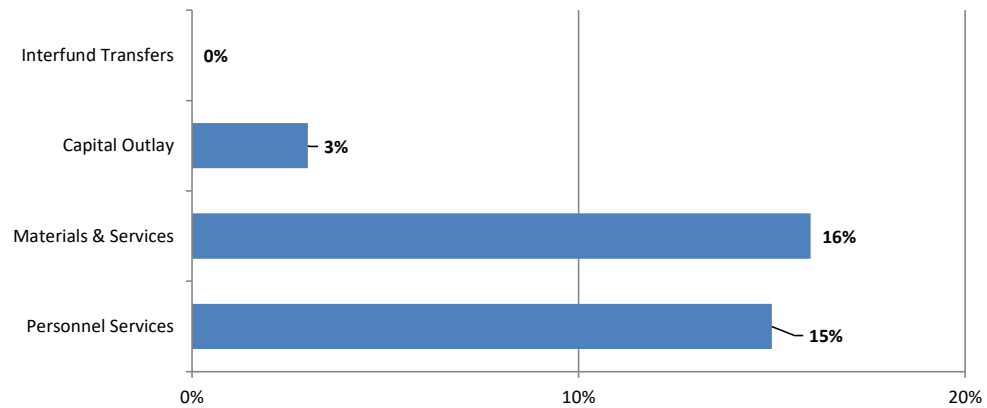
Electronic copies of all written materials are appreciated if available.

**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT EXPENSE
FOR THE PERIOD ENDED
AUGUST 31, 2020**

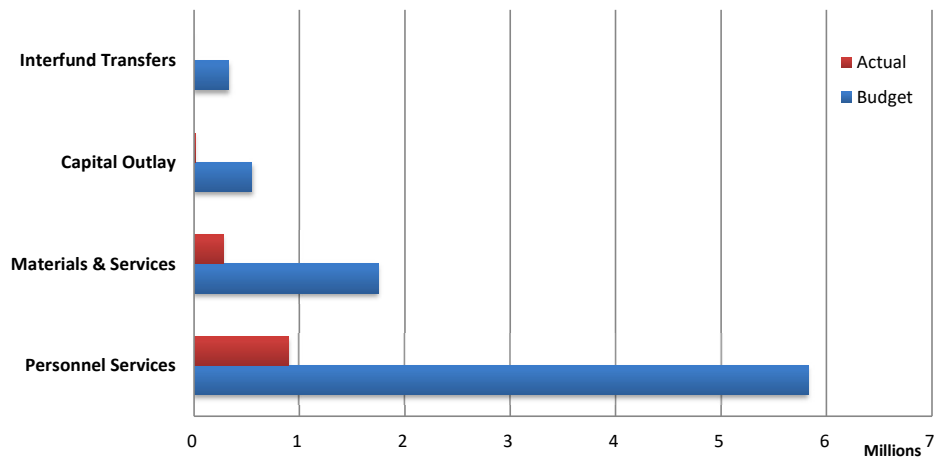
DEPARTMENT	BUDGET	ACTUAL	% EXPENDED	COMMENTS
Parks	316,250	21,152	6.7%	
Parks & Recreation	316,250	21,152	6.7%	
Fire	1,672,809	251,358	15.0%	
Code Enforcement	244,722	30,152	12.3%	
Police	3,939,857	572,471	14.5%	
Police reserves	6,165	-	0.0%	
Emergency operations	-	3,251	#DIV/0!	
Public Safety Total	5,863,553	857,232	14.6%	
Administration	497,012	69,278	13.9%	
City Council	25,362	1,712	6.7%	
Business Registration	1,100	6	0.5%	
Cemetery	174,381	18,805	10.8%	
Finance	245,849	35,690	14.5%	
Technology	175,051	30,008	17.1%	License timing
General Government Total	1,118,755	155,498	13.9%	
Community development	217,248	24,281	11.2%	
Community Development	217,248	24,281	11.2%	
Administrative Overhead	629,250	124,332	19.8%	Liability Insurance timing
Non-Departmental Contributions	80,000	10,000	12.5%	
Other Total	709,250	134,332	18.9%	
Operating Transfers Out	225,440	-	0.0%	
GENERAL FUND TOTALS	\$ 8,450,496	\$ 1,192,494	14.1%	
YTD BUDGET BENCHMARK			16.6667%	 2.6%

**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT EXPENSE
FOR THE PERIOD ENDED
AUGUST 31, 2020**

% Expended by Category



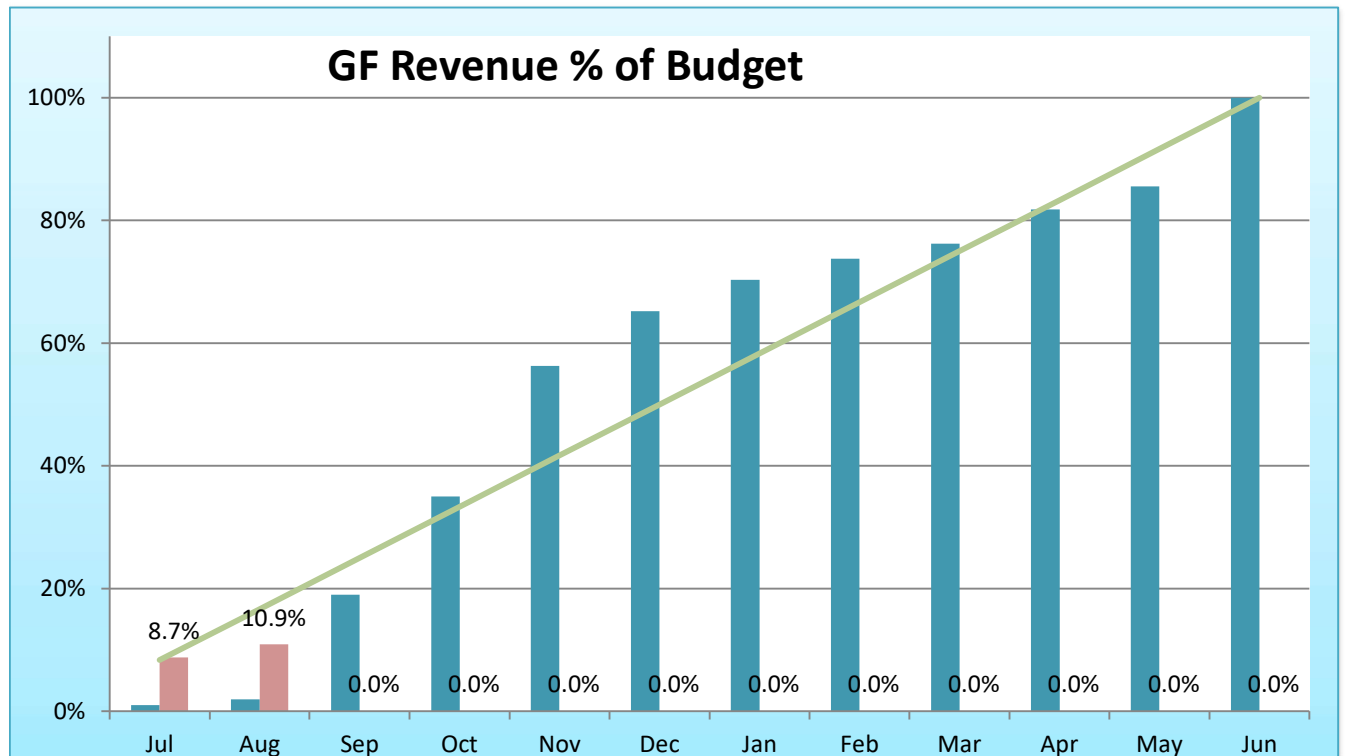
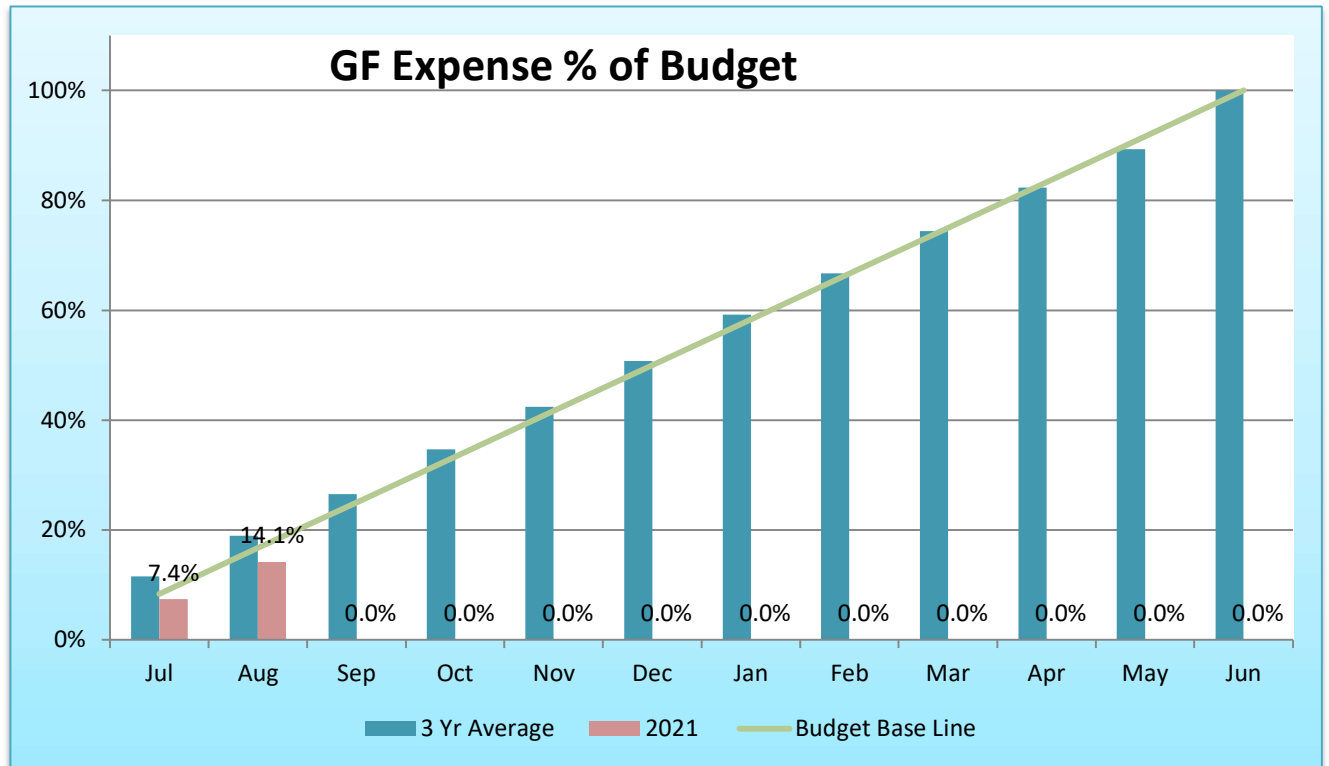
Budget to Actual by Category



**CITY OF ONTARIO
GENERAL FUND - DEPARTMENT REVENUE
FOR THE PERIOD ENDED
AUGUST 31, 2020**

DEPARTMENT	BUDGET	ACTUAL	% REALIZED	COMMENTS
Parks	2,000	290	14.5%	
Parks & Recreation	2,000	290	14.5%	
Fire	134,572	45	0.0%	
Code Enforcement	48,800	900,247	1844.8%	
Police	423,799	44,988	10.6%	
Dispensary Business License	43,400	13,600	31.3%	
COVID-19 Grant	-	2,721	#DIV/0!	
Public Safety Total	650,571	961,600	147.8%	
Interest	65,000	5,135	7.9%	
State Revenue Sharing	136,635	-	0.0%	
Administrative Services	497,148	82,858	16.7%	
Other General Revenues	8,485	1,124	13.3%	
Property Taxes	3,755,617	37,916	1.0%	
Alcohol Bvg License & Fee	246,582	320	0.1%	
Cigarette tax	12,979	1,110	8.6%	
Marijuana tax	1,100,000	-	0.0%	
Franchise Fees	1,632,298	-	0.0%	
Business Registration	2,500	95	3.8%	
Cemetery	45,000	13,850	30.8%	
General Government Total	7,502,244	142,408	1.9%	
Planning & Zoning	4,450	1,667	37.5%	
Community development	4,450	1,667	37.5%	
GENERAL FUND REVENUE TOTALS	\$ 8,159,265	\$ 1,105,965	13.6%	
YTD CURRENT YEAR PROFIT(LOSS)				\$ (86,529)
YTD BUDGET BENCHMARK				16.7%  -3.1%

**CITY OF ONTARIO
GENERAL FUND
FOR THE PERIOD ENDED
AUGUST 31, 2020**



**CITY OF ONTARIO
OTHER FUNDS - DEPARTMENT EXPENSES AND REVENUE
FOR THE PERIOD ENDED
AUGUST 31, 2020**

DEPARTMENT/FUND	EXPENDITURES				REVENUES		
	BUDGET	ACTUAL	% EXPENDED		BUDGET	ACTUAL	% REALIZED
002 Marijuana Enforcement Fund	50,000	-	0.0%		50,000	-	0.0%
010 Grant Fund	202,500	12,957	6.4%		202,500	12,957	6.4%
027 Building Fund	201,012	23,722	11.8%		385,352	31,043	8.1%
030 Capital Projects Fund	909,181	-	0.0%		3,449,111	116,814	3.4%
031 SDC Fund	485,615	-	0.0%		485,615	412	0.1%
045 Street Fund	2,609,042	473,209	18.1%		2,609,042	212,406	8.1%
050 Trust Funds	776,631	-	0.0%		776,631	45,006	5.8%
055 Reserve Funds	1,283,945	49,220	3.8%		2,536,446	71,042	2.8%
060 Revolving Loan Fund	422,667	67,040	15.9%		422,667	69,500	16.4%
105 Water Fund	3,547,062	454,328	12.8%		4,829,298	689,337	14.3%
110 Sewer Fund	4,985,166	449,859	9.0%		7,850,774	584,884	7.5%
115 Storm Sewer Fund	276,710	36,365	13.1%		557,305	18,665	3.3%
120 Airport Fund	343,886	24,552	7.1%		343,886	35,543	10.3%
125 Aquatic Fund **	100,000	45,078	45.1%		100,000	-	0.0%
Comments:							
YTD BUDGET BENCHMARK			16.7%				

**CITY OF ONTARIO
BUDGET RESOLUTIONS
FOR THE PERIOD ENDED
AUGUST 31, 2020**

RESOLUTION #	FUND	DEPARTMENT	ACCOUNT	BUDGET CHANGE		NET CHANGE	
2020-133	RESERVE FUND	PUBLIC SAFETY FUND	BALLISTIC TRAUMA PLATES	\$	(8,245)	\$	-
2020-133	RESERVE FUND	PUBLIC SAFETY FUND	RADIO EQUIPMENT	\$	8,245		

Economic
Development

Building
Department

Planning and Zoning



City of Ontario Community Development 2020 Quarterly

Presentation by
Dan K. Cummings
October 8, 2020

Building Department Statistics

Mechanical & Structural Permit Amounts and Fees



2020 April – June Structural Permits and Fees Issued

Structural Permits Issued	30
Structural Valuation Totals	\$ 3,043,068
Total Structural Fees	\$ 28,583

2020 April – June Mechanical Permits and Fees Issued

Mechanical Permits Issued	42
Mechanical Valuation Totals	\$ 592,280
Total Mechanical Fees	\$ 5,640

Building Department Statistics

Mechanical & Structural Permit Amounts and Fees



Total Permits and Fees Issued

Structural Permits Issued	72
Structural Valuation Totals	\$ 3,635,348
Total Structural Fees	\$ 34,197

Planning & Zoning Department Statistics

April, May, June 2020



▪ Conditional Use Permits	1
▪ Street Vacations	1
▪ Non-Conforming Use Exceptions	1
▪ Property Line Adjustments	1
▪ Partitions	2
▪ Comprehensive Plan Amendments	1
▪ Total Land Use Actions for the Quarter	8

Total Fees \$ 7,073

Ontario Economic Activity



- Project Build Ontario
- Project West Park
- Brownfield Grant Program
- Project Affordable Sun
- Project Vet
- Project Tomiyoshi
- Project Grand Prix
- Project Champ
- Project Gild-Gold
- Project Otis
- Project Plus

Ontario Economic Activity cont.



“Project Build Ontario”

- Single Family Residential Housing Incentive program promotes new housing within the City Limits

Status: 17 applications have been awarded

“Project Westpark”

- Redevelopment of the West Park Plaza Mall
- Creating business ownership of portions of existing building
- Creation of new building pad
- Consideration of 150 unit apartment complex

Status: On-going

Ontario Economic Activity Cont.



EPA Brownfield Grant Program

- \$600,000 in Brownfield grants to Ontario, Nyssa, Vale
- Redevelopment of Brownfields within Malheur County

Status: Phase I and Phase II studies ongoing

6 sites taking advantage of the grants

“Project Affordable Sun”

- 15-acre solar project to produce power for affordable housing facilities

Status: Idaho Power study in progress

Tentative Lease approved

Ontario Economic Activity Cont.



“Project VET”

- An affordable Mini Housing Development for Single Veterans and Seniors Citizens

Status: Project moving forward

Land use applications in progress

“Project Tomiyoshi”

- 56.33 acre tract of land
- 9.83 acres of UGA commercial class land
- 36.50 acres of UGA residential class land
- Looking at retail and mixed density development

Status: On-going

Ontario Economic Activity Cont.



“Project Grand Prix”

- Meter manufacturing looking for industrial lands
- Expected to hire 150-200 employees (5-8 acres)

Status: On-going

“Project Champ”

- Thermoformed packaging company for food, medical, and retail products
- \$10 million in equipment investment
- 33 employees to start
- 200 maximum employees at full buildout

Ontario Economic Activity Cont.



“Project Gild-Gold”

- Food manufacturing company
- Needing between 100 - 200 acres
- 200 - 300 employees at total buildout

“Project Otis”

- 16-acre industrial property in Ontario
- Promoting to several industrial clients

“Project Plus”

- Food Processing Company looking for 100-150 acres
- Will employ 500 - 670 employees and managers

Projects in Development



32 Sunset Drive



52 Sunset Drive



848 Reiter Drive



Projects in Development



**560 SE 12th Ave-
TV Cannabis**



215 NE 2nd Street-The Bud House



TVCC Career Center Addition



Brockside Subdivision



Projects in Development



Aspen Dental



1346 NW 6th Ave



Skate Park Restroom



Airport Manager's Report



July 2020 –
September
2020





July



- ✓ Fulltime management for the Ontario Municipal airport became a reality first time in history!
- ✓ COVID 19 Continues
- ✓ BLM base plans power for their temporary trailer
- ✓ The irrigation ditch was running over on our new construction site for hangars
- ✓ Spraying, mowing, irrigating and fertilizing
- ✓ Discussions with the FAA about the NDB. They will remove the tower in 2021
- ✓ The FAA stopped by. Ramp checks.
- ✓ Talks with the BLM about the future building site for their operations.

Attachment "A"







August



- ✓ The Boise air traffic control tower called to say that an emergency beacon was going off somewhere near Ontario
- ✓ Ran both wheel lines and cleaned the shop
- ✓ Internet for hangar owners
- ✓ Soil samples taken
- ✓ EPA /DEQ contacted as a complaint has been filed
- ✓ Fire marshal to look at all three chemical applicator sites



September



- ✓ Irrigation system for the grass runway
- ✓ 500 masks from the ODA and the Portland Port of Entry
- ✓ Implemented a maintenance program at the airport.
- ✓ Meeting about the fuel resolution at the city hall
- ✓ Met to discuss the BLM's new base going to be put at the Ontario airport
- ✓ Crash of the SEAT plane near Emmett
- ✓ Sweeping, beacon light, taxi lights, runway lights, PAPI lights
- ✓ Airport committee meeting at the city hall.
- ✓ NOTAM's called for mowing near the runway
- ✓ DOD, ODOT, fire and police using the airport for training







Future Plans



- Full time airport manager
- Increase maintenance program
- Equipment storage building
- Additional Hangars to meet demand
- Category 2 designation
- Increased grant funding possibilities
- Full use of grass runway for back country flyers
- West side development
- Ag pilots and fire fighting accommodations

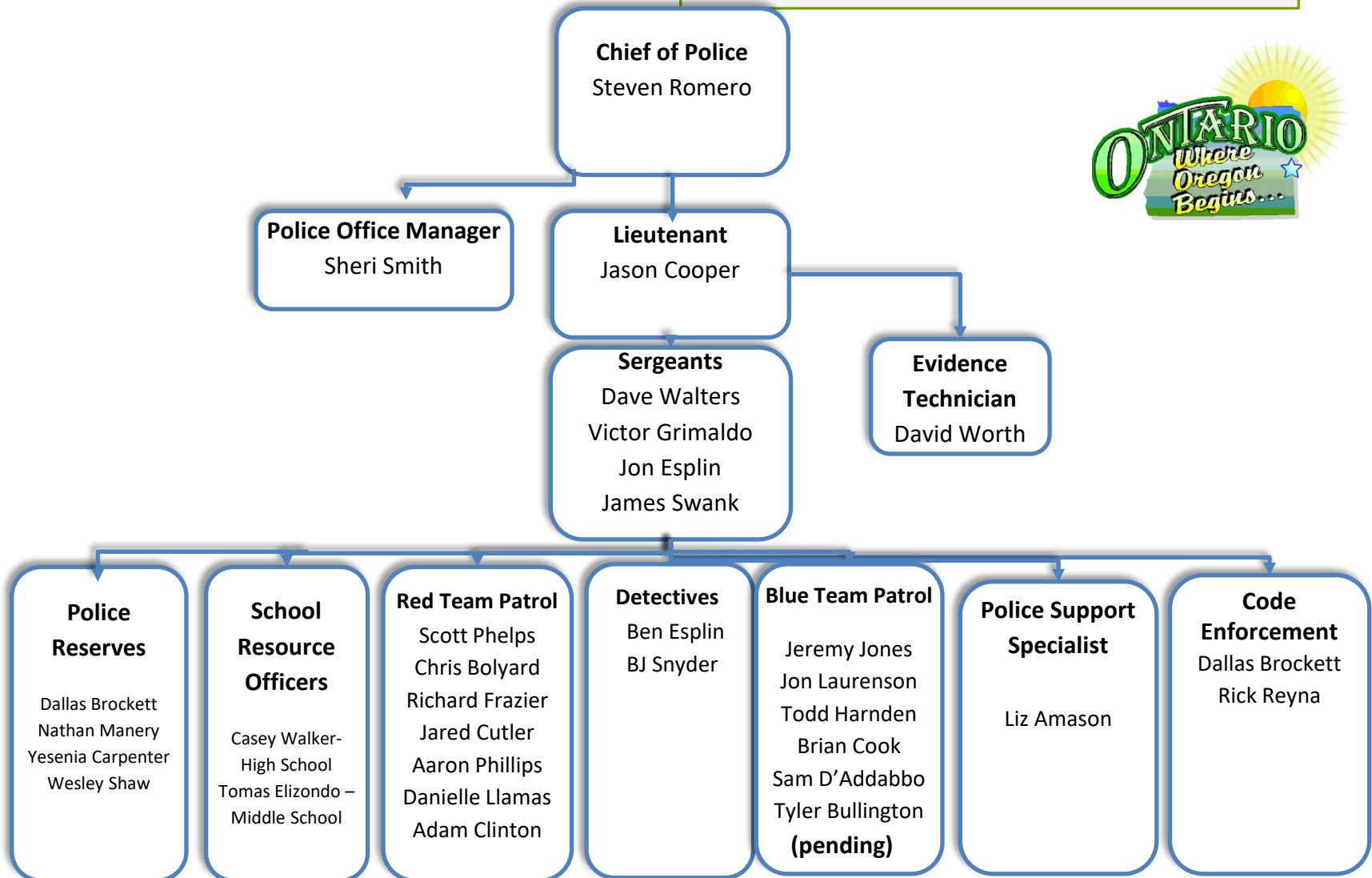


10/01/2020

Police Department Quarterly Report

2020 3rd Quarter

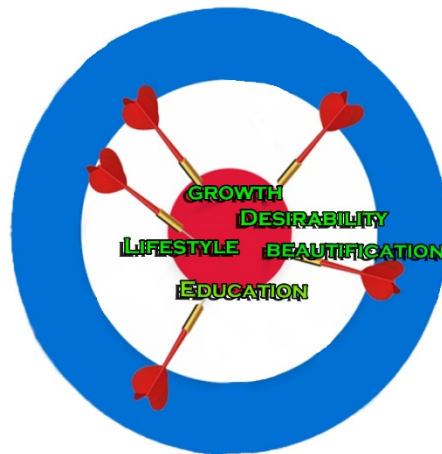
Steven Romero
Chief of Police



Hitting the Mark!



Strategic Goals



Core Values

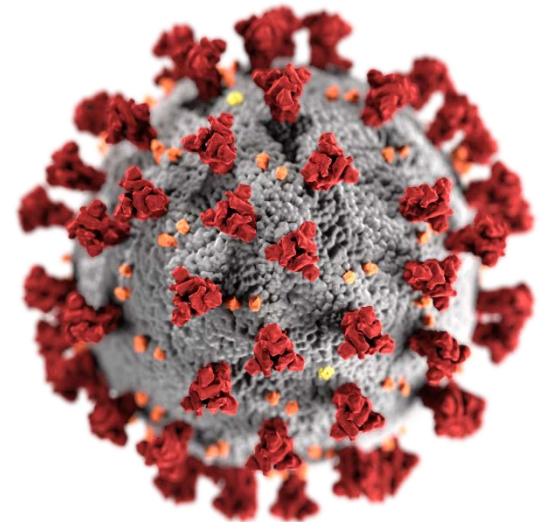
- Commitment
- Openness
- Respect
- Efficiency



Unanticipated Times



- COVID 19
- School Closures
- Fires / Poor air quality
- Legislative challenges



July 2020



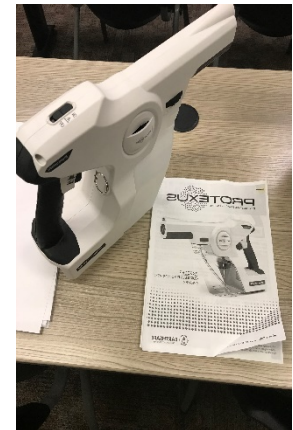
OPD's 1st PSA-Caring for Pets 5.6K views



July 2020



- COVID Station Disinfection Services
- Experienced 2nd Major Radio System Failure
- Launched OPD State of Department ratio data collection for meta-analysis (July 2020-Sept 2020).



August 2020



Special Olympics Law Enforcement Torch Run Campaign



LAW ENFORCEMENT TORCH RUN
FOR SPECIAL OLYMPICS
IDAHO/EASTERN OREGON

Charity Golf Tournament

Saturday, October 3rd
Scotch Pines Golf Course
10610 Scotch Pines Rd.
Payette, ID 83661

This tournament is open to all!
Come have fun on the 18-hole course
with Special Olympic athletes,
local law enforcement partners,
and our friends in the community!

\$75 per golfer
\$275 a foursome

Fee Includes:
Green Fees and Golf Carts
Raffle and Silent Auction
Awards For Top Teams

Registration Starts
at 7:30am
Shotgun Start at 9:00am

Sign up online at
idso.org

Special Olympics
Idaho/Eastern Oregon

September 2020



9-11 Memorial Ceremony



Community Policing



Special Olympics-LETR Video Production

1999



2020



Community Policing 2



Chief's Advisory Council

- **Ontario Police Advisory Council**
- **Purpose**
- Established under the direction of the chief of police, the (OPDCAC) provides insights and recommendations to the police chief, in-order to enhance Ontario's police-community partnership. The advisory council will work in partnership with the chief of police to seek solutions for a variety of community concerns and to seek out new opportunities to improve the quality of life in Ontario.
- **Ideal Council members**
- The chief seeks to select individuals from a diverse personal and professional background, desires a gender and age diverse group, and is looking for individuals with passion for community governance and the development of others and community.
- **Role of the advisory council**
- Advisory council members will serve as collective advisors to the chief of police and will not be considered an oversight committee. The chief of police will select council members based on their individual talents, skills, and ability to work professionally and well with others. All advisory council members must embrace diversity, objectivity and maintain reverence for all laws.
- **Structure of the advisory council**
- The advisory council will be comprised of at least 9-11 volunteer members from within the Ontario community, selected by the chief of police based on the principles of positive community building. The advisory council **shall not** engage in any form of political activity or discourse while acting in the capacity of an advisory counselor for the chief of police.
- **Commitment of advisory council members**
- While still to be determined, it is recommended that the chief of police and advisory council meet on a calendar quarterly basis at a venue and time that accommodates the members of the advisory council. However, sanctions will not be imposed on any member that is unable to attend a scheduled meeting. The chief of police will retain the authority to remove any member from the council, "At-Will," for any reason determined by the chief of police.

American Legion





Safety Improvements to Training center

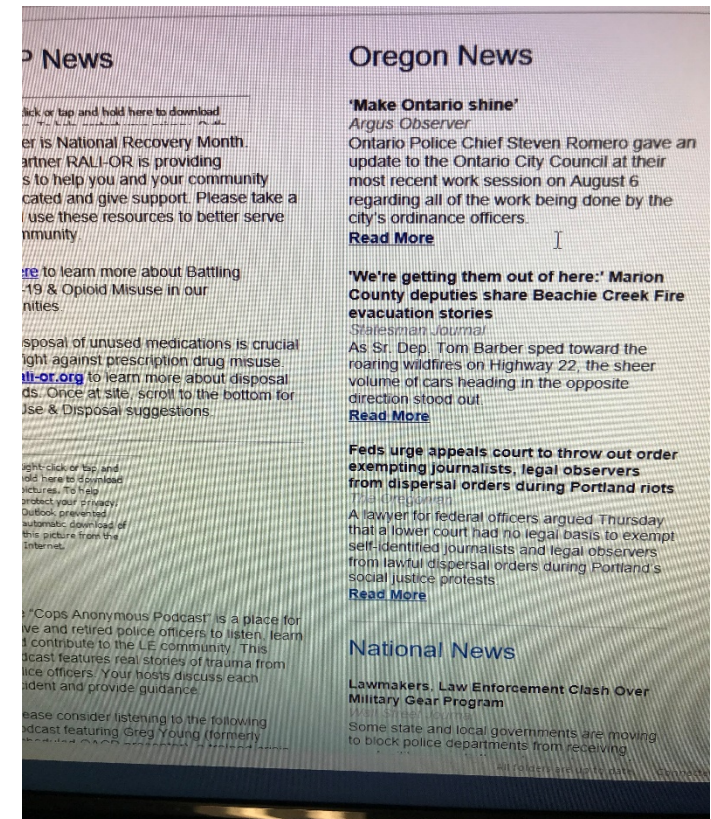
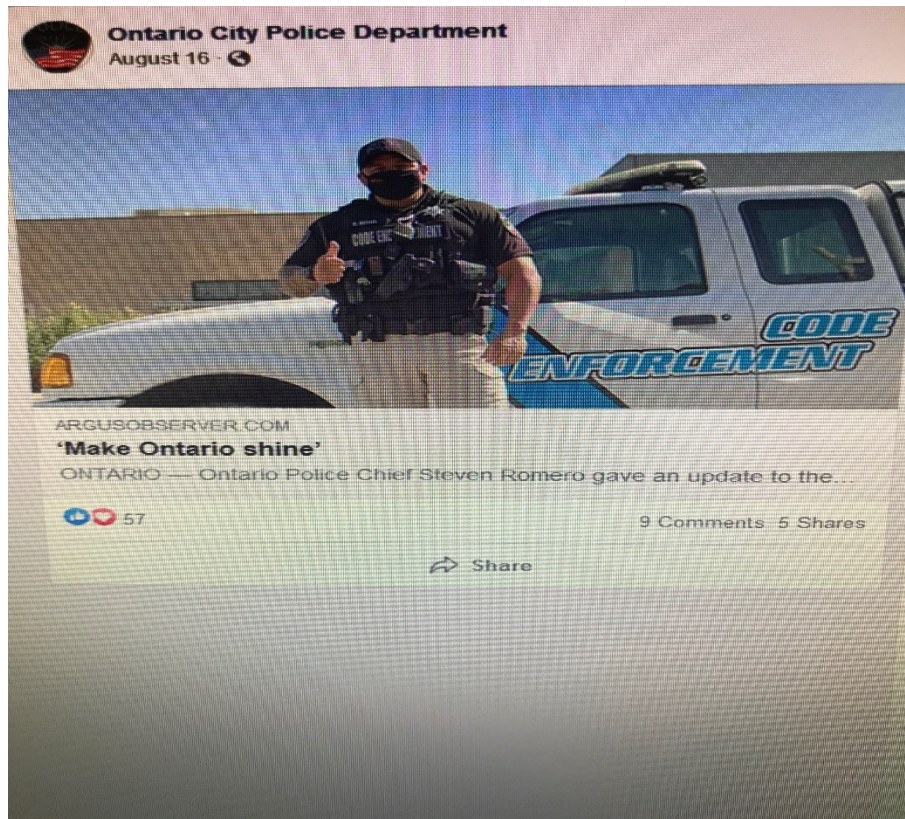


Making the news.....

August 2020



'Make Ontario Shine' Education Initiative



Making the News 2020



OACP News



Shining a light on Community Engagement

We've been on a mission to discover creative ways agencies around the state are engaging with their community during these challenging times.

We've learned that **Chief Steven Romero, Ontario PD**, through their Facebook platform, has used these two key methods for civic engagement:

- **Minute with the Chief** - a commentary approach that allows the public to directly communicate with the Chief of Police regarding community specific topics or concerns. This promotes an open and transparent discourse. [Click here](#) to view.
- **Public Service Announcements (PSA's)** - Due to lack of local cable networks or major news networks to draw from for video engagement, they developed their own PSA's with the support of a local videographer. [Click here](#) to view.

Because of the fiscally challenged region, it's been necessary for their agency to connect creatively in other ways. The following two youth outreaches, although put on hold during this time, have been successful programs.

Oregon News

Hundreds of Oregon National Guard soldiers return home after overseas deployments
The Oregonian
 Over the last two days, some 300 soldiers with the Oregon National Guard have returned home from their overseas deployments.
[Read More](#)

Governor calls for tougher enforcement of Oregon mandates - or new restrictions are coming
Salem Reporter
 Gov. Kate Brown said Friday that Oregonians aren't doing enough to get the coronavirus under control, urging local authorities to start enforcing her orders and warning business closures and even longer delays in school openings could be coming.
[Read More](#)

Competing protests face off in Hermiston
East Oregonian
 Rising tensions pushed a Black Lives Matter protest and counter-protest in Hermiston late into the night on Friday, Aug. 21.
[Read More](#)

Last jail in Oregon to house immigration detainees to end ICE contract
The Oregonian
 The last Oregonian jail to house federal immigration detainees is taking steps to gradually discontinue the practice.
[Read More](#)

National News

Church, police partner for food project
The Mount Airy News
 Although a new church is just getting started in Mount Airy, it already has made a difference in the community during a time of crisis. The church's first food collection and delivery Wednesday spearheaded by that church, known as The Place of New Life — carried out with the help of Mount Airy Department members.
[Read More](#)

been necessary for their agency to connect creatively in other ways. The following two youth outreaches, although put on hold during this time, have been successful programs:

- **Teaching Tuesdays** - OPD collaborates with Kiwanis International, Ontario Recreation District, and Friends of the Owyhee to provide instruction and mentorship services to area youth at their local Boys and Girls Club.
- **Cobras Wrestling and Development Club** - Created by Chief Romero, this sports/academic development opportunity serves "at-risk" youth and acts as a pipeline to public safety careers. The Chief is the primary development instructor and is assisted by public safety professionals and world class athletes for the development of the students.

We will continue to use this platform to highlight the good work agencies around Oregon are involved in. Let us know how your agency is engaging and making a difference in your community. One of our favorite things to do is share these with fellow members.

OACP Weekly Update
 Send feedback by contacting the OACP Office at 503.315.1411 or by visiting the website: www.policechief.org

Oregon Association Chiefs of Police | 1191 Capitol St. NE, Salem, OR 97301 | (503) 315-1411

Significant Police Work



- Case #P2020074** Shooting (In Custody)
- Case #P2020072** Shooting (In Custody)
- Case #P2020072** Pursuit of felon(In Custody)
- Agency Assist MCSO Shooting (In Custody)



OPD Stats Q3 Comparibles

Activity	Month of July	Month of August	Month of September	YTD 2020	Previous YTD (2019)	Qrt1 Jan-Mar	Qrt2 Apr-Jun	Qrt3 July-Sep
Calls for Service	919	966	838	7870	8189	2705	2442	2723
Traffic Stops	149	127	132	1502	1672	549	545	408
Cited Traffic/Parking	48	63	67	694	660	227	289	178
Motor vehicle Crashes	48	38	31	316	348	93	106	117
Arrests	44	71	35	626	825	284	192	150
Arrests w/Use of Force	1	2	2	9	11	3	1	5
SRO Cases	0	0	0	75	191	75	0	0
Gang Related Cases	1	2	8	23	415	6	6	11
Graffiti	3	2	10	50	59	22	13	15
Death Investigations	4	4	5	23	7	5	5	13
Burglary	11	18	6	100	142	37	28	35
Robbery	0	0	0	4	9	3	1	0
Thefts	81	81	71	616	549	207	176	233
Assault	14	11	13	124	118	43	43	38
Homicide	0	0	0	1	3	1	0	0
Sex Crimes	3	4	0	41	37	23	11	7
Alarms	31	35	26	254	222	68	94	92

Code Enforcement

New 2020 look



Chronic Offenders



Code Enforcement #'s

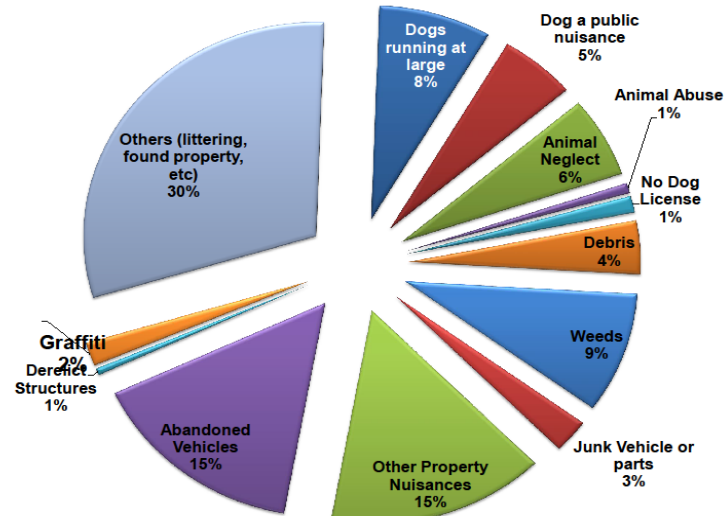


CODE ENFORCEMENT

Q3 2020 Stats

Jul-Sep 2020

Violation	#	2019
Dogs running at large	31	85
Dog a public nuisance	21	17
Animal Neglect	24	26
Animal Abuse	3	0
No Dog License	5	8
Debris	16	6
Weeds	36	12
Junk Vehicle or parts	10	11
Other Property Nuisances	60	7
Abandoned Vehicles	60	79
Derelict Structures	2	5
Graffiti	7	7
Others (littering, found prop)	119	124
Dogs taken to AniCare	1	24
Civil Penalties Issued	26	12
C.P. Amount Sent	\$950,493	\$11,600
Total Parking Citations	8	5
Total Violations	387	362
Total Cases	306	335



Notes:





Questions/Comments/Direction?



II. Face Recognition Policy for the City of Ontario Criminal Intelligence and Investigative Activities

A. Purpose Statement

1. **Why did the entity implement a face recognition program or establish access and use of a face recognition system?**

Facial recognition technology involves the ability to examine and compare distinguishing characteristics of a human face through the use of biometric algorithms contained within a software application. This technology can be a valuable investigative tool to detect and prevent criminal activity, reduce an imminent threat to health or safety, and help in the identification of persons unable to identify themselves or deceased persons. The **City of Ontario** has **acquired** a camera system that has some facial recognition abilities to support the investigative efforts of law enforcement and public safety agencies both within the City and for peer law enforcement agencies covering the City of Ontario.

2. **What is the purpose of establishing a face recognition policy (i.e., what does the entity hope to accomplish in adopting this policy)? Provide a succinct, comprehensive statement of purpose.**

It is the purpose of this policy to provide **the City of Ontario** personnel with guidelines and principles for the collection, access, use, dissemination, retention, and purging of images and related information applicable to the implementation of a face recognition (FR) program. This policy will ensure that all FR uses are consistent with authorized purposes while not violating the privacy, civil rights, and civil liberties (P/CRCL) of individuals.

Further, this policy will delineate the manner in which requests for face recognition are received, processed, catalogued, and responded to. The Fair Information Practice Principles (FIPPs) form the core of the privacy framework for this policy.

This policy assists **the City of Ontario** and its personnel in:

- Increasing public safety and improving state, local, tribal, territorial, and national security.
- Minimizing the threat and risk of injury to specific individuals.
- Minimizing the threat and risk of physical injury or financial liability to law enforcement and others responsible for public protection, safety, or health.

- Minimizing the potential risks to individual privacy, civil rights, civil liberties, and other legally protected interests.
- Protecting the integrity of criminal investigatory, criminal intelligence, and justice system processes and information.
- Minimizing the threat and risk of damage to real or personal property.
- Fostering trust in the government by strengthening transparency, oversight, and accountability.
- Making the most effective use of public resources allocated to public safety entities.

3. What are the entity's authorized uses for face recognition information?⁸

All deployments of the face recognition system are for official use only/law enforcement sensitive (FOUO/LES). The provisions of this policy are provided to support the following authorized uses of face recognition information.

[List any of the following that may be applicable and add any other authorized uses that apply to the entity. Note: Uses must be specifically authorized for your entity and must be in accordance with laws, statutes, policies, and procedures governing the entity.]

- **A reasonable suspicion that an identifiable individual has committed a criminal offense or is involved in or planning criminal (including terrorist) conduct or activity that presents a threat to any individual, the community, or the nation and that the information is relevant to the criminal conduct or activity.**
- **An active or ongoing criminal or homeland security investigation.**
- **To mitigate an imminent threat to health or safety through short-term situational awareness surveillance or other means.**
- **To assist in the identification of a person who lacks capacity or is otherwise unable to identify him- or herself (such as an incapacitated, deceased, or otherwise at-risk person).**
- **To investigate and/or corroborate tips and leads.**
- **For comparison to determine whether an individual may have obtained one or more official state driver's licenses or identification cards that contain inaccurate, conflicting, or false information.**
- **To assist in the identification of potential witnesses and/or victims of violent crime.**
- **To support law enforcement in critical incident responses.]**

[For those entities using mobile face image capture devices, there may be narrowly tailored purposes for use. Insert the following language and list the purposes that are applicable, and any others that are relevant, to the entity:]

Mobile face image searches may be performed only by an officer who has completed training and only during the course of an officer's lawful duties, in furtherance of a valid law enforcement purpose and in accordance with the conditions set forth in section F.7 (Refer to F. Use of Face Recognition Information, item 7). Some suggested valid law enforcement purposes include:

- **For persons who are detained for offenses that:**
 - **Warrant arrest or citation or**
 - **Are subject to lawful identification requirements and are lacking positive identification in the field.**
- **For a person who an officer reasonably believes is concealing his or her true identity and has a reasonable suspicion the individual has committed a crime other than concealing his or her identity.**
- **For persons who lack capacity or are otherwise unable to identify themselves and who are a danger to themselves or others.**
- **For those who are deceased and not otherwise identified.]**

⁸ Entities should reference the classification of information established in entity policies and procedures.

B. Policy Applicability and Legal Compliance

1. What information is subject to the face recognition policy?

This policy was established to ensure that all images are lawfully obtained, including face recognition probe images obtained or received, accessed, used, disseminated, retained, and purged by the **City of Ontario**. **This policy also applies to:**

- Images contained in a known identity face image repository and its related identifying information,
- **The face image** searching process.
- Any results from face recognition searches that may be accessed, searched, used, evaluated, retained, disseminated, and purged by the **City of Ontario**.
- Lawfully obtained probe images of unknown suspects that have been added to unsolved image files (refer to section L.3), pursuant to authorized criminal investigations.

2. Who is subject to the face recognition policy? Identify who must comply with the face recognition policy; for example, entity personnel, participating agencies, and private contractors.

All the **City of Ontario** personnel, participating agency personnel, and authorized individuals working in direct support of the **City of Ontario** personnel (such as interns), personnel providing information technology services to the **City of Ontario**, private contractors, and other authorized users will comply with the **City of Ontario**'s face recognition policy and will be required to complete the training referenced in section N.2. In addition, authorized **the City of Ontario** personnel tasked with processing face recognition requests and submissions must also complete the specialized training referenced in section N.3. An outside agency, or investigators from an outside agency, may request face recognition searches to assist with investigations only if **[insert applicable requirement(s) from those recommended below or insert the entity's established requirements:**

- **Prior to making requests, the outside agency has a formalized agreement (e.g., a memorandum of understanding or an interagency agreement) between the City of Ontario and the outside agency and the agreement acknowledges that requesting investigators have an understanding of the training concepts listed in section N. Training, item 4.**
- **The outside agency first provides examples of its applicable policies (e.g., privacy) and acknowledges in writing that its requesting investigators have an understanding of the training concepts listed in section N. Training, item 4.**
- **The outside agency completes the City of Ontario's training identified in section N. Training, item 4.**
- **The outside agency is a law enforcement agency that is making the request based on a valid law enforcement purpose that falls within the authorized uses listed in section A. Purpose Statement, item 3. and the requestor provides a case number and contact information (requestor's name, requestor's agency, address, and phone number) and acknowledges an agreement with the following statement:**

The result of a face recognition search is provided by the City of Ontario only as an investigative lead and IS NOT TO BE CONSIDERED A POSITIVE IDENTIFICATION OF ANY SUBJECT. Any possible connection or involvement of any subject to the investigation must be determined through further investigation and investigative resources.

3. How is the entity's face recognition policy made available to personnel, participating entities, and individual users (e.g., in print, online, etc.), and does the entity require acknowledgment, in writing, of receipt and agreement to comply with this policy?

The **City of Ontario** will provide a printed or electronic copy of this face recognition policy to all:

- **City of Ontario** and non-**City of Ontario** personnel who provide services
- Participating agencies
- Individual authorized users

The **City of Ontario** will require both a written acknowledgement of receipt of this policy and a written agreement to comply with this policy and its applicable provisions.

4. This entity requires *personnel and participating information-originating and user agencies* to be in compliance with all applicable constitutional and statutory laws. What are the primary laws with which personnel and participating agencies must comply?

Cite the primary laws with which personnel and participating users must comply that protect privacy, civil rights, and civil liberties (P/CRCL) in the collection, receipt, access, use, dissemination, retention, and purging of face recognition information.

This should include any statute enacted by state or local government regarding deployed face recognition systems by affiliated entities. It might also include relevant provisions of the U.S. Constitution and state constitutions; open records or sunshine laws; information breach notification laws; other laws, regulations, orders, opinions, or policies impacting or protecting P/CRCL; local ordinances; and relevant federal laws, such as the Driver's Privacy Protection Act and regulations. (For synopses of primary federal laws, refer to Appendix C, Listing of Federal Laws.)

All the **City of Ontario** personnel, participating agency personnel, and authorized individuals working in direct support of the **City of Ontario** personnel (such as interns or volunteers), personnel providing information technology services to the **City of Ontario**, private contractors, agencies from which the **City of Ontario** information originates, and other authorized users will comply with applicable laws and policies concerning P/CRCL, including, but not limited to [include a specific reference to any relevant state statutes or other binding state or local policy specific to face recognition systems, then provide a list of other applicable state and federal P/CRCL laws and/or include a reference to the section or appendix containing a list of applicable laws].

C. Governance and Oversight

1. Who has primary responsibility for the entity's overall operation, including the entity's justice information systems, face recognition program and system, information collection and retention procedures, coordination of personnel, and enforcement of this policy? Which individual will ultimately be held accountable for any problems or errors?

Primary responsibility for the operation of the **City of Ontario's** justice information systems, face recognition program and system, operations, and the coordination of personnel; the receiving, seeking, retention, evaluation, data quality, use, purging, sharing, disclosure, or dissemination of information; and the enforcement of this policy is assigned to the [position/title] of the **City of Ontario**.

2. Who is assigned primary responsibility for overseeing and administering the entity's face recognition program?

The **City of Ontario's** [insert title] will designate [a face recognition administrator or face recognition unit or department who/that] will be responsible for the following [include any of the following responsibilities that apply to the face recognition administrator or other responsibilities:

- Overseeing and administering the face recognition program to ensure compliance with applicable laws, regulations, standards, and policy.
- Acting as the authorizing official for individual access to face recognition information.
- Ensuring that user accounts and authorities granted to personnel are maintained in a current and secure "need-to-know" status.
- Reviewing face recognition search requests, reviewing the results of face recognition searches, and returning the most likely candidates—or candidate images—if any, to the requesting agency.

- Ensuring that protocols are followed to ensure that face recognition information (including **probe images**) is automatically purged in accordance with the entity's retention policy (refer to section L.1. Information Retention and Purging), unless determined to be of evidentiary value.
- Ensuring that random evaluations of user compliance with system requirements and the entity's face recognition policy and applicable law are conducted and documented (refer to section M.2. Accountability).
- Confirming, through random audits, that face recognition information is purged in accordance with this policy and to ensure compliance with applicable laws, regulations, standards, and policy.
- Ensuring and documenting that personnel (including investigators from external agencies who may make face recognition search requests) meet all prerequisites stated in this policy prior to being authorized to use the face recognition system.]

3. What is the operating entity's role with regard to the face recognition program?

[Select the option that is applicable to the entity.]

Option 1: The entity operates its own face recognition program.

The **City of Ontario** face recognition program was established on **[date]** in conjunction with **[other agency partners, if applicable]**. Personnel from the following agencies are authorized to request face recognition searches:

- **[Insert list of agencies authorized to request face recognition searches].**

Option 2: The entity has authorized access to a face recognition system.

The **City of Ontario** has authorized access to and can perform face recognition searches utilizing the **[insert name of entity that owns the face recognition program]** face recognition system.

4. Is there is a commercial entity or vendor involved and, if so, what is that vendor's role?

The **City of Ontario** contracts with **[insert name of commercial entity or vendor]** to provide **[insert applicable vendor role, such as "software and system development services for the entity's face recognition system"]**. The **City of Ontario** retains ownership of the face recognition system and the images and information it contains.

5. What is the process for developing, reviewing, and updating the face recognition policy?

The **City of Ontario** is guided by a **[insert guiding authority, for example, a "designated face recognition oversight committee"]** that ensures that P/CRCL are not violated by this face recognition policy and by the **City of Ontario's** face recognition information collection, receipt, access, use, dissemination, retention, and purging processes and procedures. The **[insert guiding authority, for example, a "designated face recognition oversight committee"]** engages with the community regarding the **City of Ontario's** face recognition policy prior to publishing.

It is suggested that the committee will annually review and update the face recognition policy in response to changes in law and program implementation experience, including the results of audits and inspections, and may **solicit input from the entity's stakeholders [insert, if applicable "and may provide notice to and solicit comment from the public"]** on the development of the face recognition policy or proposed updates to the face recognition policy.

6. Who is the designated and trained privacy officer (or entity) who will handle reported errors and violations of this policy and who will oversee the implementation of this policy and face recognition P/CRCL protections?

[Provide the title of the individual or name of the entity. This may be the privacy officer; legal counsel; internal affairs; external entities such as the U.S. Attorney or the Office of Inspector General; or other personnel who have independent authority to perform oversight responsibilities.]

The **[insert title of individual or name of entity]** will:

- Receive reports regarding alleged errors and violations of the provisions of this face recognition policy or applicable state law.
- Receive and coordinate complaint resolution under the City of Ontario's face recognition redress policy.
- Ensure that the provisions of this policy and P/CRCL protections are implemented through efforts such as training, business process changes, and system designs that incorporate privacy-enhancing technologies.

The **[insert title of individual but not the name or name of entity]** may be contacted at the following address: **[insert phone number, mailing address, or e-mail address]**, which is also posted on **[insert website where this information is listed for purposes of public redress]**.

7. Who, or what entity, is responsible for ensuring that enforcement procedures and sanctions for noncompliance with the face recognition policy are adequate and enforced?

The **[insert title of individual or name of entity]** will ensure that enforcement procedures and sanctions outlined in **[insert section number of policy (see Section M.3. Enforcement)]** are adequate and enforced.

D. Definitions

1. What key words or phrases are regularly used in the face recognition policy for which the entity wants to specify particular meanings?

This may include terms that are not commonly known or have multiple meanings that may need to be clarified to indicate which one applies to the face recognition policy. There may be legal definitions for terms in the statutes governing the operation of justice information or face recognition systems or programs. For examples of definitions of key terms commonly used throughout this template, refer to Appendix A, Glossary of Terms and Definitions.

For examples of primary terms and definitions used in this face recognition policy, refer to **[insert section or appendix citation]**.

E. Acquiring and Receiving Face Recognition Information

1. What image repositories are searched using the entity's face recognition system? Select all options that are applicable to the entity.

Option 1: The entity maintains or operates an entity-owned image repository.

The **City of Ontario** face recognition system can access and perform face recognition searches utilizing the following entity-owned face image repositories:

- **[Insert a list of entity-owned and maintained repositories, including information types.]**

Option 2: The entity has authorized access to and can perform face recognition searches utilizing image repositories not owned by the entity. Indicate the authority/source of the repository (e.g., driver's license images).

The **City of Ontario** is authorized to access and perform face recognition searches utilizing the following external repositories:

[List the image type and authority/source for each repository accessed. These may include:

- **Mug-shot images [check state authority and insert source]**
- **Driver's license photographs [check state authority and insert source]**
- **State identification card photographs [check state authority and insert source]**
- **Sex Offender Registry [check state authority and insert source]**
- **[Specify any other image repositories that are accessed and cite state authority.]**

Option 3: In addition to the above, the entity is authorized to request that face recognition searches be performed by an external entity that operates a face recognition program.

In addition to above, the **City of Ontario** is authorized to submit requests for face recognition searches to be performed by the following external entities that own and maintain face image repositories:

[List the image type and authority/source for each repository accessed. These may include:

- **Mug-shot images [check relevant state law and insert source]**
- **Driver's license images [check relevant state law and insert source]**
- **State identification card images [check relevant state law and insert source]**
- **Sex Offender Registry [check relevant state law and insert source]**
- **[Specify any other image repositories that are accessed and cite state authority.]**

- 2. For use in performing a face recognition search, describe the conditions under which the entity will obtain or accept probe images. Note: State and federal law and/or policies may restrict queries to commercial repositories.**

For the purpose of performing face recognition searches, the **City of Ontario** and authorized **the City of Ontario** personnel will obtain probe images or accept probe images from authorized requesting or participating agencies only for the authorized uses identified in A. 2.

- 3. If the entity receives probe images from other law enforcement agencies, identify the mechanism by which this occurs (e.g., memorandum of understanding [MOU], law, intergovernmental agreement [IGA]).**

The **City of Ontario** will receive probe images only from **[list other law enforcement agency or agencies]** in accordance with **[insert mechanisms, e.g., MOU, law, intergovernmental or interagency agreement]** established between the **City of Ontario** and the law enforcement agency(ies). If a non-law enforcement entity wants to submit a probe image for the purpose of a face recognition search, the entity will be required to file a criminal complaint with the appropriate law enforcement entity prior to the search.

- 4. Identify the federal or state constitutional prohibitions or prohibitions in federal, state, local, or tribal laws under which the entity and/or participating agencies will not request or perform face recognition searches.**

Best Practice: Entities should consider an additional level of review and approval in order to enhance protection and ensure appropriate use of this technology in sensitive locations or populations.

The **City of Ontario** and, if applicable, any authorized requesting or participating agencies will not violate First, Fourth, and Fourteenth Amendments and will not perform or request face recognition searches about individuals or organizations based solely on their religious, political, or social views or activities; their participation in a particular noncriminal organization or lawful event; or their races, ethnicities, citizenship, places of origin, ages, disabilities, genders, gender identities, sexual orientations, or other classification protected by law.

However, the **City of Ontario** accords special consideration to the collection of face images relating to First Amendment-protected events, activities, and affiliations. Because of the sanctity of the First Amendment, law enforcement's role at First Amendment-protected events is usually limited to crowd control and public safety.⁹ If, however, during the planning assessment and approval process for the particular event, before proceeding with the collection, the **City of Ontario** anticipates a need for the collection of face images, the **City of Ontario** will articulate whether collection of face images by law enforcement officers at the event is permissible; the legal or justified basis for such collection (including specifics regarding the criminal behavior that is suspected); and how face images may be collected, used, or retained, in accordance with this policy, as appropriate. If face images will be collected, the plan will specify the type of information collection that is permissible, identify who will collect face images (uniform or plainclothes officers), and define the permissible acts of collection.

[Note: Some law enforcement purposes may be stated generally in the Operations Plan or communicated to officers, but objectives that may risk interference with the exercise of First Amendment rights should be stated narrowly and be expressly tied to a specific law enforcement function (e.g., public safety, investigative).]

The use of mobile face image capture devices relating to First Amendment-protected events, activities, and affiliations will be specially authorized by **[title of entity supervisor/director/administrator]** of the **City of Ontario** in advance of the event.

The **City of Ontario** will reassess the need for and use of face recognition during the First Amendment-protected event. The **City of Ontario** will utilize face images from a First Amendment-protected event should the public safety mission change or in support of an active or ongoing criminal or homeland security investigation that occurs during or resulted from a First Amendment-protected event.

- 5. If the entity contracts with a commercial face recognition vendor, does the entity require an assurance that the vendor or subcontractor is in legal compliance in its information collection, receipt, access, retention, dissemination, and purging procedures?**

The **City of Ontario** will contract only with commercial face recognition companies or subcontractors that provide assurances that their methods for collecting, receiving, accessing, disseminating, retaining, and purging face recognition information comply with applicable local, state, tribal, territorial, and federal laws, statutes, regulations, and policies and that these methods are not based on unfair or deceptive information collection practices.

F. Use of Face Recognition Information

- 1. Describe the authorized access to or disclosure of face recognition search results *within the entity or in other governmental agencies*. Entities may consider developing policies for addressing use of face recognition in conjunction with certain “sensitive” locations or populations (e.g., places of worship, academia). In addition, indicate if the entity has certain restrictions or allowances for the use of images in briefings or trainings, and whether there are any distinctions for hard copy versus digital images.**

⁹ For further information about these processes, see *Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies* at 4, Global Justice Information Sharing Initiative, <https://it.ojp.gov/GIST/35/Recommendations-for-First-Amendment-Protected-Events-for-State-and-Local-Law-Enforcement-Agencies>.

Best Practice: Entities should consider an additional level of review and approval in order to enhance protection and ensure appropriate use of this technology in sensitive locations or populations.

Access to or disclosure of face recognition search results will be provided only **to individuals within the entity or in other governmental agencies** who are authorized to have access and have completed applicable training outlined in section N. Training, and only for valid law enforcement purposes (e.g., enforcement, reactive investigations), and to IT personnel charged with the responsibility for system administration and maintenance. Authorized uses are described in A.3 of this policy. **[Insert, if applicable, any additional restrictions or allowances regarding the use of images in briefings or trainings, and whether there are any distinctions for hard-copy versus digital images.]**

2. For what purposes does the entity prohibit accessing and using the face recognition system and disseminating face recognition search results?

The **City of Ontario** will prohibit access to and use of the face recognition system, including dissemination of face recognition search results, for the following purposes:

- Non-law enforcement (including but not limited to personal purposes).
- Any purpose that violates the U.S. Constitution or laws of the United States, including the protections of the First, Fourth, and Fourteenth Amendments.
- Prohibiting or deterring lawful individual exercise of other rights, such as freedom of association, implied by and secured by the U.S. Constitution or any other constitutionally protected right or attribute.
- Harassing and/or intimidating any individual or group.
- Any other access, use, disclosure, or retention that would violate applicable law, regulation, or policy.

3. Does the entity allow face recognition analysis on live or recorded video?

Best Practice: It is important for the entity to articulate a clear and affirmative statement regarding the entity's position regarding face recognition analysis on live or recorded video.¹⁰

The **City of Ontario** **[does not/does]** connect the face recognition system to any interface that performs live video surveillance, including surveillance cameras, drone footage, and body-worn cameras. The face recognition system **[will not/will]** be configured to conduct face recognition analysis on live or recorded video.

4. What types of user actions and permissions are controlled by the entity's face recognition access limitations?

Best Practice: Least privilege administration is a recommended security practice in which every user is provided with only the minimum privileges needed to accomplish the tasks he or she is authorized to perform. It is suggested that entities specify their method for identifying user actions and permissions as it relates to face recognition information within their face recognition policies.

The **City of Ontario** will employ credentialed, role-based access criteria, as appropriate, to control:

- Categories of face recognition information to which a particular group or class of users may have access, based on the group or class.
- The assignment of roles (e.g., administrator, manager, operator, and user).
- The categories of face recognition information that a class of users are permitted to access, including information being utilized in specific investigations.

¹⁰ Face recognition analysis on live video is different than mobile face recognition. While mobile recognition entails using a mobile device to capture a photo of a subject who is in the presence of a law enforcement officer (e.g., during a traffic stop), face recognition analysis on live video means that face recognition searches may be performed on images of any individual captured within the frame of a live feed video camera (such as a closed circuit television).

- Any administrative or functional access required to maintain, control, administer, audit, or otherwise manage the information or equipment.

5. What is the entity's standard face recognition search procedure?

The following is a suggested sample procedure which should be customized by the entity to reflect its actual face recognition search standard procedures. Each agency will determine which of the following steps, and others, are necessary to support its various operations, acknowledging that each step may not be executed (e.g., using a filtered search as a secondary search) in every instance.

Note: Entities are encouraged to refer to the National Institute of Standards and Technology's (NIST) Face Recognition Vendor Test (FRVT) Ongoing website for information on matching algorithms from independent government evaluations of commercially available and prototype face recognition technologies at <https://www.nist.gov/programs-projects/face-recognition-vendor-test-frvt-ongoing>.

The following describes the **City of Ontario's** manual and automated face recognition search procedure, which is conducted in accordance with a valid law enforcement purpose and this policy.

- Authorized **the City of Ontario** personnel [and/or authorized requesting agency personnel] will submit a probe image of a subject of interest.
- Trained **the City of Ontario** authorized examiners will initially run probe images without filters, using a filtered search as a secondary search, if needed. In some cases, enhancements may be considered after running an image as is against the image repository.
- In the automated search, most likely candidates are returned to the requestor ranked in order based on the similarity or confidence level.
- The resulting candidates, if any, are then manually compared with the probe images and examined by an authorized, trained examiner. Examiners shall conduct the comparison of images, biometric identifiers, and biometric information in accordance with their training.
 - If no likely candidates are found, the requesting entity will be informed of the negative results. In the case of a negative result, the images examined by the examiner will not be provided to the requesting entity.
- Examiners will submit the search and subsequent examination results for a peer review of the probe and candidate images for verification by other authorized, trained examiners.
- All results of most likely candidate images from the face recognition search must be approved by a supervisor prior to dissemination.
- All entities receiving the results of a face recognition search, must be cautioned that the resulting candidate images do not provide positive identification of any subject, are considered advisory in nature as an investigative lead only, and do not establish probable cause, without further investigation, to obtain an arrest warrant without further investigation.
- The following statement will accompany the released most likely candidate image(s) and any related records:

The **City of Ontario** is providing this information as a result of a search, utilizing face recognition software, of records maintained by the [name of records entity]. This information is provided only as an investigative lead and **IS NOT TO BE CONSIDERED A POSITIVE IDENTIFICATION OF ANY SUBJECT**. Any possible connection or involvement of any subject to the investigation must be determined through further investigation and investigative resources.

6. Does the entity operate a mobile face recognition search capability and, if so, what is the process?

The **City of Ontario** has established the following process for mobile face recognition searches:

- Only **the City of Ontario** authorized and trained officers may utilize the mobile face recognition application and only on department-authorized devices. [If personal devices are permitted, insert entity policy regarding use of mobile face recognition on personal devices.]

- Prior to utilizing a face recognition search, an officer should first attempt to ascertain an individual's identity by means other than a face recognition search, such as requesting identification, using a fingerprint scanner, etc.
- Mobile searches may be performed during the course of an officer's lawful duties and only for the entity-established authorized uses listed in section A. Purpose Statement, item 3.
- In addition, officers may only capture an individual's image when one of the conditions listed in section F.7 exist.
- **[Use the following language, if the process is applicable to the entity. "The face recognition system does not work over standard cellular internet. Officers must log in and be authenticated into the City of Ontario's law enforcement network in order to access the face recognition system."]**
- The log-in screen will prompt the user to acknowledge and agree to the following statement before granting access to the system:
 - Face recognition is not a form of positive identification of a subject. Images returned as a result of a face recognition search may be considered investigative lead information only and are not probable cause to arrest, without further investigation.
 - Face recognition searches shall not be performed by the user on behalf of others who have not been trained and authorized to perform the searches.
 - All face recognition searches are subject to audit and require case numbers and file class/crime types.
 - Misuse may result in administrative and/or criminal penalties.
- Prior to executing the search, the officer must enter the reason for the search within the application. **[List the reasons that are prompted by the entity's face recognition application. Reasons may include the following:**
 - **Consent**
 - **Reasonable suspicion of a crime**
 - **Probable cause**
 - **Physical/mental incapacity**
 - **Test/training**
 - **Other—[enter written reason]**
- The captured image (probe image) will be submitted to the face recognition system, which will compare the probe image with those contained in the **[indicate the name(s) of repository/ies searched]**.
- A list of most likely candidate images is returned ranked by computer-evaluated similarity.
- The officer then completes a visual or manual morphological comparison of the candidate images with the subject's probe image to make a visual judgment, as well as uses standard investigative techniques, to determine whether the subject is the same as a candidate image.

7. What are the conditions by which a mobile face recognition search may be conducted?

Authorized and trained **the City of Ontario** officers may only perform a mobile face recognition search during the course of lawful duties, in accordance with entity-established authorized uses (refer to section A. Purpose Statement, item 3), and when one of the following conditions exist:

- Public Place: In accordance with applicable law, the individual's image is captured in a public place for the purpose of identification and the individual has no reasonable expectation of privacy. The **City of Ontario** will not authorize the collection of the individual's face image when the individual raises an objection that is recognized by law (e.g., religious objection).
- Consent: The individual consents to have his or her image captured for the purpose of identification. The individual may withdraw consent at any time. If consent is withdrawn and neither of the other conditions applies, then use of a face recognition search is not authorized and the search must stop immediately.
- Incapacitation, Defect, or Death: When an individual is unable to provide reliable identification because of physical incapacitation or defect, mental incapacitation or defect, or death, and an immediate identification is needed to assist the officer in the performance of his or her lawful duties.

8. When, if ever, is force used to capture a subject's image?

At no time is the use of force permitted to capture a subject's image.

G. Sharing and Disseminating Face Recognition Information

1. What requirements must be met before external law enforcement agencies can request face recognition searches?

The **City of Ontario** will establish requirements for external law enforcement agencies to request face recognition searches. These will be documented in an interagency agreement or MOU, which will include an assurance from the external agency that it complies with the laws and rules governing it, including applicable federal and state laws. The agreement will specify only those agency personnel who have been authorized by the **City of Ontario**, who have completed the required training identified in section N.2, and that requests are for official use only/law enforcement sensitive (FOUO/LES). Each request must be accompanied by a complaint number or case number.

2. Under what circumstances will the entity or contracted vendor *not disclose* face recognition information?

The **City of Ontario's** face recognition search information **will not** be:

- Sold, published, exchanged, or disclosed to commercial or private entities or individuals except as required by applicable law and to the extent authorized by the **City of Ontario's** agreement with the commercial vendor.
- Disclosed or published without prior notice to the originating entity that such information is subject to disclosure or publication. However, the **City of Ontario** and the originating agency may agree in writing in advance that the **City of Ontario** will disclose face recognition search information as part of its normal operations, including disclosure to an external auditor of the face recognition search information.
- Disclosed on a discretionary basis unless the originating agency has provided prior written approval or unless such disclosure is otherwise authorized by the MOU or agreement between the **City of Ontario** and the originating agency.
- Disclosed to unauthorized individuals or for unauthorized purposes.
- **[For commercial face recognition vendors, the entity should closely review its vendor agreement.]**

3. State the entity's policy on confirming the existence or nonexistence of face recognition information to individuals or agencies that are not authorized to receive the information.

Note: This provision is unrelated to policy transparency and is not intended to imply that entities not make their face recognition policies available to the public. Rather, this template promotes entity face recognition policy transparency. Refer to Chapter 1. Introduction, Section B. How to Use This Resource, item 3. Transparency and Referencing Other Policies, for guidance on this subject. In addition, refer to section M. Accountability and Enforcement, subsection M.1. Transparency, item 1 within this chapter for the policy provision addressing entity policy transparency.

The **City of Ontario** will not confirm the existence or nonexistence of face recognition information to any individual or agency that would not be authorized to receive the information unless otherwise required by law.

H. Data Quality Assurance

1. **What is the entity's policy for ensuring that the original image is not altered, changed, or modified?**

Original probe images will not be altered, changed, or modified in order to protect the integrity of the image. Any enhancements made to a probe image will be made on a copy, saved as a separate image, and documented to indicate what enhancements were made, including the date and time of change.

2. **Does the entity review the quality and suitability of probe images prior to performing a face recognition search?**

the City of Ontario examiners will analyze, review, and evaluate the quality and suitability of probe images, to include factors such as the angle of the face image, level of detail, illumination, size of the face image, and other factors affecting a probe image prior to performing a face recognition search.

3. **What is the entity's policy regarding use of the face recognition search results for law enforcement action?**

The **City of Ontario** considers the results, if any, of a face recognition search to be advisory in nature as an investigative lead only. Face recognition search results are **not** considered positive identification of a subject and do not, on their own, establish probable cause, without further investigation. Any possible connection or involvement of the subject(s) to the investigation must be determined through further investigative methods.

[Add the following statement if the entity utilized mobile face recognition searches.

All potential matches are considered advisory in nature and any subsequent verification of the individual's identity, such as through a fingerprint check, or follow-on action should be based on an agency's standard operating procedures.]

4. **What is the entity's procedure for ensuring proper face recognition system performance?**
Routine testing of the face recognition system build, or enhancement, should be performed to ensure the system is operating as designed, continuously available to users without malfunctions or deficiencies, and delivering search results within the accuracy rate of the specific system requirement. Testing also confirms, when system enhancements are made, whether they result in improved performance, (e.g., increased accuracy, speed, filtered search capabilities).

The **City of Ontario** will make every reasonable effort to perform routine maintenance, upgrades and enhancements, testing, and refreshes of the face recognition system to ensure proper performance, including the following:

- Designated, trained personnel shall assess the face recognition system on a regular basis to ensure performance and accuracy.
- Malfunctions or deficiencies of the system will be reported to the **[insert position/title]** within **[insert time period, e.g., number of days]** of discovering the malfunctions or deficiencies.

5. **Does the entity research alleged errors and malfunctions or deficiencies of face recognition information (or requests that the originating agency or vendor investigates)?**

The integrity of information depends on quality control and correction of recognized errors which is key to mitigating the potential risk of misidentification or inclusion of individuals in a possible identification. The **City of Ontario** will investigate, in a timely manner, alleged errors and malfunctions or deficiencies of face recognition information or, if applicable, will request that the originating agency or vendor investigate the alleged errors and malfunctions or deficiencies. The **City of Ontario** will correct the information or advise the process for obtaining correction of the information.

I. Disclosure Requests

1. Does the entity provide face recognition information *to a member of the public* in response to a request based on state open records, sunshine law, or the Freedom of Information Act (FOIA)? For this policy provision, consult with legal counsel to determine under what conditions, if any, face recognition information would be disclosed to a member of the public.

Notes:

- This issue does not apply to circumstances in which an entity chooses to provide sensitive information in accordance with entity policy in response to an emergency situation or provide nonsensitive information to the public.
- Personal biometric data is generally inaccessible under FOIA. Additional information surrounding face recognition systems and policies may be accessible pursuant to FOIA and state open government laws.

Face recognition information will be disclosed to the public in accordance with **[cite applicable state retention laws, public records laws, and policy]**. A record will be kept of all requests and of what information is disclosed to an individual. **[If the state law prohibits disclosure, revise provision to reflect this.]**

J. Redress

J.1 Complaints

1. What is the entity's procedure for handling individuals' complaints with regard to face recognition information received, maintained, disclosed, or disseminated by the entity?

If an individual has a complaint with regard to face recognition information that is exempt from disclosure, is held by the **City of Ontario**, and allegedly has resulted in demonstrable harm to the complainant, the **City of Ontario** will inform the individual of the procedure for submitting (if needed) and resolving such complaints. Complaints will be received by the entity's **[Privacy Officer, Face Recognition Administrator, Internal Affairs Representative, or other position title]** at the following address: **[insert mailing address, e-mail address, and/or link to page if complaints can be submitted electronically]**. The **[Privacy Officer, Face Recognition Administrator, Internal Affairs Representative, or other position title]** will acknowledge the complaint and state that it will be reviewed but will not confirm the existence or nonexistence of the information to the complainant unless otherwise required by law.

If the face recognition information did not originate with the entity, the **[Privacy Officer, Face Recognition Administrator, Internal Affairs Representative, or other position title]** will notify the originating agency within 30 days in writing or electronically and, upon request, assist such agency to correct any identified data/record deficiencies in the information or verify that the record is accurate.

All face recognition information held by the entity that is the subject of a complaint will be reviewed within 30 days and confirmed or corrected/purged if determined to be inaccurate or incomplete, to include incorrectly merged or out-of-date information. If there is no resolution within 30 days, the entity will not share the information until such time as the complaint has been resolved. A record will be kept by the entity of all complaints and the resulting action taken in response to them.

J.2 Requests for Corrections

1. If, in accordance with state statute, the entity is subject to disclosure, what is the entity's procedure for handling individuals' requests for correction involving *face recognition information it can change because it originated the information*? Is a record kept of requests for corrections?

If, in accordance with state law, an individual requests correction of face recognition information *originating with the City of Ontario* that has been disclosed, the **City of Ontario's [insert title of designee]** will inform the individual of the procedure for requesting a correction. The **City of Ontario** will investigate, in a timely manner, alleged errors and malfunctions or deficiencies of face recognition information or, if applicable, will request that the originating agency or vendor investigate the alleged errors and malfunctions or deficiencies. The **City of Ontario** will correct the information or advise the process for obtaining correction of the information. A record will be kept of all requests and the **City of Ontario's** response.

J.3 Appeals

1. If requests for disclosure or corrections are denied, what is the entity's procedure for appeal? Refer to state public records laws and explain the appeals process, including the identity of the office or officer charged with enforcing the public records act; the mailing or e-mail address of the office or officer charged with this responsibility; the time frame for filing the appeal; and the requisite documentation that must be submitted (e.g., a copy of the request, a copy of the response, and a written statement explaining why the requestor asserts that the record is a public record).

The individual who has requested disclosure or to whom face recognition information has been disclosed will be informed of the reason(s) why the **City of Ontario** or originating agency denied the request for disclosure or correction. The individual will also be informed of the procedure for appeal when the **City of Ontario** or originating agency has cited an exemption for the type of information requested or has declined to correct challenged face recognition information to the satisfaction of the individual to whom the information relates.

K. Security and Maintenance

1. What are the entity's physical, procedural, and technical safeguards for ensuring the security and privacy of face recognition information?

Describe how the entity will protect the face recognition information from compromise, such as:

- Unauthorized access
- Modification
- Theft
- Sabotage (whether internal or external)
- Natural or human-caused disasters
- Intrusions
- Deletion

Consider procedures, practices, system protocols, use of software, information technology tools, and physical security measures.

Best Practice: Reference generally accepted industry or other applicable standard(s) for security with which the entity complies (e.g., National Institute of Standards and Technology guidance).

The entity will comply with generally accepted industry or other applicable standards for security, in accordance with **[insert the name of the entity security policy or reference applicable standard(s)]** to protect data at rest, in motion, or in use. Security safeguards will cover any type of medium (printed or

electronic) or technology (e.g., physical servers, virtual machines, and mobile devices) used in a work-related **the City of Ontario** activity.

The **[name of entity and, if applicable, the name of entity's face recognition vendor]** will operate in a secure facility protected with multiple layers of physical security from external intrusion and will utilize secure internal and external security and privacy safeguards against network intrusions, such as strong multifactor authentication; encrypted communications; firewalls; and other reasonable physical technological, administrative, procedural, and personnel security measures to minimize the risks of unauthorized access to the system. Access to **the City of Ontario** face recognition information from outside the facility will be allowed only over secure networks.

All results produced by the City of Ontario as a result of a face recognition search are disseminated by secured electronic means (such as an official government e-mail address). Non-electronic disseminations will be conducted personally or by phone with the requestor or designee.

2. What are the entity's procedures for adhering to data breach notification laws or policies?

All individuals with access to **the City of Ontario's** information or information systems will report a suspected or confirmed breach to the **[Privacy Officer, Face Recognition Administrator, or other position title]** as soon as possible and without unreasonable delay, consistent with applicable laws, regulations, policies, and procedures. This includes a breach in any medium or form, including paper, oral, and electronic.

Best Practice: Provide prompt notification to originating agencies when face recognition information they provided to the entity has been the subject of a suspected or confirmed data breach.

[To the extent allowed by existing data breach notification law] Following assessment of the suspected or confirmed breach and as soon as practicable, the **City of Ontario** will notify the originating agency from which the entity received face recognition information of the nature and scope of a suspected or confirmed breach of such information.

[In addition to the above, the entity should identify any existing laws or policies governing its breach response procedures and, in accordance with these laws and policies, provide specific guidance on breach response procedures, including notification to individuals affected by the breach. Determine whether your state has a data breach notification law and select the appropriate provision.]

Option 1: State, Local, Tribal, or Territorial Data Breach Notification Law

The **City of Ontario** adheres to **[insert citation to applicable data breach notification law.]** The **City of Ontario** will determine whether a data breach requires notification to an affected individual, in accordance with applicable laws, regulations, policies, and procedures.

Option 2: Office Management and Budget (OMB) Memorandum M-17-12, Preparing for and Responding to a Breach of Personally Identifiable Information (January 13, 2017), https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-12_0.pdf. For additional information on the development of incident response plans, entities may refer to DOJ's *Best Practices for Victim Response and Reporting of Cyber Incidents*, https://www.justice.gov/sites/default/files/opa/speeches/attachments/2015/04/29/criminal_division_guidance_on_best_practices_for_victim_response_and_reporting_cyber_incidents2.pdf.

[Where no applicable state, local, tribal, or territorial law exists, or where entities choose to supplement existing law or policy, M-17-12 may be used as a guide. Entities do not need to adopt OMB M-17-12 in full. Rather, entities should review OMB M-17-12

to determine which provisions are applicable and may adapt those provisions to the specific needs of the entity.]

The **City of Ontario** will adhere to breach procedures established by Office Management and Budget (OMB) Memorandum M-17-12 (January 13, 2017). The provisions adopted by the **City of Ontario** are cited below. In accordance with OMB M-17-12 **[insert citations to the sections and paragraphs of OMB M-17-12 that will be adopted]** and relevant laws, regulations, policies, and procedures, the **City of Ontario** will determine if, when, and how to provide notification to potentially affected individuals and other relevant entities.

Option 3: No State Data Breach Notification Law and Entity Does Not Follow OMB M-17-12

a. Entity Follows an Existing Data Breach Notification Policy

The **City of Ontario** will adhere to the **City of Ontario's** policy governing data breach notification. In accordance with **[insert citation(s) to the existing policy and procedures]**, the **City of Ontario** will **[insert excerpted language from the policy and procedures, as appropriate here]**. The **City of Ontario** will determine whether a data breach requires notification to an affected individual, in accordance with applicable laws, regulations, policies, and procedures.

b. Entity Does Not Have an Existing Data Breach Notification Policy

[Review and adapt the following template language to reflect the entity's data breach notification policy and procedures.]

When the **[Privacy Officer, Face Recognition Administrator, or other position title]** is notified of a suspected or confirmed breach, the **[Privacy Officer, Face Recognition Administrator, or other position title]** will determine whether the entity's response can be conducted at the staff level or whether a breach response team, consisting of the **[Privacy Officer, Face Recognition Administrator, or other position title, and others (e.g., individual with oversight responsibility for entity operation, the entity security officer, legal counsel, privacy oversight committee, and/or other designee(s))]** must be convened to respond to the breach. The **[Privacy Officer, Face Recognition Administrator, or other position title]**, in coordination with the breach response team, when applicable, will assess the risk of harm to individuals potentially affected by a breach (e.g., the nature and sensitivity of the personally identifiable information [PII] potentially compromised by the breach, the likelihood of access and use of PII, and the type of breach involved), evaluate how the entity may best mitigate the identified risks, and provide recommendations to the **[title of individual with oversight responsibility for entity operation]** on suggested countermeasures, guidance, or other actions.

The **[title of individual with oversight responsibility for entity operation]** will determine whether a data breach requires notification to an affected individual, in accordance with applicable laws, regulations, policies, and procedures. If required, the **City of Ontario** will notify an individual whose PII was or is reasonably believed to have been breached and access to which threatens physical, reputational, or financial harm to that person. If notice to the individual is required, it will be made promptly and without unreasonable delay following discovery of the breach. Notice will be provided consistent with the legitimate needs of law enforcement to investigate the breach or any measures necessary to determine the scope of the breach and, if necessary, to reasonably restore the integrity of any information system affected by the breach.

The **[Privacy Officer, Face Recognition Administrator, or other position title]** is responsible for developing and updating the entity's data breach response plan on an annual basis and in accordance with any changes in law, guidance, standards, agency

policy, procedures, staffing, and/or technology; for maintaining documentation about each data breach reported to the entity and the entity's response; and for keeping entity administrators informed of the status of an ongoing response. The **[title of individual with oversight responsibility for entity operation]** will determine when the response to a breach is concluded, based on input from the **[Privacy Officer, Face Recognition Administrator, or other position title]**.

3. Is the entity's face recognition system maintained in compliance with the manufacturer's recommendations?

All face recognition equipment and face recognition software and components will be properly maintained in accordance with the manufacturer's recommendations, including routine updates as appropriate.

4. What requirements exist to ensure that the face recognition information will be stored in a secure format and secure environment?

The **[name of entity or, if applicable, the name of the entity's face recognition vendor]** will store face recognition information in a manner that ensures that it cannot be modified, accessed, or purged except by personnel authorized to take such actions.

5. What are the requirements for authorizing personnel to have access to the entity's face recognition system?

Authorized access to the **City of Ontario's** face recognition system will be granted only to personnel whose positions and job duties require such access and who have successfully completed a background check and the training referenced in section N. Training.

6. Does the entity prohibit sharing of passwords?

Username and passwords to the face recognition system are not transferrable, must not be shared by the **City of Ontario** personnel, and must be kept confidential.

7. Does the entity require specific configuration of strong passwords and require the replacement of manufacturer default passwords for all web-based system access within a specified time frame?

The system administrator will ensure that all manufacturer-generated default passwords are replaced with secure passwords before web-based interfaces of the system become operational. User passwords must meet the following standards **[insert rules, such as no English words and a combination of upper and lowercase letters, numbers, and at least two special characters]**. Authorized users are not permitted to use the same password over time and are required to change their password every **[insert period of time]**.

8. Does electronic access to the entity's face recognition system identify the user? Is the identity of the user retained in the audit log?

Queries made to the **City of Ontario's** face recognition system will be logged into the system identifying the user initiating the query. All user access, including participating agency access, and queries are subject to review and audit.

9. Is a log kept of accessed and disseminated entity-owned face recognition information, and is an audit trail maintained? Refer to section M.2. Accountability, for more information on audit logs.

The **City of Ontario** will maintain an audit trail of requested, accessed, searched, or disseminated **the City of Ontario**-held face recognition information. An audit trail will be kept for a minimum of **[specify the retention period for your jurisdiction/entity for this type of request]** of requests, access, and

searches of face recognition information for specific purposes and of what face recognition information is disseminated to each individual in response to the request.

Audit logs will include:

[Provide a list of the information maintained in the audit log, such as:

- The name, agency, and contact information of the law enforcement user
- The date and time of access
- Case number
- Probe images (refer to section L.5)
- The specific information accessed
- The modification or deletion, if any, of the face recognition information
- The authorized law enforcement or public safety justification for access (criminal investigation, criminal intelligence, imminent threat, or identification), including a relevant case number if available. Note: The justification should be consistent with section E.]

L. Information Retention and Purging

Agencies vary on their face recognition image retention policies regarding the specific laws and regulations of their jurisdictions and their strategic and tactical objectives in using the technology. Reference laws, if applicable. If images are stored in multiple repositories (mobile information computer [MDC]/laptops, mobile image capture devices, entity or nonentity servers, etc.), identify each repository and its associated retention period.

1. What is the entity's retention policy for images contained in the entity's image repository?

Notes:

- The retention decision focuses on the face recognition record as a whole. Individual components of the face recognition record should not have different retention periods. However, if there are different categories of images that are retained, based on valid law enforcement purposes for retaining the images, include the retention policy for each category of images.

For example: "When, in accordance with an official law enforcement activity and this policy, face recognition searches are used for short-term situational awareness surveillance, the City of Ontario will purge face recognition images of nonviolators within [insert time period]. However, with respect to the retention of face recognition images relating to First Amendment-protected events, the City of Ontario limits the retention of face recognition images to [insert time period]."

- In accordance with *Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies*,¹¹ "[a]gencies should limit the retention of information as much as possible to avoid the perception of maintaining files on groups or persons who engage in protected First Amendment activities."

[Select all options that are applicable to the entity.]

Option 1: The entity maintains or operates an entity-owned image repository.

All images contained within the **City of Ontario's [name of image repository, e.g., mug shot repository]** will be stored for a period not to exceed **[insert a time frame]**. After **[insert time period]**, the information will be automatically purged in accordance with purging

¹¹ For further information about these processes, see *Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies* at 22–23, Global Justice Information Sharing Initiative, <https://it.ojp.gov/GIST/35/Recommendations-for-First-Amendment-Protected-Events-for-State-and-Local-Law-Enforcement-Agencies>.

protocols (i.e., permanently removed from the repository). Refer to section K. Security and Maintenance, item 9, regarding face recognition information stored in audit logs.

Option 2: The entity has authorized access to and can perform face recognition searches utilizing image repositories not owned by the entity.

Images accessed by the **City of Ontario** for face recognition searches, in accordance with section E.1, are not maintained or owned by the **City of Ontario** and are subject to the retention policies of the respective agencies authorized to maintain those images.

Option 3: The entity is authorized to request that face recognition searches be performed by an external entity that operates a face recognition program.

The **City of Ontario** is authorized to submit face recognition search requests, in accordance with section E.1, to external agencies that own and maintain face image repositories. The images searched are subject to the retention policies of the respective agencies that maintain or own the face image repositories.

Once a face recognition image is downloaded by **the City of Ontario** personnel and incorporated into a criminal intelligence record or an investigative case file, the face recognition information is then considered criminal intelligence or investigative information, and the laws, regulations, and policies applicable to that type of information or criminal intelligence govern its use.

Any images that do not originate with the **City of Ontario** will remain in the custody and control of the originating agency and will not otherwise be transferred to any other entity without authorization from the originating agency.

If the face recognition image has become or there is reason to believe that it will become evidence, including Rosario material or evidence that tends to inculcate or exculpate a suspect, in a specific criminal or other law enforcement investigation or action, the following provisions apply:

- a. In those circumstances in which an image is identified as being Rosario material or having evidentiary value, the face recognition **[insert administrator or other title]** or designee will review the facts of the specific case and determine whether the image should be retained beyond the established retention period. If it is determined that it is reasonable to believe the image is Rosario material or has evidentiary value, the face recognition **[insert administrator or other title]** will authorize the transfer of the applicable image from the image repository to **[insert appropriate response; for example, “the entity’s investigative case file,” “the entity’s case management system,” or “a form of digital storage media (CD, DVD, etc.) or other portable storage device”]** and will purge the image from the repository.
- b. Agencies requiring images be retained by the **City of Ontario** beyond the established retention period may make a formal, written request to the **City of Ontario** to extend retention. Each request must specify the need for extended retention, the circumstances surrounding the request, the requesting agency’s case number, and a specific point of contact within the requesting agency. The **City of Ontario** reserves the right to grant or deny agency requests based on the information provided.

The **City of Ontario** retains the right to remove images from the repository earlier than the retention period, based on the limitations of information storage requirements and subject to any applicable record retention laws and statutory disclosure mandates. Early removal, however, will not be used as a means for intentionally interfering with a lawful complaint or a public records request. The retention period may be modified at any time by the **City of Ontario**, subject to applicable legal requirements.

2. What is the entity's retention policy for probe images?

Probe images are not enrolled (stored) in the image repository. Retention of probe images will be the same as for the type of file (criminal case file, criminal intelligence file), whether paper or electronic, in which the information is stored.

3. Does the entity store unidentified images in an unsolved image file?

Note: If the entity does not store images in an unsolved image file, then this provision would not apply. If the entity is going to maintain an unsolved image file, there must be a legal standard and retention period.

A lawfully obtained probe image of an unknown suspect *may* be added to an unsolved image file pursuant to an authorized criminal investigation. Images in an unsolved image file are periodically compared with those in an image repository (of known persons). If a most likely candidate meets a minimum threshold of computer-evaluated similarity results, the contributor of the probe image is notified and requested to validate the continued need to store the image or determine whether the image can be purged. If, in accordance with this policy, the contributor has not validated the need to retain the image in the unsolved file, the image will be purged.

4. Does the entity store the results—or generated list of the most likely candidates—of a face recognition search?

The list of most likely candidate images is not enrolled (stored) in the image repository. For **the City of Ontario** investigations, the case agent will maintain the list of most likely candidates from a face recognition search within the case file.

5. Are probe images or the results of a face recognition search retained in an audit log?

Probe images and face recognition search results are saved within the entity's system audit log for audit purposes only. The audit log is available only to the **[insert position, such as a face recognition administrator]** and will be purged within **[insert time period]**. The audit log is not searchable and face recognition searches cannot be performed using the audit log.

M. Accountability and Enforcement

M.1 Transparency

1. Is the entity's face recognition policy available to the public?

The **City of Ontario** will be open with the public with regard to face recognition information collection, receipt, access, use, dissemination, retention, and purging practices. The **City of Ontario's** face recognition policy will be made available in printed copy upon request and posted prominently on the **City of Ontario's** website **[or web page]** at **[insert web address]**.

2. Does the entity have a point of contact for handling inquiries or complaints?

The **City of Ontario's** **[Privacy Officer, Face Recognition Administrator, or other position title]** will be responsible for receiving and responding to inquiries and complaints about the entity's use of the face recognition system, as well as complaints regarding incorrect information or P/CRCL protections in the image repository maintained and face recognition system accessed by the **City of Ontario**. The **[Privacy Officer, Face Recognition Administrator, or other position title]** may be contacted at **[insert mailing address or e-mail address]**.

M.2 Accountability

1. **What procedures and practices does the entity follow to enable evaluation of user compliance with system requirements, the entity's face recognition policy, and applicable law?**

The **City of Ontario** will adopt and follow procedures and practices by which it can ensure and evaluate the compliance of users with the face recognition system requirements and with the provisions of this policy and applicable law. This will include logging access to face recognition information, may include any type of medium or technology (e.g., physical servers, virtual machines, and mobile devices) used in a work-related activity, and will entail periodic random auditing of these systems so as not to establish a discernable pattern that may influence users' actions. These audits will be mandated at least **[insert quarterly, semiannually, annually, or other time period]**, and a record of the audits will be maintained by the **[Privacy Officer, Face Recognition Administrator, or title of designee]** of the **City of Ontario** pursuant to the retention policy. Audits may be completed by an independent third party or a designated representative of the **City of Ontario**.

Appropriate elements of this audit process and key audit outcomes will be compiled into a report and may be provided to command staff and oversight entities or governance boards.¹²

[Entities may also release a summary of findings to the public, pursuant to law or as a matter of discretion. If so, entities should consider the optional language below.]

Optional: The **City of Ontario** will provide an overview of audit findings to the public to enhance transparency with respect to P/CRCL protections built into the **City of Ontario's** operations.

Note: Statistical data may be incorporated into the publication, but the entity should be mindful of operational considerations. Actual audit logs, statistical data, or summary findings may contain PII. No PII should be included in the summary of audit findings released to the public.

2. **Does the entity have a mechanism for users or other personnel to report errors, malfunctions, or deficiencies of face recognition information and suspected or confirmed violations of face recognition policies?**

The **City of Ontario's** personnel or other authorized users shall report errors, malfunctions, or deficiencies of face recognition information and suspected or confirmed violations of the **City of Ontario's** face recognition policy to the **City of Ontario's [insert title of Face Recognition Administrator]**.

3. **How often does the entity review and update the provisions contained within this face recognition policy (for example, annually)?**

The **[Privacy Officer, Face Recognition Administrator, or other position title]** will review and update the provisions contained in this face recognition policy annually and will make appropriate changes in response to changes in applicable law, technology, and/or the purpose and use of the face recognition system; the audit review; and public expectations.

¹² *Privacy, Civil Rights, and Civil Liberties Audit Guidance for the State, Local, Tribal, and Territorial Intelligence Component*, Global Justice Information Sharing Initiative, <https://it.ojp.gov/GIST/181/Privacy--Civil-Rights--and-Civil-Liberties-Audit-Guidance-for-the-State--Local--Tribal--and-Territorial-Intelligence-Component>.

M.3 Enforcement

1. **What is the entity's procedure for enforcement if entity personnel, a participating agency, or an authorized user is suspected of being or has been found to be in noncompliance with the provisions of this policy?**

If the **City of Ontario** personnel, a participating agency, or an authorized user is found to be in noncompliance with the provisions of this policy regarding the collection, receipt, access, use, dissemination, retention, and purging, the **[title of entity director]** of the **City of Ontario** will:

- Suspend or discontinue access to information by the **City of Ontario** entity personnel, the participating agency, or the authorized user.
- Apply appropriate disciplinary or administrative actions or sanctions.
- Refer the matter to appropriate authorities for criminal prosecution, as necessary, to effectuate the purposes of the policy.

2. **What is the entity's policy with regard to the qualifications and number of participating agency personnel authorized to access the entity's face recognition system, and what additional sanctions are available for violations of the entity's face recognition policy?**

The **City of Ontario** reserves the right to establish the qualifications and number of personnel having access to the **City of Ontario's** face recognition system and to suspend or withhold service and deny access to any participating agency or participating agency personnel violating this face recognition policy.

N. Training

1. **Which personnel are required to participate in training programs before authorized access to the entity's face recognition system?**

Before access to the **City of Ontario's** face recognition system is authorized, the **City of Ontario** will require the following individuals to participate in training regarding implementation of and adherence to this face recognition policy:

- All authorized **the City of Ontario** personnel, including examiners
- All authorized participating agency personnel
- All authorized personnel providing information technology services to the **City of Ontario**

2. **What is covered by the entity's face recognition training program (for example, purpose of the face recognition policy, substance and intent of the provisions of the face recognition policy, impact of infractions, and possible penalties for violations)?**

The **City of Ontario's** face recognition policy training program will cover both:

- a. Elements of the operation of the face recognition program, including:
 - Purpose and provisions of the face recognition policy.
 - Substance and intent of the provisions of this face recognition policy and any revisions thereto relating to collection, receipt, access, use, dissemination, retention, and purging of the **City of Ontario's** face recognition information.
 - Policies and procedures that mitigate the risk of profiling.
 - How to implement the face recognition policy in the day-to-day work of the user, whether a paper or systems user.
 - Security awareness training.
 - How to identify, report, and respond to a suspected or confirmed breach.
 - Cultural awareness training, including:
- b. Elements related to the results generated by the face recognition system
 - Originating and participating agency responsibilities and obligations under applicable federal, state, or local law and policy.

- The P/CRCL protections on the use of the technology and the information collected or received, including constitutional protections, and applicable state, local, and federal laws.
- Face recognition system functions, limitations, and interpretation of results.
- Mechanisms for reporting violations of **the City of Ontario** face recognition policy provisions.
- The nature and possible penalties for face recognition policy violations, including possible transfer, dismissal, criminal liability, and immunity, if any.

3. What specialized training does the entity require face recognition examiners to complete prior to performing comparisons and analysis of face recognition probe and candidate images?

In addition to the training described in M.2, the **City of Ontario** face recognition examiners are required to complete advanced specialized training to include:

- Face recognition system functions, limitations, and interpretation of results.
- Use of image enhancement **[if applicable, “and video editing software”]**.
- Appropriate procedures and how to assess image quality and suitability for face recognition searches.
- Proper procedures and evaluation criteria for one-to-many and one-to-one face image comparisons.
- Candidate image verification process.

4. Does the entity require that investigators (those requesting the entity perform face recognition searches) complete training before they are permitted to make face recognition search requests?

Investigators from outside agencies are permitted to request face recognition searches from the **City of Ontario** only if prior to making requests the outside agency **[select applicable entity requirement(s) from the following list or insert the entity’s established requirements:**

- **There is a formalized agreement (e.g., a memorandum of understanding or an interagency agreement) between the City of Ontario and the outside agency, and the agreement acknowledges that requesting investigators have an understanding of the following concepts.**
- **The outside agency first provides examples of its applicable policies (e.g., privacy) and acknowledges in writing that its requesting investigators have an understanding of the following concepts.**
- **There is a law enforcement agency that is making the request based on a valid law enforcement purpose that falls within the authorized uses listed in section A. Purpose Statement, item 3. And the requestor provides a case number and contact information (requestor’s name, requestor’s agency, address, and phone number), and acknowledges an agreement with the following statement:**

The result of a face recognition search is provided by the City of Ontario only as an investigative lead and IS NOT TO BE CONSIDERED A POSITIVE IDENTIFICATION OF ANY SUBJECT. Any possible connection or involvement of any subject to the investigation must be determined through further investigation and investigative resources.

- **The agency completes the City of Ontario’s training on the following concepts:**
 - **Originating and participating agency responsibilities and obligations under applicable federal, state, or local law and policy.**
 - **P/CRCL protections on the use of the technology and the information collected or received.**
 - **Conditions and criteria under which the face recognition searches may be requested.**
 - **Face recognition system functions, limitations, and interpretation of results.**
 - **Use of face recognition search results as investigative leads only.**
 - **Mechanisms for reporting violations of the City of Ontario face recognition policy provisions.**
 - **The nature and possible penalties for face recognition policy violations, including dismissal, criminal liability, and immunity, if any.**
 - **Operational policies.]**

5. What training does the entity require field personnel—who are authorized to run mobile searches—to complete prior to utilizing mobile face recognition search capabilities?

In addition to the training described in N.2, the **City of Ontario** requires all personnel who are authorized to run a mobile search to be trained in the following areas prior to utilizing mobile face recognition search capabilities:

- The proper and lawful use of face images for face recognition purposes.
- How to capture high quality face images in the field for most accurate results.
- The rules and procedures for obtaining an individual's consent to having their image captured.
- The appropriate use and sharing of information obtained from a face recognition search.
- The deletion of field-acquired probe images.

Personnel who have not received this training shall not utilize mobile face recognition search capabilities.

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Appendix A—Glossary of Terms and Definitions

The following is a list of terms and definitions used within the policy or provided for the purpose of enhancing the reader's understanding of the topics discussed.

Access—Information access is being able to get to particular information on a computer (usually requiring permission to use). Web access means having a connection to the internet through an access provider or an online service provider.

Access Control—The mechanisms for limiting access to certain information, based on a user's identity and membership in various predefined groups. Access control can be mandatory, discretionary, or role- or user-based.

Acquisition—The means by which an entity obtains face recognition information through the exercise of its authorities.

Agency—See Participating Agency.

Algorithm—An algorithm is a procedure or formula for solving a problem, based on conducting a sequence of specified actions. A computer program can be viewed as an elaborate algorithm. Algorithms can perform calculation, data processing, and automated reasoning tasks and are widely used throughout all areas of information technology.

Analysis—Refer to Image Analysis.

Attributes—Physical characteristics, such as gender, race, age, hair color, etc. that can be applied to a face recognition search.

Audit Trail—A generic term for recording (logging) a sequence of activities. In computer and network contexts, an audit trail tracks the sequence of activities on a system, such as user log-ins and log-outs. More

expansive audit trail mechanisms would record each user's activity in detail, such as what commands were issued to the system, what records and files were accessed or modified, etc.

Audit trails are a fundamental part of computer security and used to trace (albeit usually retrospectively) unauthorized users and uses. They can also be used to assist with information recovery in the event of a system failure.

Authentication—The process of validating the credentials of a person, computer process, or device. Authentication requires that the person, process, or device making the request provides a credential that proves it is what or who it says it is. Common forms of credentials are digital certificates, digital signatures, smart cards, biometrics data, and a combination of user names and passwords. See Biometrics.

Authorization—The process of granting a person, a computer process, or device with access to certain information, services, or functionality. Authorization is derived from the identity of the person, a computer process, or a device requesting access that is verified through authentication. See Authentication.

Automated Face Recognition (AFR)—Automated face recognition (AFR) software compares patterns within the field of computer vision. Such approaches do not rely upon intrinsic models of what a face is, how it should appear, or what it may represent. In other words, the matching is not based on biological or anatomical models of what a face—or the features that make up a face—look like. Instead, the algorithm

performance is entirely dependent upon the patterns which the algorithm developer finds to be most useful for finding similarities. The patterns used in AFR algorithms do not correlate to obvious anatomical features such as the eyes, nose or mouth in a one-to-one manner, although they are affected by these features.

Biometric Template—A biometric template is a set of biometric measurement data [or features] prepared by a face recognition system from a face image.¹³ The prepared set can be compared to a probe image. An enrolled image, on its own, is not a biometric template. See Features.

Biometrics—A general term used alternatively to describe (1) a characteristic or (2) a process—(1) a measureable biological (anatomical and physiological) and behavioral characteristic that can be used for automated recognition or (2) automated methods of recognizing an individual based on measureable biological (anatomical and physiological) and behavioral characteristics.¹⁴

Candidates—See Candidate Images.

Candidate Images—The possible results of a face recognition search. When face recognition software compares a probe image against the images contained in a repository (See Repository.), the result is a list of most likely candidate images that were determined by the software to be sufficiently similar to or most likely resemble the probe image to warrant further analysis. A candidate image is an investigative lead only and does not establish probable cause to obtain an arrest warrant without further investigation.

Candidate List—One or more most likely candidate images resulting from a face recognition search. See Candidate Images.

Center—See Fusion Center.

Civil Liberties—According to the U.S. Department of Justice's Global Justice Information Sharing Initiative, the term "civil liberties" refers to fundamental individual rights, such as freedom of speech, press, or religion; due process of law; and other limitations on the power of the government to restrain or dictate the actions of

individuals.¹⁵ They are the freedoms that are guaranteed by the Bill of Rights—the first 10 amendments to the Constitution of the United States. Civil liberties offer protection to individuals from improper government action and arbitrary governmental interference.

Civil Rights—The term "civil rights" refers to those rights and privileges of equal protection that government entities must afford to all individuals in the United States regardless of race, ethnicity, gender, national origin, religion, sexual orientation, gender identity, or other characteristics unrelated to the worth of the individual. Protection of civil rights means that government entities will take action to ensure that individuals are not discriminated against on the basis of any federal- or state- protected characteristic. For example, a state may have constitutional or statutory language regarding parental status. Generally, the term "civil rights" involves positive (or affirmative) government action to protect against infringement, while the term "civil liberties" involves restrictions on government.¹⁶

Collect—For purposes of this document, "gather" and "collect" mean the same thing.

Comparison—The observation of two or more faces to determine the existence of discrepancies, dissimilarities, or similarities.¹⁷ See Face Comparison.

Computer Security—The protection of information technology assets using technology, processes, and training.

Confidentiality—Refers to the obligations of individuals and institutions to appropriately use information and data under their control once they have been disclosed to them and in accordance with applicable data security laws and policies. See Privacy.

Consent—In general use, consent means compliance in or approval of what is done or proposed by another; specifically, the voluntary agreement or acquiescence by a person of age or with requisite mental capacity who is not under duress or coercion and usually who has knowledge or understanding. Related to mobile face recognition, consent means an individual agrees

¹³ Glossary, FISWG, Version 1.1, February 2, 2012, https://www.fiswg.org/FISWG_Glossary_v1.1_2012_02_02.pdf.

¹⁴ Ibid.

¹⁵ *Civil Rights and Civil Liberties Protections Guidance*, at 4 (August 2008), https://www.dni.gov/files/ISE/documents/DocumentLibrary/Privacy/CR-CL_Guidance_08112008.pdf.

¹⁶ The definition of "civil rights" is a modified version of the definition contained in the *National Criminal Intelligence Sharing Plan* (NCISP), at pp. 5–6. *Civil Rights and Civil Liberties Protections Guidance* (August 2008), https://www.dni.gov/files/ISE/documents/DocumentLibrary/Privacy/CR-CL_Guidance_08112008.pdf.

¹⁷ Glossary, FISWG, Version 1.1, February 2, 2012, https://www.fiswg.org/FISWG_Glossary_v1.1_2012_02_02.pdf.

to have his or her image taken by a law enforcement officer for purposes of identification. See Revocation.

Continuous Monitoring—A system security process that comprises ongoing situational awareness of information security, vulnerabilities, threats, and incidents for each user level to support entity risk management decisions.

Credentials—Information that includes identification and proof of identification that are used to gain access to local and network resources. Examples of credentials are usernames, passwords, smart cards, and certificates.

Criminal Activity—A behavior, an action, or an omission that is punishable by criminal law.

Criminal Case Support—Administrative or analytic activities that provide relevant information to law enforcement personnel regarding the investigation of specific criminal activities or trends or specific subject(s) of criminal investigations.

Criminal Intelligence Information—Information deemed relevant to the identification of and the criminal activity engaged in by an individual who or organization that is reasonably suspected of involvement in criminal activity. Criminal intelligence records are maintained in a criminal intelligence system per 28 CFR Part 23.

Data—Inert symbols, signs, descriptions, or measures; elements of information.

Data Breach—The loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or any similar occurrence where (1) a person other than an authorized user accesses or potentially accesses personally identifiable information (PII) or (2) an authorized user accesses or potentially accesses PII for a purpose other than authorized purposes. An entity's response to a data breach may be addressed in state law or agency policy. This may include incidents such as:

- Theft or loss of digital media—including computer tapes, hard drives, or laptop computers containing such media—upon which such information is stored unencrypted.
- Posting such information on the internet.
- Unauthorized employee access to certain information.
- Moving information to a computer otherwise accessible from the internet without proper information security precautions.
- Intentional or unintentional transfer of information to a system that is not completely open but is not

appropriately or formally accredited for security at the approved level, such as unencrypted e-mail.

- Transfer of information to the information systems of a possibly hostile agency or environment where it may be exposed to more intensive decryption techniques.

Data Protection—Encompasses the range of legal, regulatory, and institutional mechanisms that guide the collection, receipt, use, dissemination, retention, purging, and protection of information.

Data Quality—Refers to various aspects of the information, such as the accuracy and validity of the actual values of the data, information structure, and database/information repository design. Traditionally, the basic elements of data quality have been identified as accuracy, completeness, currency, reliability, and context/meaning. Today, data quality is being more fully described in multidimensional models, expanding conventional views of the topic to include considerations of accessibility, security, and privacy. This concept is also addressed as one of the Fair Information Practice Principles (FIPPs), Data Quality/Integrity. See Appendix B for a full set of FIPPs.

Direct Face Recognition Collection—The entity is owner of the face recognition equipment that captures face recognition information.

Disclosure—The release, transfer, provision of access to, sharing, publication, or divulging of PII in any manner—electronic, verbal, or in writing—to an individual, agency, or organization outside the agency that collected it. Disclosure is an aspect of privacy, focusing on information which may be available only to certain people for certain purposes but which is not available to everyone.

Dissemination—See Disclosure.

Electronically Maintained—Information stored by a computer or on any electronic medium from which the information may be retrieved by a computer, such as electronic memory chips, magnetic tape, magnetic disk, compact disc optical media, or cloud technologies.

Electronically Transmitted—Information exchanged with a computer using electronic media, such as movement of information from one location to another by magnetic or optical media, or transmission over the internet, intranet, extranet, leased lines, dial-up lines, private networks, telephone voice response, or faxback systems. It does not include faxes, telephone calls, video teleconferencing, or messages left on voicemail.

Enhancement—Image enhancement is the process of adjusting digital images so that the results are more suitable for display or further image analysis. For example, removing noise, sharpening or brightening an image may make it easier to identify key features.

Enroll—The process of storing and maintaining information. Specifically, in the face recognition context, biometric enrollment is capturing a face image, creating a biometric template from the image, and entering the template into a face recognition repository.¹⁸ See Biometric Template and Repository.

Enrolled Image—An image that is loaded to, and may be stored in, an image repository (see Repository) and used as a reference image for face recognition comparisons (searches). Enrolled images do not include probe images. Some images of individuals may not be enrolled because they do not meet established criteria.

Enrollment—See Enroll.

Entity—The **City of Ontario**, which is the subject and owner of the face recognition policy.

Evaluation—Refer to Image Evaluation.

Examiner—An individual who has received advanced training in the face recognition system and its features. Examiners have at least a working knowledge of the limitations of face recognition and the ability to use image editing software. They are qualified to assess image quality and appropriateness for face recognition searches and to perform one-to-many and one-to-one face image comparisons.

Examiners determine if probe images are suitable for face recognition searches, and may enhance images for the purpose of conducting a face recognition search. Though enhancements to the probe image are permissible, the examiner does not base any conclusions on a comparison between an enhanced probe image and a potential candidate photo. Examiners shall evaluate search results by comparing the original unknown probe image with the potential candidate photo.

Expression—Facial aspects resulting from muscle movement or position.¹⁹

Face Comparison—The manual examination of the differences and similarities between two face images or a live subject and a face image (one-to-one) for the purpose of determining if they represent the same or

different persons.²⁰ See Face Recognition, One-to-One Face Image Comparison, and Verification.

Face Detection—Automated determination of the locations and sizes of human faces in digital images.²¹

Face Examiner—See Examiner.

Face Recognition—The automated searching for a reference image in an image repository (see Repository) by comparing the facial features of a probe image with the features of images contained in an image repository (one-to-many search). A face recognition search will typically result in one or more most likely candidates—or candidate images—ranked by computer-evaluated similarity or will return a negative result. See Candidate Images.

Face Recognition Program—An entity's face recognition initiative that includes the management of human components (management, analysts, examiners, authorized users), ownership and management of the face recognition system (technical components), and the establishment and enforcement of entity-wide processes, policies, and procedures. See Face Recognition System.

Face Recognition Software/Technology—Third-party software that uses specific proprietary algorithms to compare facial features from one specific picture—a probe image—to many others (one-to-many) that are stored in an image repository (see Repository) to determine most likely candidates for further investigation. See Candidate Images.

Face Recognition System—The technical components of a face recognition program, such as hardware, software, interfaces, image repositories, biometric templates, autogenerated candidate lists, etc. While some entities own such a system, others may only have authorized access to another entity's face recognition system. See Face Recognition Program.

Facial Recognition—See Face Recognition.

Fair Information Practice Principles—The Fair Information Practice Principles (FIPPs) are a set of internationally recognized principles that inform information privacy policies both within government and the private sector. Although specific articulations of FIPPs vary and have evolved since their genesis in the 1970s, core elements are consistent among nations, states, and economic sectors. These core elements are incorporated into information privacy

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

laws, policies, and governance documents around the world. They provide a straightforward description of underlying privacy and information exchange principles and a simple framework for the legal use that needs to be done with regard to privacy in integrated justice systems. Because of operational necessity, it may not always be possible to apply all of the principles equally. For example, the Individual Participation Principle (#8) may be of limited applicability in intelligence operations, as entities do not generally engage with individuals and under federal law, the Privacy Act of 1974 contains exemptions in the law enforcement context. That said, law enforcement entities and all other integrated justice systems should endeavor to apply FIPs where practicable and ensure compliance with applicable law.

The eight principles are:

1. Purpose Specification
2. Data Quality/Integrity (See definition.)
3. Collection Limitation/Data Minimization
4. Use Limitation
5. Security Safeguards (See definition.)
6. Accountability/Audit
7. Openness/Transparency
8. Individual Participation

See Appendix B for one description of how the U.S. Department of Homeland Security applies these principles.

Features—Observable class or individual characteristics. The components of biometric templates.²²

Filtering—In the face recognition context, filtering uses relevant physical facial attributes such as eye color, nose shape, eyebrow position, hairline, and other attributes to compare, select, and narrow results. See Attributes.

Firewall—A security solution that segregates one portion of a network from another portion, allowing only authorized network traffic to pass through according to traffic-filtering rules.

Frontal Pose—A face image captured from directly in front of the subject with the focal plane approximately parallel to the plane of the subject's face.²³

Fusion Center—A fusion center is a collaborative effort of two or more federal, state, local, tribal, or territorial (SLTT) government agencies that combines resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity.²⁴ State and major urban area fusion centers serve as focal points within the state and local environment for the receipt, analysis, gathering, and sharing of threat-related information between federal and SLTT government agencies and private-sector partners.

Holistic Comparison—The process of comparing faces by looking at the face as a whole and not the component parts in isolation.²⁵

Identity—Within a biometric system, the collective set of biographic data, images, and biometric templates assigned to one person.²⁶ See Face Comparison.

Image—See Probe Image and Repository.

Image Analysis—The assessment of an image to determine suitability for comparison, including the ability to discriminate significant features.²⁷

Image Enhancement—See Enhancement.

Image Evaluation—Ascertaining the value of dissimilarities and similarities between two face images, where an examiner assesses the value of the details observed during the analysis and comparison steps and reaches a conclusion.²⁸

Image Repository—See Repository.

Individual Characteristics—Characteristics allowing one to differentiate between individuals having the same class of characteristics (e.g., freckles, moles, and scars).²⁹

Individual Responsibility—Because a privacy notice is not self-implementing, an individual within an organization's structure must also be assigned responsibility for enacting and implementing the notice.

Individualization—The determination by an examiner that there is sufficient agreement in the quality and quantity of detail to conclude that two

²² Ibid.

²³ Ibid.

²⁴ ISE-SAR Functional Standard, version 1.5.5. Source: Section 511 of the 9/11 Commission Act.

²⁵ Glossary, FISWG, Version 1.1, February 2, 2012, https://www.fiswg.org/FISWG_Glossary_v1.1_2012_02_02.pdf.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

images depict the same person.³⁰ Such results are generally referred for peer and supervisory reviews and approval before any dissemination of results is made.

Information—Includes any data about people, organizations, events, incidents, or objects, regardless of the medium in which it exists. Information received by law enforcement agencies can be categorized into three general areas: general data, including investigative information; tips and leads data, including suspicious activity reports; and criminal intelligence information.

Information Protection—Encompasses the range of legal, regulatory, and institutional mechanisms that guide the collection, receipt, use, dissemination, retention, purging, and protection of information.

Information Quality (IQ)—Refer to Data Quality.

Information Sharing Environment (ISE)—In accordance with Section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), as amended, the Information Sharing Environment (ISE) is a conceptual framework composed of the policies, procedures, and technologies linking the resources (people, systems, databases, and information) of SLTT agencies, federal agencies, and the private sector to facilitate terrorism-related information sharing, access, and collaboration.

Intelligence—See Criminal Intelligence Information.

Invasion of Privacy—Intrusion on an individual's solitude or into an individual's private affairs, public disclosure of embarrassing private information, publicity that puts an individual in a false light to the public, or appropriation of an individual's name or picture for personal or commercial advantage. See also Right to Privacy.

Investigative Lead—Any information which could potentially aid in the successful resolution of an investigation, but does not imply positive identification of a subject or that the subject is guilty of a criminal act.

Known Image—The image of an individual associated with a known or claimed identity and recorded electronically or by other medium (also known as exemplars).³¹ Known images are enrolled and stored in an image repository. See Repository.

Law—As used by this policy, law includes any local, state, or federal constitution, statute, ordinance,

regulation, executive order, policy, or court rule, decision, or order as construed by appropriate local, state, or federal officials or agencies.

Law Enforcement (LE) Agency—An organizational unit, or subunit, of a local, state, federal, or tribal government with the principal functions of prevention, detection, and investigation of crime, apprehension of alleged offenders, and enforcement of laws. LE agencies further investigations of criminal behavior based on prior identification of specific criminal activity with a statutory ability to perform arrest functions.

Law Enforcement Information—For purposes of the ISE (see Information Sharing Environment), law enforcement information means any information obtained by or of interest to a law enforcement agency or official that is both (a) related to terrorism or the security of our homeland and (b) relevant to a law enforcement mission, including, but not limited to, information pertaining to an actual or potential criminal, civil, or administrative investigation or a foreign intelligence, counterintelligence, or counterterrorism investigation; assessment of or response to criminal threats and vulnerabilities; the existence, organization, capabilities, plans, intentions, vulnerabilities, means, methods, or activities of individuals or groups involved or suspected of involvement in criminal or unlawful conduct or assisting or associated with criminal or unlawful conduct; the existence, identification, detection, prevention, interdiction, or disruption of or response to criminal acts and violations of the law; identification, apprehension, prosecution, release, detention, adjudication, supervision, or rehabilitation of accused persons or criminal offenders; and victim/witness assistance.

Lawful Permanent Resident—A foreign national who has been granted the privilege of permanently living and working in the United States.

Least Privilege Administration—A recommended security practice in which every user is provided with only the minimum privileges needed to accomplish the tasks he or she is authorized to perform.

Logs—A necessary part of an adequate security system which ensures that information is properly tracked and that only authorized individuals are getting access to the data. See also Audit Trail.

Maintenance of Information—Applies to all forms of information storage. This includes electronic systems (for example, databases or repositories) and nonelectronic storage systems (for example, filing

³⁰ Ibid.

³¹ Ibid.

cabinets). To meet access requirements, an organization is not required to create new systems to maintain information or to maintain information beyond a time when it no longer serves an organization's purpose.

Manual Face Examination—Comparison and evaluations of the probe image and the candidate images by a trained biometric images specialist.

Match/Matching—For the purposes of face recognition, see Candidate Images.

Morphological Comparison—The direct comparison of class and individual face characteristics without explicit measurement.³² See Comparison and Manual Face Examination.

Need to Know—As a result of jurisdictional, organizational, or operational necessities, access to sensitive information or intelligence is necessary for the conduct of an individual's official duties as part of an organization that has a right to know the information to perform or assist in a law enforcement, homeland security, or counterterrorism activity or other lawful and authorized government activity, such as to further an investigation or meet another law enforcement requirement.

Nodal Points—Measurements of distinctive face characteristics, including, but not limited to, the distance between the eyes, width of the nose, and the depth of the eye sockets. Nodal points are extracted from the face image and are transformed through the use of algorithms into a unique file called a biometric template. See Biometric Template.

No Match—A negative result from a face recognition search in which the probe image was determined not to be sufficiently similar to or resemble any of the reference images contained in an image repository.

Non-Criminal Justice Agency—An entity or any subunit thereof that provides services primarily for purposes other than the administration of criminal justice.

One-to-Many Face Image Comparison—The process whereby a probe image from one subject is compared with the features of reference images contained in an image repository, generally resulting

in a list of most likely candidate images (one-to-many). See Candidate Images.

One-to-One Face Image Comparison—The process whereby a probe image from one subject is compared with a most likely candidate image that is also from one subject (one-to-one). See Comparison, Face Comparison, and Verification.

Participating Agency—An organizational entity that is authorized to contribute images and/or biometric information to a face recognition system and/or is authorized to access or receive, request, or use face recognition information from the **City of Ontario's** face recognition system for lawful purposes through its authorized individual users. Participating agencies adhere to conditions defined in a formal agreement (e.g., MOU or interagency agreement) between the **City of Ontario** operating the face recognition program and the participating agency.

Peer Review—An additional layer of verification of face recognition results in a face recognition search process. Examiners submit face recognition search results to other authorized and trained examiners—or peers—for an independent review and cross-verification of the probe and most likely candidate images. If verified by peer(s), this step is generally followed by a supervisor's review and approval prior to dissemination. Refer to Verification.

Permissions—Authorization to perform operations associated with a specific shared resource, such as a file, a directory, or a printer. Permissions must be granted by the system administrator to individual user accounts or administrative groups.

Personally Identifiable Information (PII)—Information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information, that is linked or linkable to a specific individual."³³

Pose—The orientation of the face with respect to the camera, consisting of pitch, roll, and yaw. Common poses are frontal and profile.³⁴

Privacy—Refers to individuals' interests in preventing the inappropriate collection, use, and release of PII. Privacy interests include privacy of personal behavior, privacy of personal communications, and privacy of personal data. Other definitions of privacy include the

³² Ibid.

³³ For further information about the breadth of PII and how to perform an assessment of the specific risk that an individual can be identified using the information, see Revision of Office of Management and Budget Circular A-

130: Managing Information as a Strategic Resource, July 2016, https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-12_0.pdf.

³⁴ Ibid.

capacity to be physically left alone (solitude); to be free from physical interference, threat, or unwanted touching (assault, battery); and to avoid being seen or overheard in particular contexts.

Privacy Policy—Short term for a privacy, civil rights, and civil liberties (P/CRCL) policy which is a printed, published statement that articulates the policy position of an organization on how it handles the PII that it gathers or receives and uses in the normal course of business. The policy should include information relating to the processes of information collection, receipt, access, use, dissemination, retention, and purging. It is likely to be informed by the FIPPs. The purpose of the P/CRCL policy is to articulate that the entity will adhere to those legal requirements and entity policy determinations that enable collection, receipt, access, use, dissemination, retention, and purging of information to occur in a manner that protects personal privacy interests. A well-developed P/CRCL policy uses justice entity resources wisely and effectively; protects the entity, the individual, and the public; and promotes public trust.

Probe Image—Any face image used by face recognition software for comparison with the face images contained within a face image repository. See Repository.

A front-facing image of an individual lawfully obtained pursuant to an authorized criminal investigation. Examples of probe images include:

- Face images captured from closed circuit TV cameras
- Face images captured from an ATM camera
- Face images provided by a victim or witness of a crime
- Face images gained from evidence (fraudulent bank card or photograph ID)
- Face sketches (for example, police artist drawings)

Protected Information—For the nonintelligence community, protected information is information about United States citizens and lawful permanent residents that is subject to information privacy or other legal protections under the Constitution and laws of the United States.

For the (federal) intelligence community, protected information includes information about “United States persons” as defined in Executive Order 12333. Protected information may also include other information that the U.S. government expressly determines by Executive Order, international agreement, policy, or other similar instrument.

For state, local, tribal, and territorial governments, protected information may include information about individuals and organizations that is subject to information privacy or other legal protections by law, including the U.S. Constitution; applicable federal statutes and regulations, such as civil rights laws and 28 CFR Part 23; applicable state and tribal constitutions; and applicable state, local, tribal, and territorial laws, ordinances, and codes. Protection may be extended to other individuals and organizations by a law enforcement entity or other state, local, tribal, or territorial agency policy or regulation.

Public—Includes:

- Any individual and any for-profit or nonprofit entity, organization, or association.
- Any governmental entity for which there is no existing specific law authorizing access to the entity's information.
- Media organizations.
- Entities that seek, receive, or disseminate information for whatever reason, regardless of whether it is done with the intent of making a profit and without distinction as to the nature or intent of those requesting information from the entity or participating entity.

Public does not include:

- Any employees of the entity or participating entity.
- People or entities, private or governmental, who assist the entity in the operation of the justice information system.
- Public entities whose authority to access information collected or received and retained by the entity is specified in law.

Public Access—Relates to what information can be seen by the public; that is, information whose availability is not subject to privacy interests or rights.

Purge—A term that is commonly used to describe methods that render data unrecoverable in a storage space or destroy data in a manner that it cannot be reconstituted. There are many different strategies and techniques for data purging, which is often contrasted with data deletion (e.g., made inaccessible except to system administrators or other privileged users).

Recognition—See Face Recognition.

Record—Any item, collection, or grouping of information that includes PII and is collected, received, accessed, used, disseminated, retained, and purged by or for the collecting agency or organization.

Redress—Laws, policies, and procedures that address public agency responsibilities with regard to

access/disclosure and correction of information and the handling of complaints from persons regarding *protected information* about them which is under the entity's control and which is exempt from disclosure and not disclosed to the individual to whom the information pertains.

Protected information includes personal information about individuals that is subject to information privacy or other legal protections by law. Protection may also be extended to organizations by entity policy or state, local, tribal, or territorial law.

Relative Frequency—How often facial features or combinations thereof occur in a given population.³⁵

Repository—A location where a group of images of known individuals and biometric templates are stored and managed. An image repository is searched during a face recognition search process whereby a probe image is used by face recognition software for comparison with the images (or features within images) contained in the image repository.

Request—A request received by the **City of Ontario** to utilize face recognition in support of a criminal investigation. Submissions will not contain original evidence. Images received in a request or submission will not be stored as enrolled images within the face recognition system.

Retention—See Storage.

Revocation—In general use, revocation is the act of recall or annulment. It is the reversal of an act, the recalling of a grant or privilege, or the making void of some deed previously existing. As it relates to the revocation of consent to be photographed or the individual's image captured by a law enforcement officer to perform a mobile face recognition search for purposes of identification, once consent to capture an individual's image is given, an individual may withdraw consent with an unequivocal act or statement of withdrawal. Consent may be withdrawn by statements, actions, or a combination of statements and actions. However, the revocation of consent must clearly be a statement revoking consent; an expression of impatience or dislike is not sufficient to terminate consent.

Revoke—See Revocation.

Right to Information Privacy—The right to be left alone, in the absence of some reasonable p u b l i c

interest in collecting, accessing, retaining, and disseminating information about an individual's activities. Invasion of the right to privacy can be the basis for a lawsuit for damages against the individual or entity violating an individual's privacy.

Right to Know—A requirement for access to specific information to perform or assist in a lawful and authorized government function. Right to know is determined by the mission and functions of a law enforcement, homeland security, counterterrorism, or other lawful and authorized government activity, or the roles and responsibilities of particular personnel in the course of their official duties.

Role-Based Access—A type of access authorization that uses roles to determine access rights and privileges. A role is a symbolic category of users that share the same security privilege.

Search—For the purposes of face recognition, the act of comparing a probe image against an image repository.³⁶ See Repository.

Search Filters—See Filtering.

Search Result Set—The candidate list returned from a face recognition search.³⁷ See Candidate Images.

Security—Refers to the range of administrative, technical, and physical business practices and mechanisms that aim to preserve privacy and confidentiality by restricting information access to authorized users for authorized purposes. Computer and communications security efforts also have the goal of ensuring the accuracy and timely availability of information for the legitimate user set, as well as promoting failure resistance in the electronic systems overall. Security safeguarding of information is a Fair Information Practice Principle (FIPP). See Appendix B.

Source Entity—Refers to the entity or organizational entity that originates face recognition information.

Storage—In a computer, storage is the place where data is held in electromagnetic or optical form for access by a computer processor. There are two general usages:

- Storage is frequently used to mean the devices and data connected to the computer through input/output operations—that is, hard disk and tape systems and other forms of storage that do not include computer memory and other in-

³⁵ Glossary, FISWG, Version 1.1, February 2, 2012, https://www.fiswg.org/FISWG_Glossary_v1.1_2012_02_02.pdf.

³⁶ Ibid.

³⁷ Ibid.

computer storage. This is probably the most common meaning in the IT industry.

- In more formal usage, storage has been divided into (1) primary storage, which holds data in memory (sometimes called “random access memory,” or RAM) and other built-in devices, such as the processor’s L1 cache, and (2) secondary storage, which holds data on hard disks, tapes, and other devices requiring input/output operations. Primary storage is much faster to access than secondary storage because of the proximity of the storage to the processor or because of the nature of the storage devices. On the other hand, secondary storage can hold much more data than primary storage.

Submission—See Request.

System Bias—Errors repeatedly introduced through automation (e.g., errors in biometric template generation or comparison). Errors repeatedly introduced through operational practices in an organization or unit (e.g., improper lighting or camera position guidance).³⁸

Template—See Biometric Template.

Uncontrolled Image—An image for which the subject did not pose (e.g., security camera images, cell phone photograph taken by a witness).

Unsolved Image File—A lawfully obtained probe image of an unknown suspect *may* be added by authorized law enforcement users to an unsolved image file pursuant to an authorized criminal investigation and if a search has produced no candidates and the subject remains unknown. Images in an unsolved image file are periodically compared with the known images in an image repository. Images

enrolled in an unsolved image file should be required to be validated periodically by the contributors to ensure that the criminal investigation remains active and that the image remains relevant to the investigation.

User—An the City of Ontario employee or an individual representing a participating agency who is authorized and trained to access and use, or receive results from, an entity’s face recognition system for lawful purposes.

Valid Law Enforcement Purpose—A purpose for information/intelligence gathering, development, or collection, use, retention, or sharing that furthers the authorized functions and activities of a law enforcement agency, which may include the prevention of crime, ensuring the safety of the public, protection of public or private structures and property, furthering officer safety (including situational awareness), and homeland and national security, while adhering to law and agency policy designed to protect the P/CRCL of Americans.³⁹ Similar terms include “reasonable law enforcement purpose,”⁴⁰ “legitimate law enforcement purpose,” and “authorized law enforcement activity.”⁴¹

Verification—In a biometric system, the process of conducting a one-to-one comparison. A task where the face recognition system attempts to confirm an individual’s claimed identity by comparing the biometric template generated from a submitted face image with a specific known template generated from a previously enrolled face image.

A review and independent analysis of the conclusion of another examiner.⁴²

³⁸ Ibid.

³⁹ See *Developing a Policy on the Use of Social Media in Intelligence and Investigative Activities: Guidance and Recommendations*, Global, BJA, OJP, DOJ, February 2013, <https://it.ojp.gov/GIST/132/Developing-a-Policy-on-the-Use-of-Social-Media-in-Intelligence-and-Investigative-Activities-Guidance-and-Recommendations> and also in the *Real-Time and Open Source Analysis (ROSA) Resource Guide*, Criminal Intelligence Coordinating Council (CICC), Global, BJA, OJP, DOJ, July 2017, <https://it.ojp.gov/GIST/1200/Real-Time-and-Open-Source-Analysis-ROSA-Resource-Guide> (using “valid law enforcement purpose”).

⁴⁰ *Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies*, CICC, Global, OJP, DOJ, and DHS, December 2011, <https://it.ojp.gov/GIST/35/Recommendations-for-First-Amendment-Protected-Events-for-State-and-Local-Law-Enforcement-Agencies>.

⁴¹ The term “authorized law enforcement activity” is used, for example, in *The Attorney General’s Guidelines For Domestic FBI Operations*, as provided in sections 509, 510, 533, and 534 of title 28, United States Code, and Executive Order 12333, September 29, 2008.

⁴² Glossary, FISWG, Version 1.1, February 2, 2012, https://www.fiswg.org/FISWG_Glossary_v1.1_2012_02_02.pdf.

Appendix B—Fair Information Practice Principles (FIPPs)

The Fair Information Practice Principles (FIPPs) are a set of internationally recognized principles that inform information privacy policies within both government and the private sector.

Although specific articulations of FIPPs vary and have evolved since their genesis in the 1970s, core elements are consistent among nations, states, and economic sectors. These core elements are incorporated into data privacy laws, policies, and governance documents around the world. For example, FIPPs are:

- At the core of the Privacy Act of 1974, which applies these principles to U.S. federal agencies.⁴³
- Internationally influential, especially as articulated by the Organization for Economic Co-operation and Development.
- Mirrored in many states' laws and in law enforcement entities' and fusion centers' privacy policies.
- Used by numerous foreign countries and international organizations.

The following formulation of FIPPs is used and implemented for the Information Sharing Environment (ISE) by the U.S. Department of Homeland Security (DHS).⁴⁴ For a definition of the Information Sharing Environment, refer to Appendix A, Glossary of Terms and Definitions. Note, however, that under certain circumstances, FIPPs may be superseded by authorities paralleling those provided in the federal Privacy Act; state, local, tribal, or territorial law; or entity policy.

- 1. Purpose Specification**—Agencies should specifically articulate the authority that permits the collection of personally identifiable information (PII). The purpose(s) for which PII is collected should be specified at the time of data collection. Subsequent use of this data should be limited to the original purpose for which the PII was collected (or other purposes *compatible* with the original collection purpose).

Implementing the Purpose Specification Principle—Agencies are bound by specific constitutional and statutory authorities that circumscribe their ability to collect PII. The following are examples of ways agencies may implement this principle:

- Ensure that a valid lawful purpose exists and is documented for all collection of PII.
- Include the source and authority for the data so that access restrictions can be applied.
- Upon receipt of data containing PII from third parties, if possible, identify the purpose for which it was collected initially and limit agency use to only those uses compatible with the original purpose supporting collection.
- Ensure that metadata or other tags are associated with the data as it is shared.
- Institute a two-individual review and approval process to consider any Privacy Act or other legal or policy limitation before permitting use or sharing of data for purposes other than that for which it was collected.

⁴³ 5 U.S.C. § 552a.

⁴⁴ 6 U.S.C. § 142.

- 2. Data Quality/Integrity**—PII collected should be relevant to the purposes identified for its use and should be accurate, complete, and up to date.

Implementing the Data Quality/Integrity Principle—One important way to minimize potential downstream privacy and civil liberties concerns is to ensure that any information collected, stored, and disseminated is accurate. This includes ensuring that the information provides sufficient context for any PII. Possible approaches include:

- Properly labeling PII.
- Determining a policy for safeguarding PII if there are “mixed” databases (i.e., those databases with personal information on U.S. individuals and others, regardless of nationality).
- Instituting a source verification procedure to ensure that reporting is based only on authorized data.
- Reconciling and updating PII whenever new relevant information is collected.
- Developing a protocol for ensuring that data corrections are passed to those entities with which information has been shared.
- Creating a documented process for identifying and addressing situations in which data has been erroneously received, is inaccurate, or has been expunged.

- 3. Collection Limitation/Data Minimization**—PII should be collected only if the data is directly relevant and necessary to accomplish the specified purpose. PII should be obtained by lawful and fair means and retained only as long as is necessary to fulfill the specified purpose.

Implementing the Collection Limitation/Data Minimization Principle—Collection limitation may be implemented by:

- Designing a data storage system to pull data for review and then, if appropriate, automatically purging data after the specified retention period has been reached.
- Limiting data field elements to only those that are relevant.
- Ensuring that all distributed reports and products contain only that personal information that is relevant and necessary (nothing extraneous or superfluous).
- Ensuring that all shared information with PII meets the required thresholds for sharing, such as reasonable suspicion.

- 4. Use Limitation**—PII should not be disclosed, made available, or otherwise used for purposes other than those specified except (a) with the consent of the individual or (b) by authority of the law.

Implementing the Use Limitation Principle—Sharing information should be tempered by adherence to key principles, such as “authorized access.” Use limitation may be implemented by:

- Limiting users of data to those with credential-based access.
- Requiring that justifications be entered and logs maintained for all queries with sensitive PII and that an internal review process of those logs takes place at specified intervals.
- Requiring senior analysts to review all reports that use PII before dissemination to ensure (a) that PII is relevant and necessary and (b) that the recipient is authorized to receive the information in the performance of an authorized activity.
- Prior to sharing information, verify that partners have a lawful purpose for requesting information.
- Creating multiple use-based distribution lists and restricting distribution to those authorized to receive the information.

- 5. Security/Safeguards**—Agencies should institute reasonable security safeguards to protect PII against loss, unauthorized access, destruction, misuse, modification, or disclosure.

Implementing the Security/Safeguards Principle—This principle can be implemented by:

- Maintaining up-to-date technology for network security.
- Ensuring that access to data systems requires that users meet certain training and/or vetting standards and that such access is documented and auditable.
- Ensuring that physical security measures are in place, such as requiring an identification card, credentials, and/or passcode for data access; disabling computers’ USB ports; and implementing firewalls to prevent access to commercial e-mail or messaging services.
- Implementing a protocol with technical and manual safeguards to ensure the accuracy and completeness of data system purges when records are deleted at the end of their retention period.

- Ensuring that data system purge protocols include complete record deletion on all backup systems.
- Transitioning older repositories into more modern systems to improve access controls.
- Masking data so that it is viewable only to authorized users.
- Maintaining an audit log to record when information is accessed and by whom for review by senior staff at specified intervals.
- Requiring authorized users to sign nondisclosure agreements.

6. Accountability/Audit—Agency personnel and contractors are accountable for complying with measures implementing FIPPs, for providing training to all employees and contractors who use PII, and for auditing the actual use and storage of PII.

Implementing the Accountability/Audit Principle—Strong policies must not only be in place but also be effectively implemented. Accountability can be demonstrated by:

- Ensuring that upon entry for duty, all staff members take an oath to adhere to the privacy and civil liberties protections articulated in the entity's or host agency's mission, core values statements, other key documents, and/or the U.S. Constitution.
- Conducting effective orientation and periodic refresher training, including privacy, civil rights, and civil liberties (P/CRCL) protections, for all individuals handling PII.
- Tailoring training to specific job functions, database access, or data source/storage requirements.
- Conducting regular audits of all systems in which records are kept to ensure compliance with P/CRCL policies and all legal requirements.
- Following a privacy incident, establishing a handling procedure for any data breaches or policy violations.
- Denying database access to individuals until they have completed mandatory systems access training (including training for handling of PII), show a mission need for access, and have any necessary clearances.
- Developing targeted and consistent corrective actions whenever noncompliance is found.

7. Openness/Transparency—To the extent feasible, agencies should be open about developments, practices, and policies with respect to the collection, use, dissemination, and maintenance of PII. Agencies should publish information about policies in this area, including the P/CRCL policy, and contact information for data corrections and complaints.

Implementing the Openness/Transparency Principle—Agencies can implement the Openness/Transparency principle by:

- Providing reports to an internal or external oversight body concerned with P/CRCL issues, including P/CRCL audit results.
- Publishing the P/CRCL policy and redress procedures.
- Meeting with community groups through initiatives or other opportunities to explain the agency's mission and P/CRCL protections.
- Responding in the fullest way possible to freedom of information and/or sunshine requests and fully explaining any denial of information requests from the public.
- Conducting and publishing Privacy Impact Assessments and Privacy Impact Analysis in advance of implementing any new technologies that affect PII, thereby demonstrating that P/CRCL issues have been considered and addressed.

8. Individual Participation—To the extent practicable, involve the individual in the process of using PII and seek individual consent for the collection, use, dissemination, and maintenance of PII. Agencies should also provide mechanisms for appropriate access, correction, and redress regarding the agency's use of PII.

Implementing the Individual Participation Principle—To the extent appropriate, agencies can implement the Individual Participation principle by:

- Collecting information directly from the individual, to the extent possible and practical.
- Providing the individual with the ability to find out whether an agency maintains a record relating to him or her and, if not (i.e., access and/or correction is denied), then providing the individual with notice as to why the denial was made and how to challenge such a denial.
- Putting in place a mechanism by which an individual is able to prevent information about him or her that was obtained for one purpose from being used for other purposes without his or her knowledge.

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Appendix C—Listing of Federal L a w s

The U.S. Constitution is known as the primary authority that applies to federal as well as state, local, tribal, and territorial (SLTT) entities. State constitutions cannot provide a lower level of privacy and other civil liberties protection than that established by the U.S. Constitution, but states may broaden constitutional rights guaranteed by their own constitutions.

Civil liberties protections are primarily founded in the Bill of Rights. They include the basic freedoms, such as free speech, assembly, and religion; freedom from unreasonable search and seizure; due process; etc. Statutory civil rights protections in the U.S. Constitution may, in addition, directly govern state action. These include the Civil Rights Act of 1964, as amended; the Rehabilitation Act of 1973; the Equal Educational Opportunities Act of 1974; the Americans with Disabilities Act of 1990; Title VIII of the Civil Rights Act of 1968 (Fair Housing Act); the Voting Rights Act of 1965; and the Civil Rights of Institutionalized Individuals Act.

While in general, SLTT entities may not be bound directly by most statutory federal privacy and other civil liberties protection laws in the face recognition information collection sharing context, compliance may be required **indirectly** by funding conditions (e.g., Title VI of the Civil Rights Act of 1964), operation of the Commerce Clause of the U.S. Constitution, or a binding agreement between a federal agency and an SLTT entity (e.g., a memorandum of agreement or a memorandum of understanding). When relevant or possibly relevant, entities/agencies are advised to list laws, regulations, and policies within their face recognition policies, noting those that may potentially affect the sharing of information.

The development of a face recognition policy is primarily designed for entity personnel and authorized users to ensure that they are aware of the legal and privacy framework within which they and the entity must operate. If the applicability and requirements of various laws, regulations, or sharing agreements are not spelled out or referenced in an entity's face recognition policy, staff and user accountability is greatly diminished; mistakes are made; privacy violations occur; and the public's (and other agencies') confidence in the ability of the entity to protect face recognition information is compromised. When staff members know the rules through sound policy and procedure communicated through ongoing training activity, face recognition information sharing is enhanced.

Currently, U.S. federal laws do not specifically address face recognition. A few states have enacted or introduced legislation regarding biometric information. These generally fall into one of three categories regarding the collection, retention, and use of biometric information: (1) of students; (2) by businesses; and (3) by government actors. Three states—Texas,⁴⁵ Illinois,⁴⁶ and Washington⁴⁷—have adopted laws regulating commercial use of biometric identifiers gathered through certain types of face recognition technology. Five state legislatures (as of

⁴⁵ Capture or Use of Biometric Identifier, Texas Business and Commerce Code §503.001.

⁴⁶ Biometric Information Privacy Act, 740 Illinois Compiled Statutes 14.

⁴⁷ Biometric Identifiers, Washington House Bill 1493, Chapter 299, effective July 23, 2017.

January 1, 2017)—Alaska,⁴⁸ Connecticut,⁴⁹ Massachusetts,⁵⁰ Montana,⁵¹ and New Hampshire⁵²—have also introduced bills that would regulate the collection, retention, and use of biometric data. Arizona and Missouri have pending bills regarding student privacy and limitations on the collection of student biometric data without parental consent. Finally, many state laws governing data security and breach response include biometric information in their definitions of covered personal information. For example, North Carolina’s Identity Theft Protection Act lists biometric data as an element of identifying information that, in combination with a person’s name, constitutes personal information. This law requires any entity conducting business in the state and maintaining personal information of a resident to take reasonable measures to protect the information against unauthorized access.⁵³

As of February 2011, there is no U.S. federal law requiring that an individual identify him- or herself during a *Terry*⁵⁴ stop, but *Hiibel*⁵⁵ held that states may enact such laws, provided the law requires the officer to have reasonable and articulable suspicion of criminal involvement.⁵⁶ Twenty-four states have enacted stop and identify laws. Although the *Hiibel* case did not directly involve the deputy’s use of a biometric technology, the opinion lays the foundation for state legislatures to authorize law enforcement officials to use face recognition systems. Unresolved by *Hiibel* is whether the possible loss of privacy posed by automated face recognition applications is outweighed by improved law enforcement. Nevertheless, many of the privacy issues raised by the intersection of *Hiibel* and biometric technologies can be addressed through reasonable controls over how face recognition systems are utilized in the field and how the data they capture and create will be managed.⁵⁷

The following are synopses of primary federal laws that an entity should review and, where appropriate, consider citing in a face recognition policy to protect face recognition data and any personally identifiable information later associated with the face recognition information. As face recognition information may be incorporated as one piece of information into a larger case file, the following federal laws may be applicable. The list is arranged in alphabetical order by popular name.

1. Applicants and Recipients of Immigration Relief Under the Violence Against Women Act of 1994 (VAWA), Public Law 103-322, September 13, 1994, and the Victims of Trafficking and Violence Prevention Act of 2000 (T and U nonimmigrant status for victims of trafficking and other serious crimes), Public Law 106-386, Oct. 28, 2000, 8 U.S.C. § 1367, Penalties for Disclosure of Information—The governing statute prohibits the unauthorized disclosure of information about VAWA, T, and U cases to anyone other than an officer or employee of the U.S. Department of Homeland Security, the U.S. Department of Justice, the U.S. Department of State, or parties covered by exception when there is a need to know. This confidentiality

provision is commonly referred to as “Section 384” because it originally became law under Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, which protects the confidentiality of victims of domestic violence, trafficking, and other crimes who have filed for or have been granted immigration relief. 8 U.S.C. § 1367 Information is defined as any information relating to aliens who are seeking or have been approved for nonimmigrant or immigrant status as (1) battered spouses, children, or parents under provisions of VAWA; (2) victims of a severe form of human trafficking who generally are cooperating with law enforcement authorities (T nonimmigrant status); or (3) aliens who have suffered substantial physical

⁴⁸ *Introduced* Collection of Biometric Information, House Bill 72, 2017 Regular Session.

⁴⁹ *Introduced* Connecticut House Bill 5522, 2017 Regular Session.

⁵⁰ *Introduced* Massachusetts Senate Bill 750, Chapter 93H, Section 1 and 2 2017 Regular Session.

⁵¹ *Introduced* Montana Biometric Information Privacy Act, House Bill 518, 2017 Regular Session.

⁵² *Introduced* Biometric Information Privacy Act, New Hampshire House Bill 523, 2017 Regular Session.

⁵³ *Developing Laws Address Flourishing Commercial Use of Biometric Information*, Claypoole, Ted, and Stoll, Cameron, Business Law Today, American Bar Association, May 2016, https://www.americanbar.org/publications/blt/2016/05/08_claypoole.html.

⁵⁴ *Terry v. Ohio*, 392 U.S. 1 (1968).

⁵⁵ *Hiibel v. Sixth Judicial District Court*, 542 U.S. 177 (2004).

⁵⁶ The *Hiibel* Court held, “The principles of *Terry* permit a State to require a suspect to disclose his name in the course of a *Terry* stop.”—542 U.S. at 187.

⁵⁷ *Privacy Impact Assessment Report for the Utilization of Facial Recognition Technologies to Identify Subjects in the Field*, Nlets—The International Justice and Public Safety Network, June 30, 2011.

or mental abuse as the result of qualifying criminal activity and have been, are being, or are likely to be helpful in the investigation or prosecution of that activity (U nonimmigrant status). This includes information pertaining to qualifying family members who receive derivative T, U, or VAWA status. Because 8 U.S.C. § 1367 applies to any information about a protected individual, this includes records or other information that do not specifically identify the individual as an applicant for or a beneficiary of T nonimmigrant status, U nonimmigrant status, or relief under VAWA.

2. **Criminal Intelligence Systems Operating Policies, 28 CFR Part 23, Code of Federal Regulations, Title 28, Chapter 1, Part 23**—This is a guideline for law enforcement agencies that operate federally funded multijurisdictional criminal intelligence systems. The operating principles of 28 CFR Part 23 provide guidance to law enforcement regarding how to operate criminal intelligence information systems effectively while safeguarding privacy, civil rights, and civil liberties (P/CRCL) during the collection, storage, and dissemination of criminal intelligence information. The regulation governs the intelligence information systems' process, which includes information submission or collection, secure storage, inquiry and search capability, controlled dissemination, and review and purge processes.
3. **Driver's Privacy Protection Act (DPPA) of 1994, 18 U.S.C. 2721 and 2725**—18 U.S.C. 2725 (4) defines "highly restricted personal information" as **an individual's photograph or image**, social security number, medical or disability information. 18 U.S.C. 2721(b)(1) states that personal information (as described in 18 U.S.C. 2725(4), above) may be disclosed for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions. § 2721-2725 restricts access and prohibits the release of personal information from state motor vehicle records to ensure the privacy of persons whose records have been obtained by that department in connection with a motor vehicle record unless certain criteria are met.
4. **E-Government Act of 2002, Public Law 107–347, 208, 116 Stat. 2899 (2002)**—Office of Management and Budget (OMB) (03-22, OMB Memorandum, M-03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002)—OMB implementing

guidance for this act requires federal agencies to perform privacy impact assessments (PIAs) for new information technologies that develop or procure new information technology involving the collection, maintenance, or dissemination of information in identifiable form or that make significant changes to existing information technology that manages information in identifiable form. A PIA is an evaluation of how information in identifiable form is collected, stored, protected, shared, and managed. The purpose of a PIA is to demonstrate that system owners and developers have incorporated P/CRCL protections throughout the entire life cycle of a system. The act requires an agency to make PIAs publicly available, except when an agency, in its discretion, determines that publication of the PIA would raise security concerns or reveal classified (i.e., national security) or sensitive information. Although this act does not apply to SLTT partners, this tool is useful for identifying and mitigating privacy risks and for notifying the public what PII the SLTT agency is collecting, why PII is being collected, and how the PII will be collected, used, accessed, shared, safeguarded, and stored.

5. **Enhanced Border Security and Visa Reform Act of 2002, H.R. 3525**—In the Enhanced Border Security and Visa Entry Reform Act of 2002, the U.S. Congress mandated the use of biometrics in U.S. visas. This law requires that U.S. embassies and consulates abroad must issue to international visitors, "only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers." Additionally, the Homeland Security Council decided that the U.S. standard for biometric screening is 10 fingerprint scans collected at all U.S. embassies and consulates for visa applicants seeking to come to the United States.
6. **Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99**—FERPA governs the disclosure of students' biometric information, to the extent that it is contained in student records. A student's biometric record is included in the definition of personally identifiable information, and is a type of information that may be included in students' education records. As such, FERPA prohibits schools from releasing students' biometric information without parental consent, to the extent that it is contained

in students' education records, with some limited exceptions.⁵⁸

7. **Federal Civil Rights laws, 42 U.S.C. § 1983, United States Code, Title 42, Chapter 21, Subchapter I, § 1983**—This is a federal statute that allows an individual to sue public officials in federal court for violations of the individual's civil rights. Civil rights include such things as the Fourth Amendment's prohibitions against unreasonable search and seizure, violations of privacy rights, and violations of the right to freedom of religion, free speech, and free association. It serves as a deterrent to unlawful collection, use, or sharing of information rather than providing specific authority or a prohibition to the collection, use, or sharing of information.
8. **Federal Records Act, 44 U.S.C. § 3301, United States Code, Title 44, Chapter 33, § 3301**—This chapter contains the laws governing disposal of records made or received by a federal agency in the normal course of business. It discusses procedures and notices, if required, and the role of the federal archivist. The law applies only to federal agencies, but there may be similar state or local laws applicable to state and local agencies.
9. **Freedom of Information Act (FOIA), 5 U.S.C. § 552, United States Code, Title 5, Part I, Chapter 5, Subchapter II, § 552**—The federal FOIA, enacted in 1966, provides access to federal agency records or information. It does not, however, allow access to state or local government records. Nearly all states have their own public access statutes that provide access to state- and local-agency records. The interaction of federal and state FOIA laws can create complex issues. Federal statutes, in essence, provide a baseline of legal protections for individuals. While state legislatures may pass laws to supplement these federal guidelines, state laws that interfere with or are contrary to a federal law are preempted. By virtue of the Supremacy Clause of the U.S. Constitution (Article VI, Clause 2), federal law may restrict access to records otherwise available pursuant to a state's FOIA by requiring that certain information be kept confidential. Thus, federal confidentiality requirements may supersede a state FOIA statute mandating public disclosure of a record, but only when there is a specific federal statute (other than the federal FOIA) that mandates
- the records be kept confidential. In short, records may be available under one FOIA statute but not pursuant to another.
10. **Health Insurance Portability and Accountability Act (HIPAA) of 1996, 42 U.S.C. § 201, United States Code, Title 42, Chapter 6A, Subchapter I, § 201; Public Law 104-191**—HIPAA was enacted to improve the Medicare and Medicaid programs and the efficiency and effectiveness of the nation's health care system by encouraging the development of a national health information system through the establishment of standards and requirements for the electronic transmission of health information. To that end, Congress directed the U.S. Department of Health and Human Services (HHS) to issue safeguards to protect the security and confidentiality of health information. To implement HIPAA's privacy requirements, HHS promulgated regulations setting national privacy standards for health information: the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule")—42 U.S.C. §1320d-2; 45 CFR Parts 160, 164 (2003).
11. **HIPAA, Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 and 164, Code of Federal Regulations, Title 45, Parts 160 and 164**—This "Privacy Rule" sets forth national standards for the privacy and security of individually identifiable health information (45 CFR Part 164, Subpart E (2003)). This rule has been described as providing a "federal floor" of safeguards to protect the confidentiality of medical information. State laws that provide stronger privacy protection will continue to apply over and above the federal privacy protection. The general rule under these standards states that a covered entity may not use or disclose protected health information except as permitted or required by the rules (45 CFR Part 164.502(a) and §164.103 [defining protected health information and use]). The Privacy Rule applies to the following covered entities: (1) a health plan, (2) a health care clearinghouse, and (3) a health care provider who transmits any health information in electronic form in connection with certain transactions (42 U.S.C. §1320d-1(a) (2003); 45 CFR Part 160.102 (2003)). Since the Privacy Rule applies only to a covered entity, a governmental body begins its inquiry by first determining whether it is a covered entity under the Privacy Rule (45 CFR Part 160.103

⁵⁸ *Developing Laws Address Flourishing Commercial Use of Biometric Information*, Claypoole, Ted, and Stoll, Cameron, Business Law Today, American Bar Association,

May 2016,
https://www.americanbar.org/publications/blt/2016/05/08_claypoole.html.

(2003) [defining health plan, health care clearinghouse, health care provider]). If it is a covered entity, it then looks to the Privacy Rule for a permitted or required disclosure.

Section 164.510(b)(3) permits (but does not require) a health care provider, when a patient is not present or is unable to agree or object to a disclosure due to incapacity or emergency circumstances, to determine whether disclosing a patient's information to the patient's family, friends, or other persons involved in the patient's care, is in the best interests of the patient. Where a provider determines that such a disclosure is in the patient's best interests, the provider would be permitted to disclose only the protected health information (PHI) that is directly relevant to the person's involvement in the patient's care.

This permission clearly applies where a patient is unconscious. However, there may be additional situations in which a health care provider believes, based on professional judgment, that the patient does not have the capacity to agree or object to the sharing of PHI at a particular time and that sharing the information is in the best interests of the patient at that time. These may include circumstances in which a patient is suffering from temporary psychosis or is under the influence of drugs or alcohol.

12. Indian Civil Rights Act of 1968, 25 U.S.C. § 1301 et seq., United States Code, Title 25, Chapter 15, Subchapter I—This act contains definitions of relevant terms and extends certain constitutional rights to Indian tribes exercising powers of self-government.

13. National Child Protection Act of 1993, Public Law 103-209 (December 20, 1993), 107 Stat. 2490—In each state, an authorized criminal justice agency of the state shall report child abuse crime information to or index child abuse crime information in the national criminal history background check system. A criminal justice agency can satisfy the requirement by reporting or indexing all felony and serious misdemeanor arrests and dispositions. The U.S. Attorney General (AG) is required to publish an annual statistical summary of child abuse crimes. The act requires that 80 percent of final dispositions be entered in the state databases by December 1998, with steps being taken toward 100 percent entry.

A 1994 amendment required that the AG—in consultation with federal, state, and local officials,

including officials responsible for criminal history record systems, and representatives of public and private care organizations and health, legal, and social welfare organizations—shall develop guidelines for the adoption of appropriate safeguards by care providers and by the state for protecting children, the elderly, and individuals with disabilities from abuse.

14. NIST Special Publication 800-53 (Appendix J) Security and Privacy Controls for Federal Information Systems and Organizations—

Federal agencies are required to ensure that privacy protections are incorporated into information security planning. To that end, SP 800-53 Rev. 4 features eight families of privacy controls that are based on FIPPs. The proliferation of social media, Smart Grid, mobile, and cloud computing as well as the transition from structured to unstructured information and metadata environments have added significant complexities and challenges for federal organizations in safeguarding privacy. These challenges extend well beyond the traditional information technology security view of protecting privacy, which focused primarily on ensuring confidentiality. The use of these standardized privacy controls will provide a more disciplined and structured approach for satisfying federal privacy requirements and demonstrating compliance with those requirements. Like their federal partners, SLTT agencies may use the privacy controls when evaluating their systems, processes, and programs.

15. Preparing for and Responding to a Breach of Personally Identifiable Information, OMB Memorandum M-17-12 (January 2017)—This Memorandum sets forth the policy for federal agencies to prepare for and respond to a breach of PII. It includes a framework for assessing and mitigating the risk of harm to individuals potentially affected by a breach, as well as guidance on whether and how to provide notification and services to those individuals. This memorandum is intended to promote consistency in the way agencies prepare for and respond to a breach by requiring common standards and processes.

16. Privacy Act of 1974, 5 U.S.C. § 552a, United States Code, Title 5, Part I, Chapter 5, Subchapter II, § 552a—The Privacy Act establishes a code of fair information practices that governs the collection, maintenance, use, and dissemination of information about individuals that is maintained in systems of records by federal

agencies. A system of records is a group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifier assigned to the individual. The Privacy Act prohibits the disclosure of a record about an individual from a system of records without the written consent of the individual, unless the disclosure is pursuant to one of 12 statutory exceptions. The act also provides individuals with a means by which to seek access to and amendment of their records and sets agency record-keeping requirements. In addition, the Privacy Act requires that agencies give the public notice of their systems of records by publication in the *Federal Register*.

routine issuance process for driver's licenses and identification cards, laws in 32 states grant exceptions to the photograph requirement for individuals, including religious objectors, overseas military personnel, and persons unable to visit a service center due to physical disabilities. The REAL ID act further requires departments of motor vehicles to make reasonable efforts to ensure that an applicant does not have more than one driver's license or identification card already issued by that state under a different identity. Many states are already complying with this requirement through the use of face recognition systems. It not only requires the collection of face images but implicitly authorizes the creation of biometric templates used by face recognition systems.

17. **Protection of Sensitive Agency Information, Office of Management and Budget Memorandum M-06-16 (June 2006)**—This memorandum provides a security checklist from the National Institute of Standards and Technology (NIST) to protect remote information removed from or accessed from outside an agency's physical location specific to personally identifiable information (PII). The NIST checklist requires that agencies verify PII in need of protection, confirm the adequacy of organization policy surrounding PII protection, and implement any necessary protections for PII transported or stored off-site or accessed remotely. In addition to the NIST checklist, the memorandum recommends implementing information encryption on all mobile devices, allowing remote access only with two-factor authentication, using timeout functions on devices, and logging all computer-readable information extracts from databases with sensitive information, while verifying that each extract has either been erased within 90 days or its use is still required.
18. **REAL ID Act of 2005, Public Law 109-13, Division B, 119 Statute 302, enacted May 11, 2005**—The REAL ID Act requires states to issue driver's licenses and identification cards that comply with standards established by the U.S. Department of Homeland Security if those identifying documents will be used to gain access to federal facilities, board federally regulated commercial aircraft, or enter nuclear power plants. Of particular note, the REAL ID Act requires that a face image be captured for each person **applying** for a driver's license or identification card versus existing practices in most states that only capture face images that are ultimately **issued** a card. While all states capture face images as part of the
19. **Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141**—This is a federal statute that provides that it shall be unlawful for any governmental authority or its agent to engage in a pattern or practice of conduct by law enforcement officers that violates the Constitution or laws of the United States. It authorizes the Attorney General to bring civil actions to obtain injunctive or declaratory relief to eliminate the unlawful or unconstitutional pattern or practice.
20. **U.S. Constitution, First, Fourth, Fifth, Sixth, and Fourteenth Amendments**—The Bill of Rights establishes minimum standards for the protection of the civil rights and civil liberties of persons within the United States. The First Amendment protects religious freedom, speech, the press, the right to peaceably assemble, and the right to petition the government for a redress of grievances. The Fourth Amendment protects the people from unreasonable searches and seizures and requires that warrants be issued only upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the individual or things to be seized. The Sixth Amendment establishes the right of an accused individual to a speedy and public trial by an impartial jury, to be informed of the nature and cause of the charges, to confront witnesses, to have compulsory process to obtain witnesses, and to have the assistance of legal counsel. The Fourteenth Amendment addresses citizenship rights and equal protection of the laws. Although the equal protection clause applies explicitly only to state governments, equal protection requirements apply to the federal government through the Fifth Amendment Due Process Clause.

Appendix D—Sample Face Recognition Policy

The following is a sample face recognition policy that contains all of the sample policy language shown after each question in the template section (Chapter II) of this document. However, while drafting a face recognition policy that includes this language, it is important that the policy author review each question and its associated guidance in the template section while customizing this language. To facilitate this task, the policy language contained in this appendix mirrors the same structure and policy categories as those in the template so that the author can follow each template question, item by item, to customize this language.

It is critical that the policy author not cut and paste the policy language from this appendix (or from the template) and use it as is, without making modifications. There are many areas that prompt the author to insert or customize language. These are shown **bolded and in brackets []**. It is also important to note that this sample policy may not cover all concepts that are unique to your entity's specific face recognition program, and there may be provisions that are not applicable that should be deleted. When developing their policies, law enforcement entities and fusion centers are encouraged to enhance the language with references to applicable statutes, rules, standards, guidelines, and policies.

Finally, since this guidance promotes transparency with the public, each entity should ensure that its policy is written in a manner that is understandable by both entity personnel and members of the public. While some of the provisions in this guidance may reflect concepts and processes long understood and integrated into the daily work of law enforcement such that an entity may not feel they are necessary to be included in its policy, the provisions are included in the sample policy for the purposes of informing the general public and articulating the entity's policies and procedures for P/CRCL throughout the entity face recognition program.

A. Purpose Statement

1. Facial recognition technology involves the ability to examine and compare distinguishing characteristics of a human face through the use of biometric algorithms contained within a software application. This technology can be a valuable investigative tool to detect and prevent criminal activity, reduce an imminent threat to health or safety, and help in the identification of persons unable to identify themselves or deceased persons. The **City of Ontario** has **[implemented or, if applicable, established access and use of]** a face recognition **[program or, if applicable, system]** to support the investigative efforts of law enforcement and public safety agencies both within and outside **[insert state name]**.
2. It is the purpose of this policy to provide **the City of Ontario** personnel with guidelines and principles for the collection, access, use, dissemination, retention, and purging of images and related information applicable to the implementation of a face recognition (FR) program. This policy will ensure that all FR uses are consistent with authorized purposes while not violating the privacy, civil rights, and civil liberties (P/CRCL) of individuals.
Further, this policy will delineate the manner in which requests for face recognition are received, processed, catalogued, and responded to. The Fair Information Practice Principles (FIPPs) form the core of the privacy framework for this policy.

This policy assists **the City of Ontario** and its personnel in:

- Increasing public safety and improving state, local, tribal, territorial, and national security.
- Minimizing the threat and risk of injury to specific individuals.
- Minimizing the threat and risk of physical injury or financial liability to law enforcement and others responsible for public protection, safety, or health.
- Minimizing the potential risks to individual privacy, civil rights, civil liberties, and other legally protected interests.
- Protecting the integrity of criminal investigatory, criminal intelligence, and justice system processes and information.
- Minimizing the threat and risk of damage to real or personal property.
- Fostering trust in the government by strengthening transparency, oversight, and accountability.
- Making the most effective use of public resources allocated to public safety entities.

3. All deployments of the face recognition system are for official use only/law enforcement sensitive (FOUO/LES). The provisions of this policy are provided to support the following authorized uses of face recognition information.

[List any of the following that may be applicable and add any other authorized uses that apply to the entity. Note: Uses must be specifically authorized for your entity and must be in accordance with laws, statutes, policies, and procedures governing the entity.]

- **A reasonable suspicion that an identifiable individual has committed a criminal offense or is involved in or planning criminal (including terrorist) conduct or activity that presents a threat to any individual, the community, or the nation and that the information is relevant to the criminal conduct or activity.**
- **An active or ongoing criminal or homeland security investigation.**
- **To mitigate an imminent threat to health or safety through short-term situational awareness surveillance or other means.**
- **To assist in the identification of a person who lacks capacity or is otherwise unable to identify him- or herself (such as an incapacitated, deceased, or otherwise at-risk person).**
- **To investigate and/or corroborate tips and leads.**
- **For comparison to determine whether an individual may have obtained one or more official state driver's licenses or identification cards that contain inaccurate, conflicting, or false information.**
- **To assist in the identification of potential witnesses and/or victims of violent crime.**
- **To support law enforcement in critical incident responses and special events.]**

[For those entities using mobile face image capture devices, there may be narrowly tailored purposes for use. Insert the following language and list the purposes that are applicable, and any others that are relevant, to the entity:]

Mobile face image searches may be performed only by an officer who has completed training and only during the course of an officer's lawful duties in furtherance of a valid law enforcement purpose and in accordance with the conditions set forth in section F.7 (Refer to F. Use of Face Recognition Information, item 7). Some suggested valid law enforcement purposes include:

- **For persons who are detained for offenses that:**
 - **Warrant arrest or citation or**
 - **Are subject to lawful identification requirements and are lacking positive identification in the field.**
- **For a person who an officer reasonably believes is concealing his or her true identity and has a reasonable suspicion the individual has committed a crime other than concealing his or her identity.**
- **For persons who lack capacity or are otherwise unable to identify him- or herself and who are a danger to themselves or others.**
- **For those who are deceased and not otherwise identified.]**

B. Policy Applicability and Legal Compliance

1. This policy was established to ensure that all images are lawfully obtained, including face recognition probe images obtained or received, accessed, used, disseminated, retained, and purged by the **City of Ontario**. **This policy also applies to:**
 - Images contained in a known identity face image repository and its related identifying information.
 - **The face image** searching process.
 - Any results from face recognition searches that may be accessed, searched, used, evaluated, retained, disseminated, and purged by the **City of Ontario**.
 - Lawfully obtained probe images of unknown suspects that have been added to unsolved image files (refer to section L.3), pursuant to authorized criminal investigations.
2. All the **City of Ontario** personnel, participating agency personnel, and authorized individuals working in direct support of the **City of Ontario** personnel (such as interns), personnel providing information technology services to the **City of Ontario**, private contractors, and other authorized users will comply with the **City of Ontario's** face recognition policy and will be required to complete the training referenced in section N.2. In addition, authorized **the City of Ontario** personnel tasked with processing face recognition requests and submissions, must also complete the specialized training referenced in section N.3. An outside agency, or investigators from an outside agency, may request face recognition searches to assist with investigations only if **[insert applicable requirement(s) from those recommended below or insert the entity's established requirements:**
 - **Prior to making requests, the outside agency has a formalized agreement (e.g., a memorandum of understanding or an interagency agreement) between the City of Ontario and the outside agency and the agreement acknowledges that requesting investigators have an understanding of the training concepts listed in section N. Training, item 4.**
 - **The outside agency first provides examples of its applicable policies (e.g., privacy) and acknowledges in writing that its requesting investigators have an understanding of the training concepts listed in section N. Training, item 4.**
 - **The outside agency completes the City of Ontario's training identified in section N. Training, item 4.**
 - **The outside agency is a law enforcement agency that is making the request based on a valid law enforcement purpose that falls within the authorized uses listed in section A. Purpose Statement, item 3. and the requestor provides a case number and contact information (requestor's name, requestor's agency, address, and phone number) and acknowledges an agreement with the following statement:**

The result of a face recognition search is provided by the City of Ontario only as an investigative lead and IS NOT TO BE CONSIDERED A POSITIVE IDENTIFICATION OF ANY SUBJECT. Any possible connection or involvement of any subject to the investigation must be determined through further investigation and investigative resources.]

3. The **City of Ontario** will provide a printed or electronic copy of this face recognition policy to all:
 - **the City of Ontario** and non-the **City of Ontario** personnel who provide services
 - Participating agencies
 - Individual authorized users

The **City of Ontario** will require both a written acknowledgement of receipt of this policy and a written agreement to comply with this policy and its applicable provisions.

4. All the **City of Ontario** personnel, participating agency personnel, and authorized individuals working in direct support of the **City of Ontario** personnel (such as interns or volunteers), personnel providing information technology services to the **City of Ontario**, private contractors, agencies from which the **City of Ontario** information originates, and other authorized users will comply with applicable laws and policies concerning P/CRCL, including, but not limited to **[include a specific reference to any relevant state statutes or other binding state or local policy specific to face recognition systems, then provide**

a list of other applicable state and federal P/CRCL laws and/or include a reference to the section or appendix containing a list of applicable laws].

C. Governance and Oversight

1. Primary responsibility for the operation of the **City of Ontario's** justice information systems, face recognition program and system, operations, and the coordination of personnel; the receiving, seeking, retention, evaluation, data quality, use, purging, sharing, disclosure, or dissemination of information; and the enforcement of this policy is assigned to the **[position/title]** of the **City of Ontario**.
2. The **City of Ontario's** **[insert title]** will designate **[a face recognition administrator or face recognition unit or department who/that]** will be responsible for the following **[include any of the following responsibilities that apply to the face recognition administrator or other responsibilities:**
 - **Overseeing and administering the face recognition program to ensure compliance with applicable laws, regulations, standards, and policy.**
 - **Acting as the authorizing official for individual access to face recognition information.**
 - **Ensuring that user accounts and authorities granted to personnel are maintained in a current and secure “need-to-know” status.**
 - **Reviewing face recognition search requests, reviewing the results of face recognition searches, and returning the most likely candidates—or candidate images—if any, to the requesting agency.**
 - **Ensuring that protocols are followed to ensure that face recognition information (including probe images) is automatically purged in accordance with the entity's retention policy (refer to section L.1. Information Retention and Purging), unless determined to be of evidentiary value.**
 - **Ensuring that random evaluations of user compliance with system requirements and the entity's face recognition policy and applicable law are conducted and documented (refer to section M.2. Accountability).**
 - **Confirming, through random audits, that face recognition information is purged in accordance with this policy and to ensure compliance with applicable laws, regulations, standards, and policy.**
 - **Ensuring and documenting that personnel (including investigators from external agencies who may make face recognition search requests) meet all prerequisites stated in this policy prior to being authorized to use the face recognition system.]**
3. **[Select the option that is applicable to the entity.]**

Option 1: The entity operates its own face recognition program.

The **City of Ontario** face recognition program was established on **[date]** in conjunction with **[other agency partners, if applicable]**. Personnel from the following agencies are authorized to request face recognition searches:

- **[Insert list of agencies authorized to request face recognition searches].**

Option 2: The entity has authorized access to a face recognition system.

The **City of Ontario** has authorized access to and can perform face recognition searches utilizing the **[insert name of entity that owns the face recognition program]** face recognition system.

4. The **City of Ontario** contracts with **[insert name of commercial entity or vendor]** to provide **[insert applicable vendor role, such as “software and system development services for the entity's face recognition system”]**. The **City of Ontario** retains ownership of the face recognition system and the images and information it contains.

5. The **City of Ontario** is guided by a **[insert guiding authority, for example, a “designated face recognition oversight committee”]** that ensures that P/CRCL are not violated by this face recognition policy and by the **City of Ontario’s** face recognition information collection, receipt, access, use, dissemination, retention, and purging processes and procedures. The **[insert guiding authority, for example, a “designated face recognition oversight committee”]** engages with the community regarding the **City of Ontario’s** face recognition policy prior to publishing.

It is suggested that the committee will annually review and update the face recognition policy in response to changes in law and program implementation experience, including the results of audits and inspections, and may **solicit input from the entity’s stakeholders [insert, if applicable “and may provide notice to and solicit comment from the public”]** on the development of the face recognition policy or proposed updates to the face recognition policy.

6. The **[insert title of individual or name of entity]** will:
 - Receive reports regarding alleged errors and violations of the provisions of this face recognition policy or applicable state law.
 - Receive and coordinate complaint resolution under the City of Ontario’s face recognition redress policy.
 - Ensure that the provisions of this policy and P/CRCL protections are implemented through efforts such as training, business process changes, and system designs that incorporate privacy-enhancing technologies.

The **[insert title of individual but not the name or name of entity]** may be contacted at the following address: **[insert phone number, mailing address, or e-mail address]**, which is also posted on **[insert website where this information is listed for purposes of public redress]**.

7. The **[insert title of individual or name of entity]** will ensure that enforcement procedures and sanctions outlined in **[insert section number of policy (see Section M.3. Enforcement)]** are adequate and enforced.

D. Definitions

1. For examples of primary terms and definitions used in this face recognition policy, refer to **[insert section or appendix citation]**.

E. Acquiring and Receiving Face Recognition Information

1. **[Select all options that are applicable to the entity.]**

Option 1: The entity maintains or operates an entity-owned image repository.

The **City of Ontario** face recognition system can access and perform face recognition searches utilizing the following entity-owned face image repositories:

- **[Insert a list of entity-owned and maintained repositories, including information types.]**

Option 2: The entity has authorized access to and can perform face recognition searches utilizing image repositories not owned by the entity. Indicate the authority/source of the repository (e.g., driver’s license photographs).

The **City of Ontario** is authorized to access and perform face recognition searches utilizing the following external repositories:

[List the image type and authority/source for each repository accessed. These may include:

- **Mug-shot images [check state authority and insert source]**

- **Driver's license photographs [check state authority and insert source]**
- **State identification card photographs [check state authority and insert source]**
- **Sex Offender Registry [check state authority and insert source]**
- **[Specify any other image repositories that are accessed and cite state authority.]**

Option 3: In addition to above, the entity is authorized to request that face recognition searches be performed by an external entity that operates a face recognition program.

In addition to above, the **City of Ontario** is authorized to submit requests for face recognition searches to be performed by the following external entities that own and maintain face image repositories:

[List the image type and authority/source for each repository accessed. These may include:

- **Mug-shot images [check relevant state authority and insert source]**
- **Driver's license photographs [check relevant state authority and insert source]**
- **State identification card photographs [check relevant state authority and insert source]**
- **Sex Offender Registry [check relevant state authority and insert source]**
- **[Specify any other image repositories that are accessed and cite state authority.]**

2. For the purpose of performing face recognition searches, the **City of Ontario** and authorized **the City of Ontario** personnel will obtain probe images or accept probe images from authorized requesting or participating agencies only for the authorized uses identified in section A.2.
3. The **City of Ontario** will receive probe images only from **[list other law enforcement agency or agencies]** in accordance with **[insert mechanisms, e.g., MOU, law, intergovernmental or interagency agreement]** established between the **City of Ontario** and the law enforcement agency(ies). If a non-law enforcement entity wants to submit a probe image for the purpose of a face recognition search, the entity will be required to file a criminal complaint with the appropriate law enforcement entity prior to the search.
4. The **City of Ontario** and, if applicable, any authorized requesting or participating agencies will not violate First, Fourth, and Fourteenth Amendments and will not perform or request face recognition searches about individuals or organizations based solely on their religious, political, or social views or activities; their participation in a particular noncriminal organization or lawful event; or their races, ethnicities, citizenship, places of origin, ages, disabilities, genders, gender identities, sexual orientations, or other classification protected by law.

However, the **City of Ontario** accords special consideration to the collection of face images relating to First Amendment-protected events, activities, and affiliations. Because of the sanctity of the First Amendment, law enforcement's role at First Amendment-protected events is usually limited to crowd control and public safety.¹ If, however, during the planning assessment and approval process for the particular event, before proceeding with the collection, the **City of Ontario** anticipates a need for the collection of face images, the **City of Ontario** will articulate whether collection of face images by law enforcement officers at the event is permissible; the legal or justified basis for such collection (including specifics regarding the criminal behavior that is suspected); and how face images may be collected, used, or retained, in accordance with this policy, as appropriate. If face images will be collected, the plan will specify the type of information collection that is permissible, identify who will collect face images (uniform or plainclothes officers), and define the permissible acts of collection.

¹ For further information about these processes, see *Recommendations for First Amendment-Protected Events for State and Local Law Enforcement Agencies* at 4, Global Justice Information Sharing Initiative, <https://it.ojp.gov/GIST/35/Recommendations-for-First-Amendment-Protected-Events-for-State-and-Local-Law-Enforcement-Agencies>.

[Note: Some law enforcement purposes may be stated generally in the Operations Plan or communicated to officers, but objectives that may risk interference with the exercise of First Amendment rights should be stated narrowly and be expressly tied to a specific law enforcement function (e.g., public safety, investigative).]

The use of mobile face image capture devices relating to First Amendment-protected events, activities, and affiliations will be specially authorized by **[title of entity supervisor/director/administrator]** of the **City of Ontario** in advance of the event.

The **City of Ontario** will reassess the need for and use of face recognition during the First Amendment-protected event. The **City of Ontario** will utilize face images from a First Amendment-protected event should the public safety mission change or in support of an active or ongoing criminal or homeland security investigation that occurs during or resulted from a First Amendment-protected event.

5. The **City of Ontario** will contract only with commercial face recognition companies or subcontractors that provide assurances that their methods for collecting, receiving, accessing, disseminating, retaining, and purging face recognition information comply with applicable local, state, tribal, territorial, and federal laws, statutes, regulations, and policies and that these methods are not based on unfair or deceptive information collection practices.

F. Use of Face Recognition Information

1. Access to or disclosure of face recognition search results will be provided only **to individuals within the entity or in other governmental agencies** who are authorized to have access or have completed applicable training outlined in section N. Training, and only for valid law enforcement purposes (e.g., enforcement, reactive investigations), and to IT personnel charged with the responsibility for system administration and maintenance. Authorized uses are described in A.3 of this policy. **[Insert, if applicable, any additional restrictions or allowances regarding the use of images in briefings or trainings, and whether there are any distinctions for hard-copy versus digital images.]**
2. The **City of Ontario** will prohibit access to and use of the face recognition system, including dissemination of face recognition search results, for the following purposes:
 - Non-law enforcement (including but not limited to personal purposes).
 - Any purpose that violates the U.S. Constitution or laws of the United States, including the protections of the First, Fourth, and Fourteenth Amendments.
 - Prohibiting or deterring lawful individual exercise of other rights, such as freedom of association, implied by and secured by the U.S. Constitution or any other constitutionally protected right or attribute.
 - Harassing and/or intimidating any individual or group.
 - Any other access, use, disclosure, or retention that would violate applicable law, regulation, or policy.
3. The **City of Ontario** **[does not/does]** connect the face recognition system to any interface that performs live video surveillance, including surveillance cameras, drone footage, and body-worn cameras. The face recognition system **[will not/will]** be configured to conduct face recognition analysis on live or recorded video.
4. The **City of Ontario** will employ credentialed, role-based access criteria, as appropriate, to control:
 - Categories of face recognition information to which a particular group or class of users may have access, based on the group or class.
 - The assignment of roles (e.g., administrator, manager, operator, and user).
 - The categories of face recognition information that a class of users are permitted to access, including information being utilized in specific investigations.
 - Any administrative or functional access required to maintain, control, administer, audit, or otherwise manage the information or equipment.

5. The following describes the **City of Ontario**'s manual and automated face recognition search procedure, which is conducted in accordance with a valid law enforcement purpose and this policy.
- Authorized **the City of Ontario** personnel **[and/or authorized requesting agency personnel]** will submit a probe image of a subject of interest.
 - Trained **the City of Ontario** authorized examiners will initially run probe images without filters, using a filtered search as a secondary search, if needed. In some cases, enhancements may be considered after running an image as is against the image repository.
 - In the automated search, most likely candidates are returned to the requestor ranked in order based on the similarity or confidence level.
 - The resulting candidates, if any, are then manually compared with the probe images and examined by an authorized, trained examiner. Examiners shall conduct the comparison of images, biometric identifiers, and biometric information in accordance with their training.
 - If no likely candidates are found, the requesting entity will be informed of the negative results. In the case of a negative result, the images examined by the examiner will not be provided to the requesting entity.
 - Examiners will submit the search and subsequent examination results for a peer review of the probe and candidate images for verification by other authorized, trained examiners.
 - All results of most likely candidate images from the face recognition search must be approved by a supervisor prior to dissemination.
 - All entities receiving the results of a face recognition search must be cautioned that the resulting candidate images do not provide positive identification of any subject, are considered advisory in nature as an investigative lead only, and do not establish probable cause, without further investigation, to obtain an arrest warrant without further investigation.
 - The following statement will accompany the released most likely candidate image(s) and any related records:

The **City of Ontario** is providing this information as a result of a search, utilizing face recognition software, of records maintained by the **[name of records entity]**. This information is provided only as an investigative lead and **IS NOT TO BE CONSIDERED A POSITIVE IDENTIFICATION OF ANY SUBJECT**. Any possible connection or involvement of any subject to the investigation must be determined through further investigation and investigative resources.

6. The **City of Ontario** has established the following process for mobile face recognition searches:
- Only **the City of Ontario** authorized and trained officers may utilize the mobile face recognition application and only on department-authorized devices. **[If personal devices are permitted, insert entity policy regarding use of mobile face recognition on personal devices.]**
 - Prior to utilizing a face recognition search, an officer should first attempt to ascertain an individual's identity by means other than a face recognition search, such as requesting identification, using a fingerprint scanner, etc.
 - Mobile searches may be performed during the course of an officer's lawful duties and only for the entity-established authorized uses listed in section A. Purpose Statement, item 3.
 - In addition, officers may only capture an individual's image when one of the conditions listed in section F.7 exist.
 - **[Use the following language, if the process is applicable to the entity. "The face recognition system does not work over standard cellular internet. Officers must log in and be authenticated into the City of Ontario's law enforcement network in order to access the face recognition system."]**
 - The log-in screen will prompt the user to acknowledge and agree to the following statement before granting access to the system:
 - Face recognition is not a form of positive identification of a subject. Images returned as a result of a face recognition search may be considered investigative lead information only and are not probable cause to arrest, without further investigation.
 - Face recognition searches shall not be performed by the user on behalf of others who have not been trained and authorized to perform the searches.

- All face recognition searches are subject to audit and require case numbers and file class/crime types.
 - Misuse may result in administrative and/or criminal penalties.
 - Prior to executing the search, the officer must enter the reason for the search within the application. **[List the reasons that are prompted by the entity's face recognition application. Reasons may include the following:**
 - **Consent**
 - **Reasonable suspicion of a crime**
 - **Probable cause**
 - **Physical/mental incapacity**
 - **Test/training**
 - **Other—[enter written reason]**
 - The captured image (probe image) will be submitted to the face recognition system, which will compare the probe image with those contained in the **[indicate the name(s) of repository/ies searched]**.
 - A list of most likely candidate images is returned ranked by computer-evaluated similarity.
 - The officer then completes a visual or manual morphological comparison of the candidate images with the subject's probe image to make a visual judgment, as well as uses standard investigative techniques, to determine whether the subject is the same as a candidate image.
7. Authorized and trained **the City of Ontario** officers may only perform a mobile face recognition search during the course of lawful duties, in accordance with entity-established authorized uses (refer to section A. Purpose Statement, item 3), and when one of the following conditions exist:
- **Public Place:** In accordance with applicable law, the individual's image is captured in a public place for the purpose of identification and the individual has no reasonable expectation of privacy. The **City of Ontario** will not authorize the collection of the individual's face image when the individual raises an objection that is recognized by law (e.g., religious objection).
 - **Consent:** The individual consents to have his or her image captured for the purpose of identification. The individual may withdraw consent at any time. If consent is withdrawn and neither of the other conditions applies, then use of a face recognition search is not authorized and the search must stop immediately.
 - **Incapacitation, Defect, or Death:** When an individual is unable to provide reliable identification because of physical incapacitation or defect, mental incapacitation or defect, or death, and an immediate identification is needed to assist the officer in the performance of his or her lawful duties.
8. At no time is the use of force permitted to capture a subject's image.

G. Sharing and Disseminating Face Recognition Information

1. The **City of Ontario** will establish requirements for external law enforcement agencies to request face recognition searches. These will be documented in an interagency agreement or MOU, which will include an assurance from the external agency that it complies with the laws and rules governing it, including applicable federal and state laws. The agreement will specify only those agency personnel who have been authorized by the **City of Ontario**, who have completed the required training identified in section N.2, and that requests are for official use only/law enforcement sensitive (FOUO/LES). Each request must be accompanied by a complaint number or case number.
2. The **City of Ontario's** face recognition search information **will not** be:
 - Sold, published, exchanged, or disclosed to commercial or private entities or individuals except as required by applicable law and to the extent authorized by the **City of Ontario's** agreement with the commercial vendor.
 - Disclosed or published without prior notice to the originating entity that such information is subject to disclosure or publication. However, the **City of Ontario** and the originating agency may agree in writing in advance that the **City of Ontario** will disclose face recognition search information as part

of its normal operations, including disclosure to an external auditor of the face recognition search information.

- Disclosed on a discretionary basis unless the originating agency has provided prior written approval or unless such disclosure is otherwise authorized by the MOU or agreement between the **City of Ontario** and the originating agency.
- Disclosed to unauthorized individuals or for unauthorized purposes.
- **[For commercial face recognition vendors, the entity should closely review its vendor agreement.]**

3. The **City of Ontario** will not confirm the existence or nonexistence of face recognition information to any individual or agency that would not be authorized to receive the information unless otherwise required by law.

H. Data Quality Assurance

1. Original probe images will not be altered, changed, or modified in order to protect the integrity of the image. Any enhancements made to a probe image will be made on a copy, saved as a separate image, and documented to indicate what enhancements were made, including the date and time of change.
2. **the City of Ontario** examiners will analyze, review, and evaluate the quality and suitability of probe images, to include factors such as the angle of the face image, level of detail, illumination, size of the face image, and other factors affecting a probe image prior to performing a face recognition search.
3. The **City of Ontario** considers the results, if any, of a face recognition search to be advisory in nature as an investigative lead only. Face recognition search results are **not** considered positive identification of a subject and do not, on their own, establish probable cause, without further investigation. Any possible connection or involvement of the subject(s) to the investigation must be determined through further investigative methods.

[Add the following statement if the entity utilized mobile face recognition searches.

All potential matches are considered advisory in nature and any subsequent verification of the individual's identity, such as through a fingerprint check, or follow-on action should be based on an agency's standard operating procedures.]

4. The **City of Ontario** will make every reasonable effort to perform routine maintenance, upgrades and enhancements, testing, and refreshes of the face recognition system to ensure proper performance, including the following:
 - Designated, trained personnel shall assess the face recognition system on a regular basis to ensure performance and accuracy.
 - Malfunctions or deficiencies of the system will be reported to the **[insert position/title]** within **[insert time period, e.g., number of days]** of discovering the malfunctions or deficiencies.
5. The integrity of information depends on quality control and correction of recognized errors which is key to mitigating the potential risk of misidentification or inclusion of individuals in a possible identification. The **City of Ontario** will investigate, in a timely manner, alleged errors and malfunctions or deficiencies of face recognition information or, if applicable, will request that the originating agency or vendor investigate the alleged errors and malfunctions or deficiencies. The **City of Ontario** will correct the information or advise the process for obtaining correction of the information.

I. Disclosure Requests

1. Face recognition information will be disclosed to the public in accordance with **[cite applicable state retention laws, public records laws, and policy]**. A record will be kept of all requests and of what

information is disclosed to an individual. **[If the state law prohibits disclosure, revise provision to reflect this.]**

J. Redress

J.1 Complaints

1. If an individual has a complaint with regard to face recognition information that is exempt from disclosure, is held by the **City of Ontario**, and allegedly has resulted in demonstrable harm to the complainant, the **City of Ontario** will inform the individual of the procedure for submitting (if needed) and resolving such complaints. Complaints will be received by the entity's **[Privacy Officer, Face Recognition Administrator, Internal Affairs Representative, or other position title]** at the following address: **[insert mailing address, e-mail address, and/or link to page if complaints can be submitted electronically]**. The **[Privacy Officer, Face Recognition Administrator, Internal Affairs Representative, or other position title]** will acknowledge the complaint and state that it will be reviewed but will not confirm the existence or nonexistence of the information to the complainant unless otherwise required by law.

If the face recognition information did not originate with the entity, the **[Privacy Officer, Face Recognition Administrator, Internal Affairs Representative, or other position title]** will notify the originating agency within 30 days in writing or electronically and, upon request, assist such agency to correct any identified data/record deficiencies in the information or verify that the record is accurate.

All face recognition information held by the entity that is the subject of a complaint will be reviewed within 30 days and confirmed or corrected/purged if determined to be inaccurate or incomplete, to include incorrectly merged or out-of-date information. If there is no resolution within 30 days, the entity will not share the information until such time as the complaint has been resolved. A record will be kept by the entity of all complaints and the resulting action taken in response to them.

J.2 Requests for Corrections

1. If, in accordance with state law, an individual requests correction of face recognition information *originating with the City of Ontario* that has been disclosed, the **City of Ontario's [insert title of designee]** will inform the individual of the procedure for requesting a correction. The **City of Ontario** will investigate, in a timely manner, alleged errors and malfunctions or deficiencies of face recognition information or, if applicable, will request that the originating agency or vendor investigate the alleged errors and malfunctions or deficiencies. The **City of Ontario** will correct the information or advise the process for obtaining correction of the information. A record will be kept of all requests and the **City of Ontario's** response.

J.3 Appeals

1. The individual who has requested disclosure or to whom face recognition information has been disclosed will be informed of the reason(s) why the **City of Ontario** or originating agency denied the request for disclosure or correction. The individual will also be informed of the procedure for appeal when the **City of Ontario** or originating agency has cited an exemption for the type of information requested or has declined to correct challenged face recognition information to the satisfaction of the individual to whom the information relates.

K. Security and Maintenance

1. The entity will comply with generally accepted industry or other applicable standards for security, in accordance with **[insert the name of the entity security policy or reference applicable standard(s)]** to protect data at rest, in motion, or in use. Security safeguards will cover any type of medium (printed or electronic) or technology (e.g., physical servers, virtual machines, and mobile devices) used in a work-related **the City of Ontario** activity.

The **[name of entity and, if applicable, the name of entity's face recognition vendor]** will operate in a secure facility protected with multiple layers of physical security from external intrusion and will utilize secure internal and external security and privacy safeguards against network intrusions, such as strong multifactor authentication; encrypted communications; firewalls; and other reasonable physical technological, administrative, procedural, and personnel security measures to minimize the risks of unauthorized access to the system. Access to **the City of Ontario** face recognition information from outside the facility will be allowed only over secure networks.

All results produced by the City of Ontario as a result of a face recognition search are disseminated by secured electronic means (such as an official government e-mail address). Non-electronic disseminations will be conducted personally or by phone with the requestor or designee.

2. All individuals with access to **the City of Ontario's** information or information systems will report a suspected or confirmed breach to the **[Privacy Officer, Face Recognition Administrator, or other position title]** as soon as possible and without unreasonable delay, consistent with applicable laws, regulations, policies, and procedures. This includes a breach in any medium or form, including paper, oral, and electronic.

Best Practice Language: **[To the extent allowed by existing data breach notification law]** Following assessment of the suspected or confirmed breach and as soon as practicable, the **City of Ontario** will notify the originating agency from which the entity received face recognition information of the nature and scope of a suspected or confirmed breach of such information.

[In addition to the above, the entity should identify any existing laws or policies governing its breach response procedures and, in accordance with these laws and policies, provide specific guidance on breach response procedures, including notification to individuals affected by the breach. Determine whether your state has a data breach notification law and select the appropriate provision.]

Option 1: State, Local, Tribal, or Territorial Data Breach Notification Law

The **City of Ontario** adheres to **[insert citation to applicable data breach notification law.]** The **City of Ontario** will determine whether a data breach requires notification to an affected individual, in accordance with applicable laws, regulations, policies, and procedures.

Option 2: Office Management and Budget (OMB) Memorandum M-17-12, Preparing for and Responding to a Breach of Personally Identifiable Information (January 13, 2017), https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-12_0.pdf. For additional information on the development of incident response plans, entities may refer to DOJ's *Best Practices for Victim Response and Reporting of Cyber Incidents*, https://www.justice.gov/sites/default/files/opa/speeches/attachments/2015/04/29/criminal_division_guidance_on_best_practices_for_victim_response_and_reporting_cyber_incidents2.pdf.

[Where no applicable state, local, tribal, or territorial law exists, or where entities choose to supplement existing law or policy, M-17-12 may be used as a guide. Entities do not need to adopt OMB M-17-12 in full. Rather, entities should review OMB M-17-12 to determine which provisions are applicable and may adapt those provisions to the specific needs of the entity.]

The **City of Ontario** will adhere to breach procedures established by Office Management and Budget (OMB) Memorandum M-17-12 (January 13, 2017). The provisions adopted by the **City of Ontario** are cited below. In accordance with OMB M-17-12 **[insert citations to the sections and paragraphs of OMB M-17-12 that will be adopted]** and relevant laws,

regulations, policies, and procedures, the **City of Ontario** will determine if, when, and how to provide notification to potentially affected individuals and other relevant entities.

Option 3: No State Data Breach Notification Law and Entity Does Not Follow OMB M-17-12

a. Entity Follows an Existing Data Breach Notification Policy

The **City of Ontario** will adhere to the **City of Ontario's** policy governing data breach notification. In accordance with **[insert citation(s) to the existing policy and procedures]**, the **City of Ontario** will **[insert excerpted language from the policy and procedures, as appropriate here]**. The **City of Ontario** will determine whether a data breach requires notification to an affected individual, in accordance with applicable laws, regulations, policies, and procedures.

b. Entity Does Not Have an Existing Data Breach Notification Policy

[Review and adapt the following template language to reflect the entity's data breach notification policy and procedures.]

When the **[Privacy Officer, Face Recognition Administrator, or other position title]** is notified of a suspected or confirmed breach, the **[Privacy Officer, Face Recognition Administrator, or other position title]** will determine whether the entity's response can be conducted at the staff level or whether a breach response team, consisting of the **[Privacy Officer, Face Recognition Administrator, or other position title, and others (e.g., individual with oversight responsibility for entity operation, the entity security officer, legal counsel, privacy oversight committee, and/or other designee(s))]** must be convened to respond to the breach. The **[Privacy Officer, Face Recognition Administrator, or other position title]**, in coordination with the breach response team, when applicable, will assess the risk of harm to individuals potentially affected by a breach (e.g., the nature and sensitivity of the personally identifiable information [PII] potentially compromised by the breach, the likelihood of access and use of PII, and the type of breach involved), evaluate how the entity may best mitigate the identified risks, and provide recommendations to the **[title of individual with oversight responsibility for entity operation]** on suggested countermeasures, guidance, or other actions.

The **[title of individual with oversight responsibility for entity operation]** will determine whether a data breach requires notification to an affected individual, in accordance with applicable laws, regulations, policies, and procedures. If required, the **City of Ontario** will notify an individual whose PII was or is reasonably believed to have been breached and access to which threatens physical, reputational, or financial harm to that person. If notice to the individual is required, it will be made promptly and without unreasonable delay following discovery of the breach. Notice will be provided consistent with the legitimate needs of law enforcement to investigate the breach or any measures necessary to determine the scope of the breach and, if necessary, to reasonably restore the integrity of any information system affected by the breach.

The **[Privacy Officer, Face Recognition Administrator, or other position title]** is responsible for developing and updating the entity's data breach response plan on an annual basis and in accordance with any changes in law, guidance, standards, agency policy, procedures, staffing, and/or technology; for maintaining documentation about each data breach reported to the entity and the entity's response; and for keeping entity administrators informed of the status of an ongoing response. The **[title of individual with oversight responsibility for entity operation]** will determine when the response to a breach is concluded, based on input from the **[Privacy Officer, Face Recognition Administrator, or other position title]**.

3. All face recognition equipment and face recognition software and components will be properly maintained in accordance with the manufacturer's recommendations, including routine updates as appropriate.
4. The **[name of entity or, if applicable, the name of the entity's face recognition vendor]** will store face recognition information in a manner that ensures that it cannot be modified, accessed, or purged except by personnel authorized to take such actions.
5. Authorized access to the **City of Ontario's** face recognition system will be granted only to personnel whose positions and job duties require such access and who have successfully completed a background check and the training referenced in section N. Training.
6. Usernames and passwords to the face recognition system are not transferrable, must not be shared by **the City of Ontario** personnel, and must be kept confidential.
7. The system administrator will ensure that all manufacturer-generated default passwords are replaced with secure passwords before web-based interfaces of the system become operational. User passwords must meet the following standards **[insert rules, such as no English words and a combination of upper and lowercase letters, numbers, and at least two special characters]**. Authorized users are not permitted to use the same password over time and are required to change their password every **[insert period of time]**.
8. Queries made to the **City of Ontario's** face recognition system will be logged into the system identifying the user initiating the query. All user access, including participating agency access, and queries are subject to review and audit.
9. The **City of Ontario** will maintain an audit trail of requested, accessed, searched, or disseminated **the City of Ontario**-held face recognition information. An audit trail will be kept for a minimum of **[specify the retention period for your jurisdiction/entity for this type of request]** of requests, access, and searches of face recognition information for specific purposes and of what face recognition information is disseminated to each individual in response to the request.

Audit logs will include:

[Provide a list of the information maintained in the audit log, such as:

- **The name, agency, and contact information of the law enforcement user**
- **The date and time of access**
- **Case number**
- **Probe images (refer to section L.5)**
- **The specific information accessed**
- **The modification or deletion, if any, of the face recognition information**
- **The authorized law enforcement or public safety justification for access (criminal investigation, criminal intelligence, imminent threat, or identification), including a relevant case number if available. Note: The justification should be consistent with section E.]**

L. Information Retention and Purging

1. [Select all options that are applicable to the entity.]

Option 1: The entity maintains or operates an entity-owned image repository

All images contained within the **City of Ontario's** [name of image repository, e.g., mug shot repository] will be stored for a period not to exceed [insert a time frame]. After [insert time period], the information will be automatically purged in accordance with purging protocols (i.e., permanently removed from the repository). Refer to section K. Security and Maintenance, item 9, regarding face recognition information stored in audit logs.

Option 2: The entity has authorized access to and can perform face recognition searches utilizing image repositories not owned by the entity

Images accessed by the **City of Ontario** for face recognition searches, in accordance with section E.1, are not maintained or owned by the **City of Ontario** and are subject to the retention policies of the respective agencies authorized to maintain those images.

Option 3: The entity is authorized to request that face recognition searches be performed by an external entity that operates a face recognition program.

The **City of Ontario** is authorized to submit face recognition search requests, in accordance with section E.1, to external agencies that own and maintain face image repositories. The images searched are subject to the retention policies of the respective agencies that maintain or own the face image repositories.

Once a face recognition image is downloaded by **the City of Ontario** personnel and incorporated into a criminal intelligence record or an investigative case file, the face recognition information is then considered criminal intelligence or investigative information and the laws, regulations, and policies applicable to that type of information or criminal intelligence govern its use.

Any images that do not originate with the **City of Ontario** will remain in the custody and control of the originating agency and will not otherwise be transferred to any other entity without authorization from the originating agency.

If the face recognition image has become or there is reason to believe that it will become evidence, including Rosario material or evidence that tends to inculcate or exculpate a suspect, in a specific criminal or other law enforcement investigation or action, the following provisions apply:

- a. In those circumstances in which an image is identified as being Rosario material or having evidentiary value, the face recognition [insert administrator or other title] or designee will review the facts of the specific case and determine whether the image should be retained beyond the established retention period. If it is determined that it is reasonable to believe the image is Rosario material or has evidentiary value, the face recognition [insert administrator or other title] will authorize the transfer of the applicable image from the image repository to [insert appropriate response; for example, "the entity's investigative case file," "the entity's case management system," or "a form of digital storage media (CD, DVD, etc.) or other portable storage device"] and will purge the image from the repository.
- b. Agencies requiring images be retained by the **City of Ontario** beyond the established retention period may make a formal, written request to the **City of Ontario** to extend retention. Each request must specify the need for extended retention, the circumstances surrounding the request, the requesting agency's case number, and a specific point of contact within the requesting agency. The **City of Ontario** reserves the right to grant or deny agency requests based on the information provided.

The **City of Ontario** retains the right to remove images from the repository earlier than the retention period, based on the limitations of information storage requirements and subject to any applicable record retention laws and statutory disclosure mandates. Early removal, however, will not be used as a means for intentionally interfering with a lawful complaint or a public records request. The retention period may be modified at any time by the **City of Ontario**, subject to applicable legal requirements.

2. Probe images are not enrolled (stored) in the image repository. Retention of probe images will be the same as for the type of file (criminal case file, criminal intelligence file), whether paper or electronic, in which the information is stored.
3. A lawfully obtained probe image of an unknown suspect *may* be added to an unsolved image file pursuant to an authorized criminal investigation. Images in an unsolved image file are periodically compared with those in an image repository (of known persons). If a most likely candidate meets a minimum threshold of computer-evaluated similarity results, the contributor of the probe image is notified and requested to validate the continued need to store the image or determine whether the image can be purged. Images enrolled in an unsolved image file will be validated on a periodic basis, at least every **[insert time period]**, by the contributors to ensure that the criminal investigation remains active and that the image remains relevant to the investigation. If, in accordance with this policy, the contributor has not validated the need to retain the image in the unsolved file, the image will be purged.
4. The list of most likely candidate images is not enrolled (stored) in the image repository. For **the City of Ontario** investigations, the case agent will maintain the list of most likely candidates from a face recognition search within the case file.
5. Probe images and face recognition search results are saved within the entity's system audit log, for audit purposes only. The audit log is available only to the **[insert position, such as a face recognition administrator]** and will be purged within **[insert time period]**. The audit log is not searchable and face recognition searches cannot be performed using the audit log.

M. Accountability and Enforcement

M.1 Transparency

1. The **City of Ontario** will be open with the public with regard to face recognition information collection, receipt, access, use, dissemination, retention, and purging practices. The **City of Ontario's** face recognition policy will be made available in printed copy upon request and posted prominently on the **City of Ontario's** website **[or web page]** at **[insert web address]**.
2. The **City of Ontario's** **[Privacy Officer, Face Recognition Administrator, or other position title]** will be responsible for receiving and responding to inquiries and complaints about the entity's use of the face recognition system, as well as complaints regarding incorrect information or P/CRCL protections in the image repository maintained and face recognition system accessed by the **City of Ontario**. The **[Privacy Officer, Face Recognition Administrator, or other position title]** may be contacted at **[insert mailing address or e-mail address]**.

M.2 Accountability

1. The **City of Ontario** will adopt and follow procedures and practices by which it can ensure and evaluate the compliance of users with the face recognition system requirements and with the provisions of this policy and applicable law. This will include logging access to face recognition information, may include any type of medium or technology (e.g., physical servers, virtual machines, and mobile devices) used in a work-related activity, and will entail periodic random auditing of these systems so as not to establish a discernable pattern that may influence users' actions. These audits will be mandated at least **[insert quarterly, semiannually, annually, or other time period]**, and a record of the audits will be maintained by the **[Privacy Officer, Face Recognition Administrator,**

or title of designee] of the **City of Ontario** pursuant to the retention policy. Audits may be completed by an independent third party or a designated representative of the **City of Ontario**.

Appropriate elements of this audit process and key audit outcomes will be compiled into a report and may be provided to command staff and oversight entities or governance boards.²

[Entities may also release a summary of findings to the public, pursuant to law or as a matter of discretion. If so, entities should consider the optional language below.]

Optional: The **City of Ontario** will provide an overview of audit findings to the public to enhance transparency with respect to P/CRCL protections built into the **City of Ontario's** operations.

Note: Statistical data may be incorporated into the publication, but the entity should be mindful of operational considerations. Actual audit logs, statistical data, or summary findings may contain PII. No PII should be included in the summary of audit findings released to the public.

2. The **City of Ontario's** personnel or other authorized users shall report errors, malfunctions, or deficiencies of face recognition information and suspected or confirmed violations of the **City of Ontario's** face recognition policy to the **City of Ontario's** [insert title of Face Recognition Administrator].
3. The [Privacy Officer, Face Recognition Administrator, or other position title] will review and update the provisions contained in this face recognition policy annually and will make appropriate changes in response to changes in applicable law, technology, and/or the purpose and use of the face recognition system; the audit review; and public expectations.

M.3 Enforcement

1. If the **City of Ontario** personnel, a participating agency, or an authorized user is found to be in noncompliance with the provisions of this policy regarding the collection, receipt, access, use, dissemination, retention, and purging, the [title of entity director] of the **City of Ontario** will:
 - Suspend or discontinue access to information by the **City of Ontario** entity personnel, the participating agency, or the authorized user.
 - Apply appropriate disciplinary or administrative actions or sanctions.
 - Refer the matter to appropriate authorities for criminal prosecution, as necessary, to effectuate the purposes of the policy.
2. The **City of Ontario** reserves the right to establish the qualifications and number of personnel having access to the **City of Ontario's** face recognition system and to suspend or withhold service and deny access to any participating agency or participating agency personnel violating this face recognition policy.

N. Training

1. Before access to the **City of Ontario's** face recognition system is authorized, the **City of Ontario** will require the following individuals to participate in training regarding implementation of and adherence to this face recognition policy:
 - All authorized the **City of Ontario** personnel, including examiners
 - All authorized participating agency personnel
 - All authorized personnel providing information technology services to the **City of Ontario**

² *Privacy, Civil Rights, and Civil Liberties Audit Guidance for the State, Local, Tribal, and Territorial Intelligence Component*, Global Justice Information Sharing Initiative, <https://it.ojp.gov/GIST/181/Privacy--Civil-Rights--and-Civil-Liberties-Audit-Guidance-for-the-State--Local--Tribal--and-Territorial-Intelligence-Component>.

2. The **City of Ontario**'s face recognition policy training program will cover both:
 - a. Elements of the operation of the face recognition program, including:
 - Purpose and provisions of the face recognition policy.
 - Substance and intent of the provisions of this face recognition policy and any revisions thereto relating to collection, receipt, access, use, dissemination, retention, and purging of the **City of Ontario**'s face recognition information.
 - Policies and procedures that mitigate the risk of profiling.
 - How to implement the face recognition policy in the day-to-day work of the user, whether a paper or systems user.
 - Security awareness training.
 - How to identify, report, and respond to a suspected or confirmed breach.
 - Cultural awareness training.
 - b. Elements related to the results generated by the face recognition system, including:
 - Originating and participating agency responsibilities and obligations under applicable federal, state, or local law and policy.
 - The P/CRCL protections on the use of the technology and the information collected or received, including constitutional protections, and applicable state, local, and federal laws.
 - Face recognition system functions, limitations, and interpretation of results.
 - Mechanisms for reporting violations of the **City of Ontario** face recognition policy provisions.
 - The nature and possible penalties for face recognition policy violations, including possible transfer, dismissal, criminal liability, and immunity, if any.
3. In addition to the training described in M.2, the **City of Ontario** face recognition examiners are required to complete advanced specialized training to include:
 - Face recognition system functions, limitations, and interpretation of results.
 - Use of image enhancement **[if applicable, "and video editing software"]**.
 - Appropriate procedures and how to assess image quality and suitability for face recognition searches.
 - Proper procedures and evaluation criteria for one-to-many and one-to-one face image comparisons.
 - Candidate image verification processes.
4. Investigators from outside agencies are permitted to request face recognition searches from the **City of Ontario**, only if prior to making requests the outside agency **[select applicable entity requirement(s) from the following list or insert the entity's established requirements]**:
 - There is a formalized agreement, (e.g., a memorandum of understanding or an interagency agreement), between the City of Ontario and the outside agency and the agreement acknowledges that requesting investigators have an understanding of the following concepts.
 - The outside agency first provides examples of its applicable policies (e.g., privacy) and acknowledges in writing that its requesting investigators have an understanding of the following concepts.
 - There is a law enforcement agency that is making the request based on a valid law enforcement purpose that falls within the authorized uses listed in section A. Purpose Statement, item 3. And the requestor provides a case number and contact information (requestor's name, requestor's agency, address, and phone number), and acknowledges an agreement with the following statement:

The result of a face recognition search is provided by the City of Ontario only as an investigative lead and IS NOT TO BE CONSIDERED A POSITIVE IDENTIFICATION OF ANY SUBJECT. Any possible connection or involvement of any subject to the investigation must be determined through further investigation and investigative resources.
 - The agency completes the City of Ontario's training on the following concepts:
 - Originating and participating agency responsibilities and obligations under applicable federal, state, or local law and policy.
 - P/CRCL protections on the use of the technology and the information collected or received.

- **Conditions and criteria under which the face recognition searches may be requested.**
- **Face recognition system functions, limitations, and interpretation of results.**
- **Use of face recognition search results as an investigative lead only.**
- **Mechanisms for reporting violations of the City of Ontario face recognition policy provisions.**
- **The nature and possible penalties for face recognition policy violations, including dismissal, criminal liability, and immunity, if any.**
- **Operational policies.]**

5. In addition to the training described in N.2, the **City of Ontario** requires all personnel who are authorized to run a mobile search to be trained in the following areas prior to utilizing mobile face recognition search capabilities:

- The proper and lawful use of face images for face recognition purposes.
- How to capture high quality face images in the field for most accurate results.
- The rules and procedures for obtaining an individual's consent to having their image captured.
- The appropriate use and sharing of information obtained from a face recognition search.
- The deletion of field-acquired probe images.

Personnel who have not received this training shall not utilize mobile face recognition search capabilities.



**AGENDA REPORT
DISCUSSION ITEMS
October 8, 2020**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: CITY MANAGER EVALUATION DISCUSSION

DATE: September 30, 2020

PROPOSED MOTION:

ASK FOR CONSENSUS ON ALLOWING COUNCILOR DAN CAPRON TO PARTICIPATE IN THE EVALUATION OF THE CITY MANAGER.

SUMMARY:

The City Manager's evaluation is to take place at the closest Council meeting following December 6th of each year. Councilor Capron will likely not be on the Ontario City Council at that time.

BACKGROUND:

The City Manager's evaluation is set for December 6th of each year. All City Council members complete an evaluation and the comments and scores are compiled by the Human Resources staff.

CURRENT SITUATION:

Council President Dan Capron will be leaving the City Council in October of 2020, but will have provided direction as one of the City Council members for 10 1/2 months of the one-year evaluation period. The City Manager would like the Council's consensus to allow President Capron the opportunity to submit an evaluation and be included in the comments and scoring for the annual evaluation.

Only the seated Council will be able to make adjustments to the City Manager's compensation. The compensation is not directly mathematically tied to the evaluation. So, the evaluation, would only provide feedback whether positive or negative to the evaluation period.

ANALYSIS:

- A. **STRATEGIC PLAN** No strategic plan impact.
- B. **FINANCIAL** No financial impact.
- C. **TIMING** The time for Ontario City Council members to complete their evaluation of the City Manager is coming up in November.
- D. **POLICY/LEGAL** As stated before, only the seated City Council can make changes to the City Managers' compensation. This would only be for feedback purposes.

ALTERNATIVES:

Not allow Councilor Capron to participate in the evaluation of the City Manager.

RECOMMENDATION:

The City Manager requests the City Council's consensus to allow Council President Dan Capron to complete and submit a written evaluation to be included with the evaluation of the remaining seated Ontario City Council.

ATTACHMENTS:

None

Jacobs

Aug. 21 – Sept. 20

2020 Report



September
2020

Prepared by Jacobs for
CITY OF ONTARIO/PUBLIC WORKS DEPARTMENT

Monthly Business Review

PUBLIC WORKS DEPARTMENT

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FIELD SERVICES: STREETS & COLLECTION/DISTRIBUTION SUMMARY

ACTIVITIES AUGUST 21 – SEPTEMBER 20:

- The Public Works office is closed to public and non-essential employee access.
- Constructed the holding pit for the Bio-solids project at Skyline.
- Water maintenance throughout town.
- Swept the downtown and underpass area 2 additional times.
- Pot-hole repair in the underpass and E. Idaho Ave.
- Sign maintenance throughout town.
- Hot taping directional arrows around town.
- Garbage cans, bike racks and benches have been installed on South Oregon.
- All bulb outs on the South Oregon Street project have the fabric and chips in place. Ornamental vegetation has been planted.
- Crews are working on Skate Park bathroom.
- Staff members are working on vegetation control on City property.
- Crews have finished building the storage area for bio-solids at Skyline Farms. They have also improved the haul road on the south and east side of the property and laid gravel for a “track-out” zone to keep empty haul trucks from tracking bio-solids down the road.
- Potholes on NE 4th and East Idaho have been filled with patch material, however ODOT has responsibility for maintaining this section of road.
- Staff have been working on “put-in” trailhead for the Malheur River Water Trail.
- The open section of the Dorian Ditch along the east side of NW 22nd St. was backing up. Crews found that debris had blown into the ditch with the high winds earlier in the week. Once they cleared the debris, the ditch began flowing.
- Installed new Skyline access Closed to the public signs due to Bio-solids Project.
- Repaired a 12” water main leak on SE 5th Ave., with a contractor’s assistance.
- Paved back all of our trenches and excavations from water maintenance that were done.
- Pulled the roofing material back down and placed plastic over the damage on the gun range training building that was damaged in a high MPH windstorm.
- Built a path from the Malheur River floating site parking lot to the riverbank.
- Mowed and trimmed weeds on City owned right away.
- Started crack sealing W. Idaho Ave. from NW 2nd St. to Verde Dr. and this will continue this fall as weather allows.
- Rebuilt a fire hydrant that was struck for the 2nd time in 2 months on SW 4th St. near the Argus.
- Assisted in setting the large rock in the bulb outs on S. Oregon/SW 1st Ave.
- Large equipment service, dump trucks, loader and back hoes. Changed the oil and filters.
- Replaced the 4 conveyor bearings on the Eagle mechanical sweeper, adjusted the belt after they were changed.
- Fenced off the pavilions in the parks due to COVID-19 and having gatherings that are banned at this time.
- 18 water services were turned on customer request.
- 24 water services were shut off customer request.
- 34 water services were on/off read only customer request.
- 37 water meters were changed out for non-functioning.

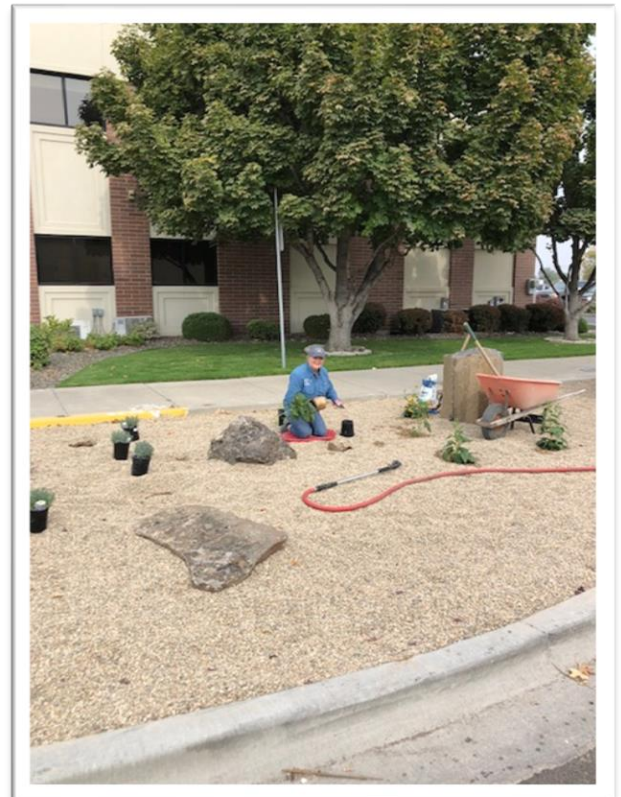
FIELD SERVICES: STREETS & COLLECTION/DISTRIBUTION SUMMARY

ACTIVITIES JUNE 21 – JULY 20:

- 5 new water meters were installed.
- 10 water services were shut off for repairs customer request.
- 12 water services were checked for consumption issues.
- 7 water services were checked for high consumption.
- 7 water services were turned on and verified leaks repaired.
- 7 water services were checked to verify still locked off.
- 43 utility located were completed.



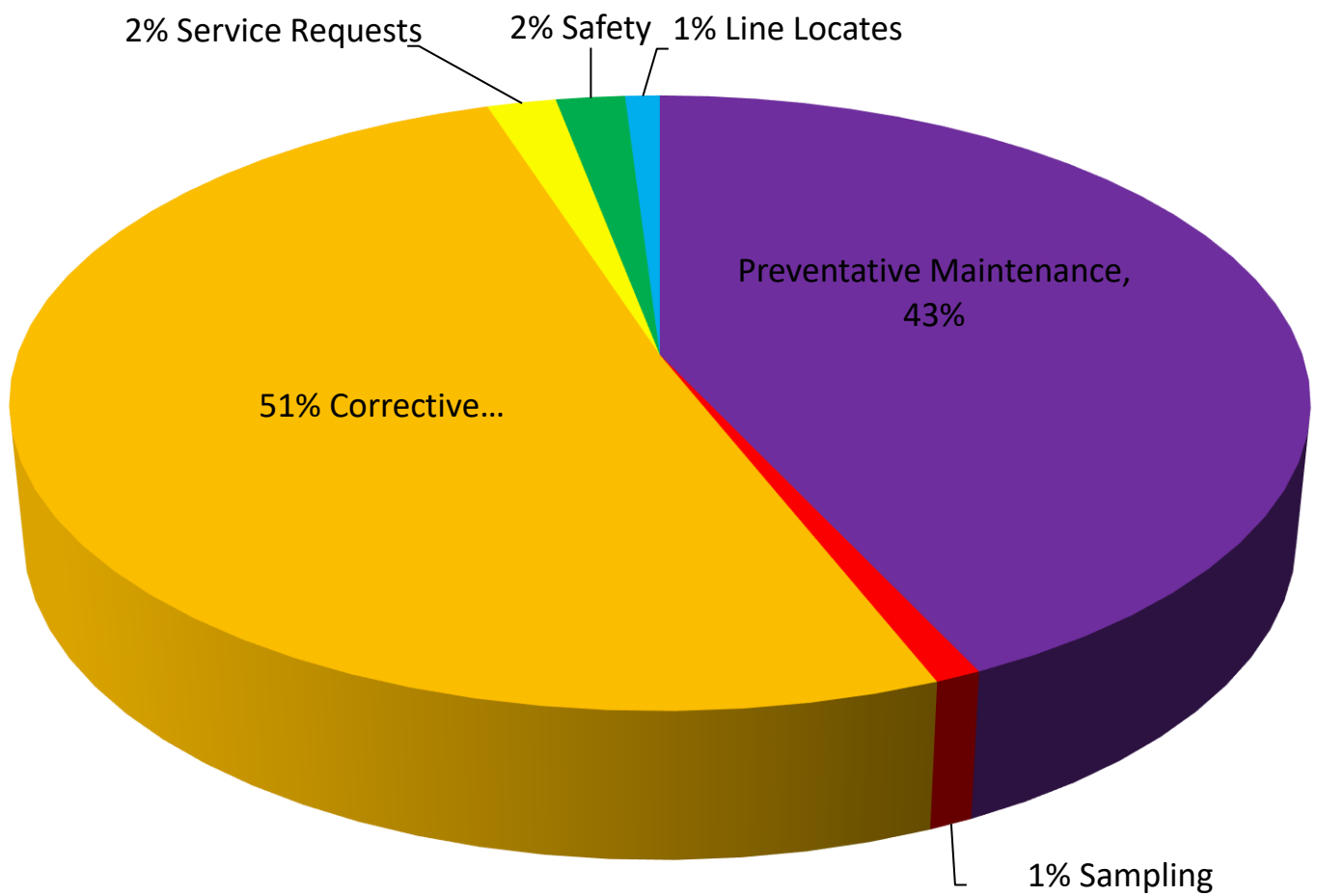
Left: Repaired a 12" water main leak on SE 5th Ave., with a contractor's assistance.



Right: Assisted in setting the large rock in the bulb outs on S. Oregon/SW 1st Ave.

FIELD SERVICES: STREETS & COLLECTION/DISTRIBUTION SUMMARY

**Work Orders
August 21 – September 20
Actual Hours by Work Order Type**

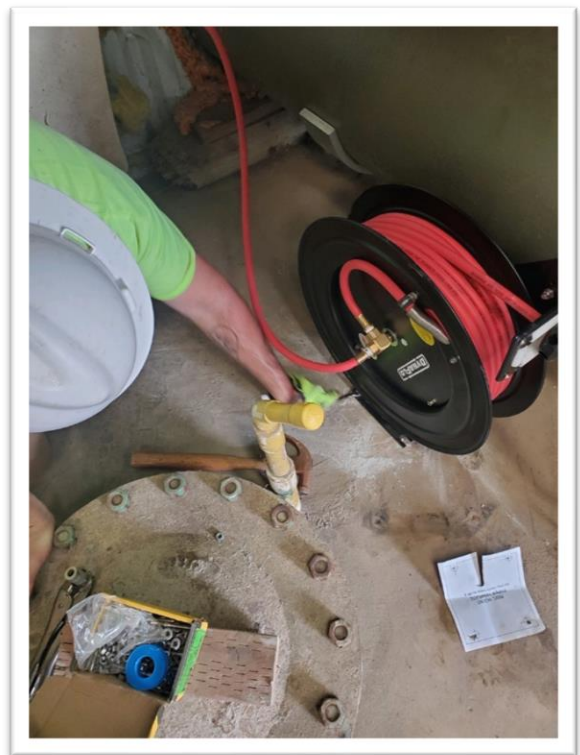


WATER TREATMENT PLANT SUMMARY

ACTIVITIES AUGUST 21 – SEPTEMBER 20:

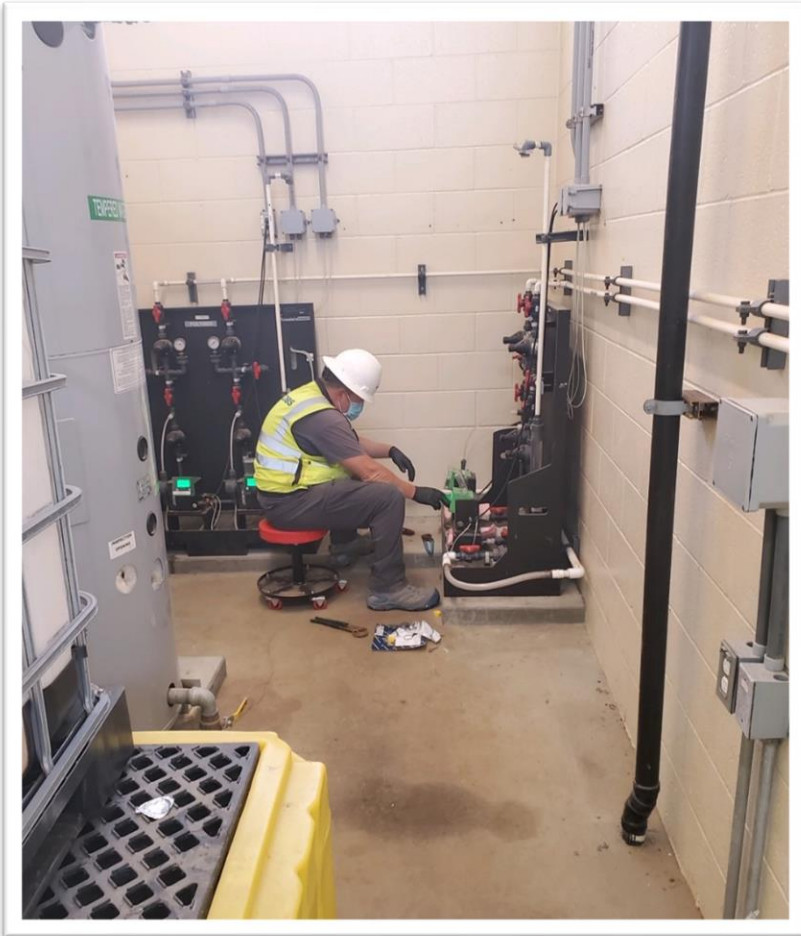
- Minimized staff due to COVID-19 operation requirements.
- Water level in the storage reservoirs is being maintained at desired levels.
- Water treatment staff run diagnostic checks (jar testing) weekly to ensure that the chemical dosing is correct for the river water quality.
- Weed control around the Water Treatment Plant and the booster stations continues throughout the weed growing season.
- Monthly bacterial samples taken.
- Both clarifiers in the main plant drained cleaned, flocculator primary and secondary drive sprockets and chains.
- Replaced/repairs vandalized no trespass/no camping signs in the river well field area.
- Staff is performing routine chemical pump maintenance and annual motor maintenance.
- Jacobs will be scheduling clarifier maintenance for this week and next.
- Water level in the storage reservoirs is being maintained at desired levels.
- There is one final chemical pump due for routine annual maintenance.
- #2 Booster Pump at Westside Reservoir is still down. The vendor supplying repair parts does not have an estimated time when parts will be onsite.
- The clarifier maintenance for last week and this week is finished. Nothing out of the ordinary was encountered.
- The wooded area around the water treatment area doesn't appear to have unauthorized camping. A couple of the "No Trespassing" signs have been vandalized, but not to the point where they became illegible.

Jacobs Staff: Installing an air hose reel at the Water treatment plant.



WATER TREATMENT PLANT SUMMARY

ACTIVITIES AUGUST 21 – SEPTEMBER 20:



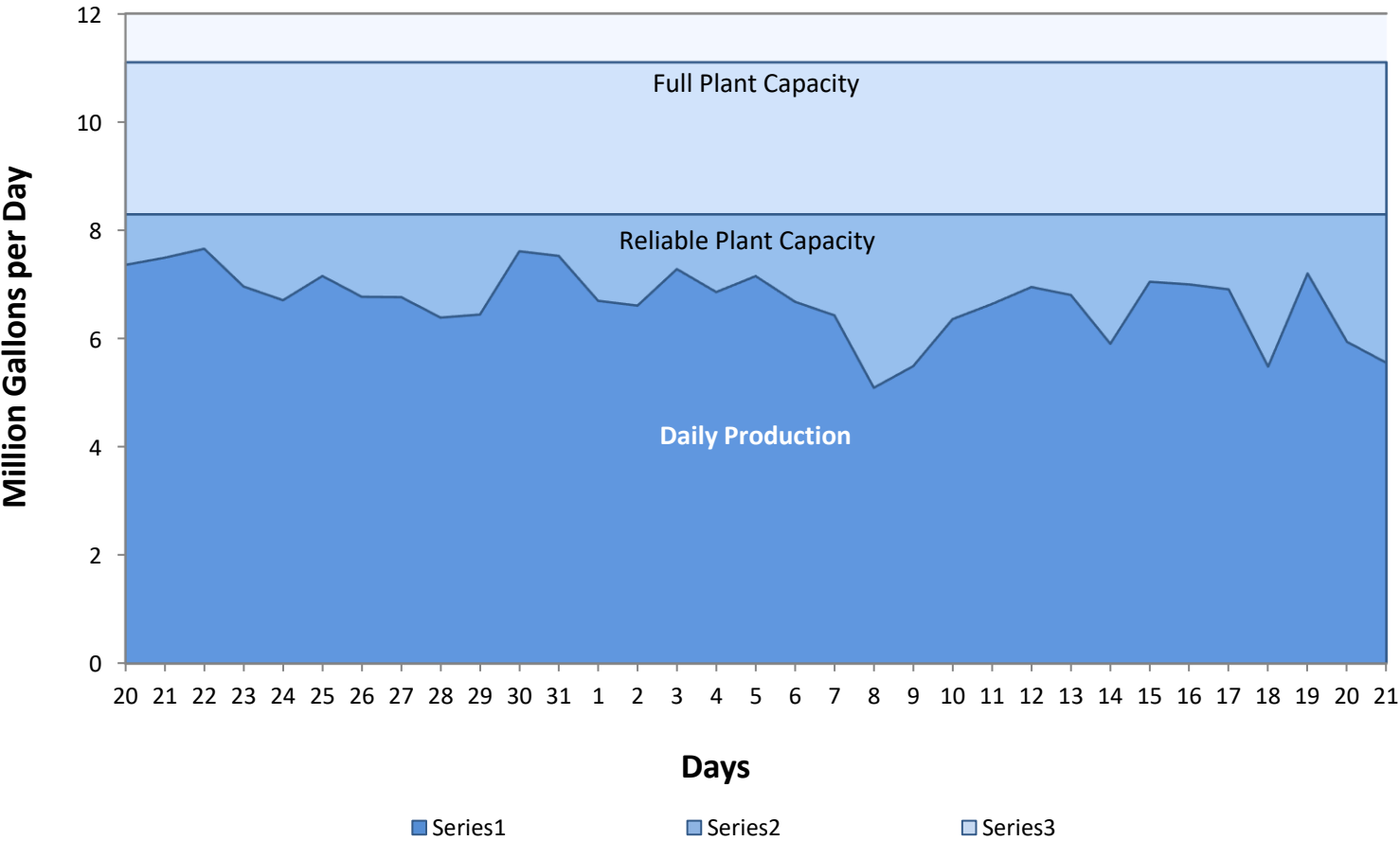
Left: Jacobs staff member performing maintenance on Polymer chemical pump at the water treatment plant.



Right: Jacobs Staff cleaned and inspected flocculation chamber and baffle wall in the main water treatment plant.

WATER TREATMENT PLANT SUMMARY

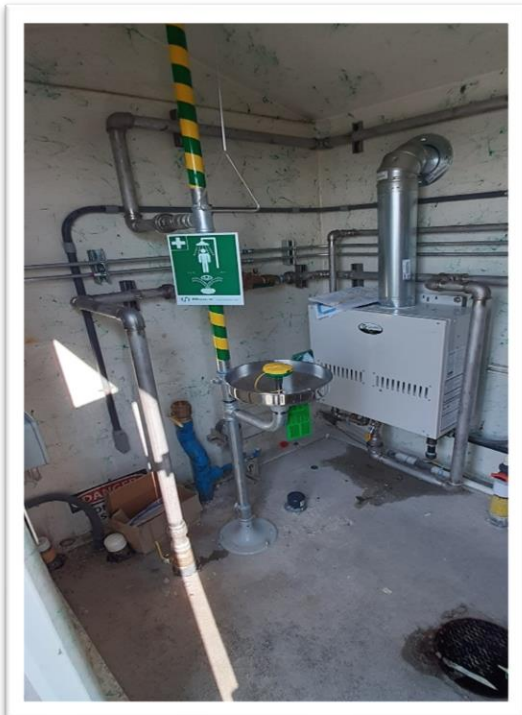
Demand vs. Availability
August 20 - September 21, 2020



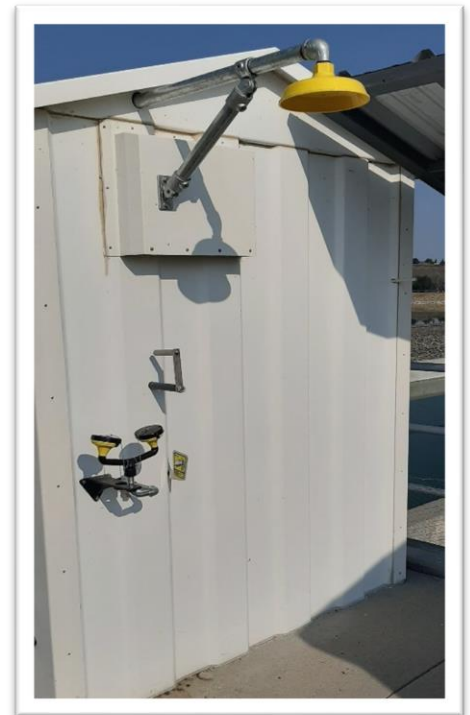
WASTEWATER TREATMENT PLANT SUMMARY

ACTIVITIES AUGUST 21 – SEPTEMBER 20:

- Minimized staff due to COVID-19 operation requirements.
- Samples taken for solids removal project.
- Flow to Skyline is intermittent as needed.
- Weed control around the Wastewater Treatment Plant, Skyline Farm Reservoir and pump building has begun and will continue throughout the weed growing season.
- Monthly aerators serviced on all lagoons.
- West Chlorine contact chamber cleaned, and East chamber placed on line.
- Fecal samples for solids removal project began.
- The contractor for the pH adjustment project is finishing up the final installation.
- Programming for the pH adjustment system is scheduled to be complete by September 1st.
- Effluent is being pumped to Skyline Reservoir.
- BLM had requested that they be allowed to discharge fire retardant wastewater from their operation at the Ontario airport to the WWTP. However, the waste is hazardous and must be taken to an approved receiving facility.
- Final inspection for the pH project is being scheduled.
- Crews are cleaning the West Chlorine contact chamber.
- Control panels on the pivots at Skyline are failing. Will be requesting a proposal from the vendor who supplied the control panels for the Malheur Farm pivots to update the Skyline panels.
- Skyline pivots 4, 5 and 6 are now fallow and ready for bio-solids application.
- It is estimated that Skyline pivots 1, 2 and 3 will be fallow by October 15th.
- Staff are working with Christine Kelly of Oregon State University to begin sampling waste treatment plant influent for COVID-19. Christine is a professor of bioengineering at OSU and will be performing and collating all the test data. Jacobs staff will be collecting samples and sending them to Christine for analysis.

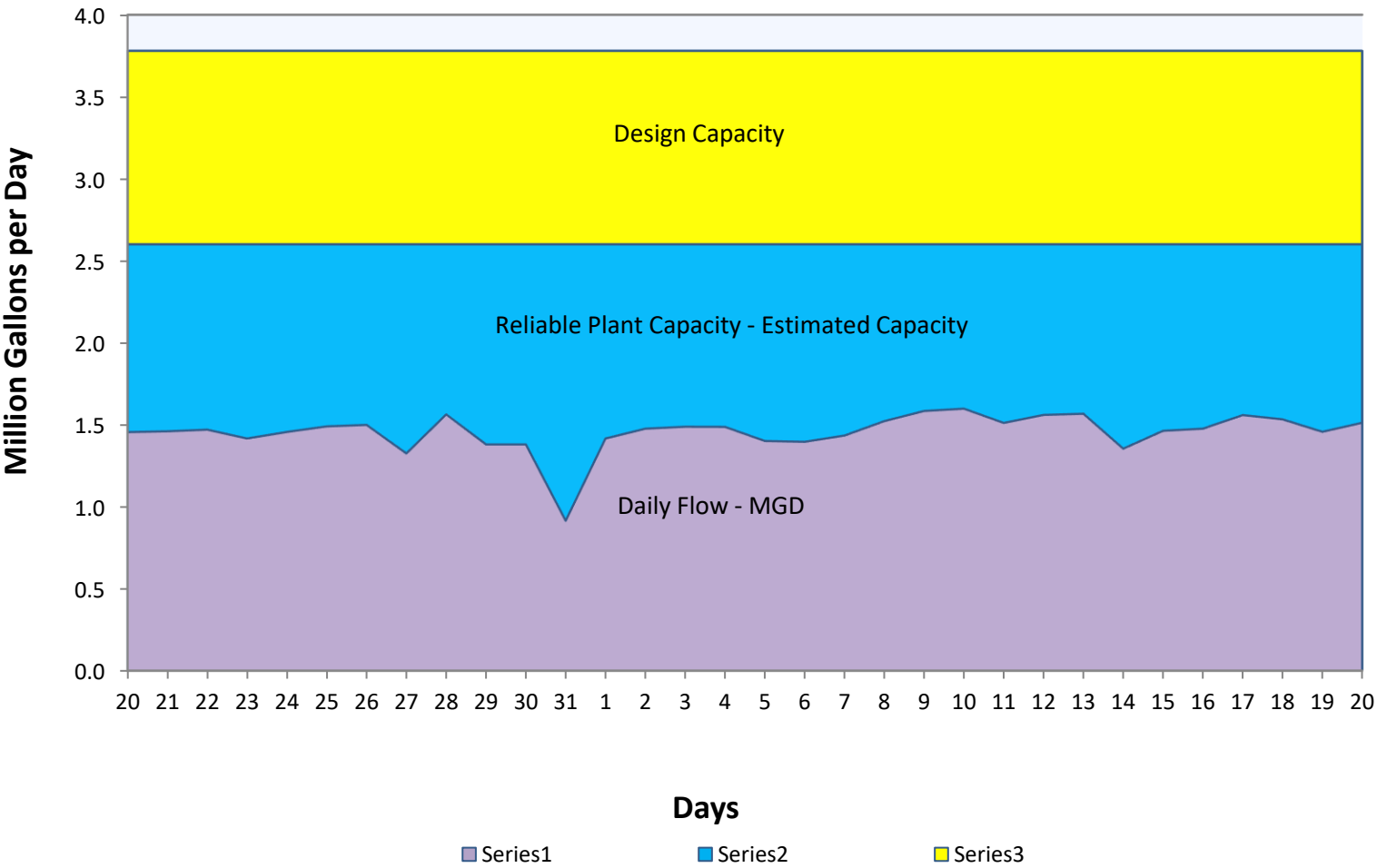


WWTP pH
Adjustment System
installation is
complete.



WASTEWATER TREATMENT PLANT FLOWS

Wastewater Treatment Flows
August 21 - September 20, 2020



PARKS AND CEMETERY SUMMARY

ACTIVITIES AUGUST 21 – SEPTEMBER 20:

- Due to COVID-19, tasks are being re-prioritized. Work crews are dedicated to performing the highest-level tasks, while lower level tasks are being worked on as time permits.
- We had 5 funerals at Evergreen Cemetery and 5 at Sunset Cemetery.
- Staff members are working to keep up with the mowing and weeding at the parks and cemeteries.
- A new staff member has joined the Parks team. This will help with the backlog of trimming and mowing needs.
- The hanging flowerpots along South Oregon don't seem to be thriving as well as the larger pots on the sidewalk. Staff members are working to understand why they are failing to thrive.
- The Rotary Club put a paved walking trail in Laxon Park.
- We Had 6 spots cleaned in the carpets on the second floor at City Hall.
- We helped Andrew Seed plant some flowers and rocks in two of the bulbs out downtown.
- Our biggest mower had a hydraulic pump go out on it we have ordered a new pump. It should be back up and running in a day or two.
- We have been taking the Emma Resco Energy Group around to the City's facilities so they can finish their report.

FACILITIES SUMMARY

ACTIVITIES AUGUST 20 – SEPTEMBER 20:

- City Hall door locks are being updated.
- A contractor has been contacted to give an estimated for the police breakroom remodel.

Walking path at Laxon Park.



ENGINEERING SUMMARY

ACTIVITIES AUGUST 21 – SEPTEMBER 20:

- Issued 9 ROW Permits.
- Issued 1 New Addresses to new residential lots.
- Issued 0 New Address to Commercial lot.
- Attended 0 PDAC meetings to discuss the expansion of a business.
- Attended 0 PDAC meeting to discuss the relocation of a business.
- Attended 0 PDAC meeting to discuss new businesses.
- Attended 0 PDAC meetings to discuss the addition of residential housing.
- Attended the Jacobs monthly safety meeting.
- Inspected the abandonment of 0 Backflow devices on irrigation systems.
- Multiple plan reviews for new construction.
- Multiple construction inspections.
- Skate Park Bathroom construction- Holcomb Construction has completed their portion of the construction and the Jacobs staff will be fabricating and installing hand railing and landscaping to complete the project to totality.
- WWTP pH Adjustment System installation is complete.

NPDES Activities:

CDBG application – Have met with Arthur several times now. Paul has used the Grant Administrator and Labor Standards templates to create RFP for Ontario's use. This has been reviewed by Arthur and approved. We are currently working out agreement form to attach to RFP prior to advertisement.

pH Adjustment Construction – Construction has been completed. Walk through was conducted and minor modifications were identified. Those have since been completed. ACS has been on site to install the needed SCADA components. We are in the process of commissioning at this time. The system can be run manually at this time, and will therefore meets the NPDES requirements. The DEQ has been informed and have accepted this as complete – no more action due by them.

Biosolids Removal – Five bids were received, all within the range anticipated. The low bid was reviewed for compliance and recommended for Award to the Council. The Council did award the project to Synagro. Jacobs staff is currently working to complete contracting and paperwork and get them on site to begin work. The impoundment area is complete. The PW team is currently working to get 3 quotes for the electrical cable replacement.

Other Wastewater Items:

Skyline Farms – Repairs were completed, and additional control panels, and other communications issues have been cleared up.

Odor Complaints – No new complaints.

SRCI – Tracy Wilder and Paul Woods have been in contact regarding low sulfate products to try to reduce the H₂S in the waste stream. They have been coordinating; SRCI has been very responsive on this item. Jacobs will be presenting a task order for the SRCI design shortly. No new progress.

ENGINEERING SUMMARY

ACTIVITIES AUGUST 21 – SEPTEMBER 20:

Water System:

WTP Lab – No significant progress.

Water Master Plan – Jacobs engineering team provided final comments back to Anderson Perry and they are working on those.

Energy Team (Ameresco) – Ameresco/Titus Twister – The Titus Twister was installed at the Malheur Lift Station on Sept. 22. PW team is coordinating with Ameresco on other final items (irrigation etc.). Ameresco did not want to develop the Business Case information until after they had the system running for some time.

CIP – Betsy and Adam presented to the council regarding the process of determining what engineering firm will design specific capital projects.

General Construction

- Skate Park RR – Project is currently under construction in a partnership with ORD and is nearly complete. The GC is complete and now the final railing work needs to be completed by PW staff. That is being done now. The October deadline will be met for the grant.
- SE 2nd Street Construction – Contractor is currently on schedule with Phase 2. Anderson Perry staff have provided requested turning movement figures for SW 9th Ave. They are under review.
- S. Oregon Construction – Construction is complete. Rocks have been placed for the 2 bulbouts at 1st and S Oregon. They were also recently planted. The ramp for the Ontario Mini Market will be completed in the month of September. The final pay ap had a quantity overrun of \$8,541 – a resolution was approved by council to cover that payment.

WTP Slough – The State approved our work in the slough; this will happen when staff gets back to full numbers after COVID19. No change.

TSP – E. Idaho Plan has been one of the main efforts recently. The youth public involvement effort is still underway. The Farmer's Market Public involvement effort went very well.

Safe Routes to School – Application is due August 31st but will be submitted August 29th. Letters of support have been collected (huge thanks to Peter and Adam!). Application has been modified to complement a \$65k match by the City.

Malheur Water Trail – Reviewed put-in and take-out with the Yakport rep. Betsy to check on potential designs used by YCC at Lake County Forest Preserve. Adam checking availability of YCC staff. No update.

Grant Writers – Attended 2nd Merchant McIntyre video call to discuss grant applications.

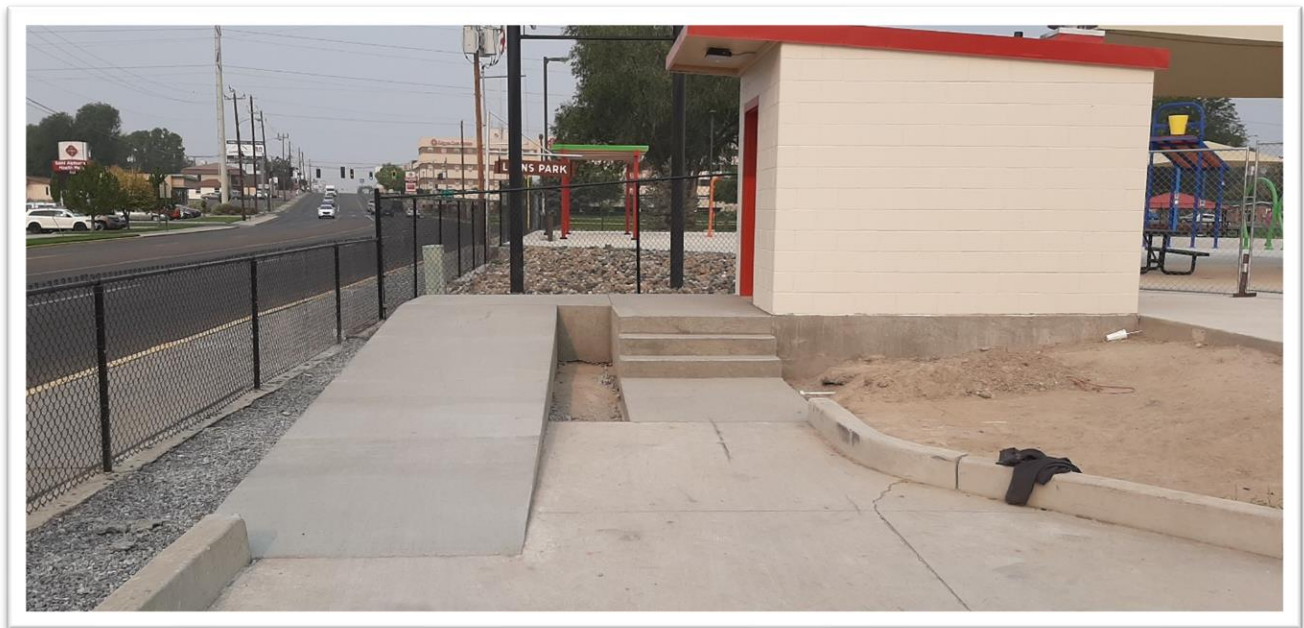
SE 5th – Still on hold.

ENGINEERING SUMMARY

ACTIVITIES AUGUST 21 – SEPTEMBER 20:

Beck Park Bridge –Staff has materials on hand. After beginning the work and opening up the bridge deck, staff had concerns about the integrity of the main beams. The structural engineer was brought back over for review and minor modifications are being developed currently.

Tennis Courts – Bill Fittje provided an estimate for \$185k; Adam is working with the funding team to see if they can come up with additional capital campaign funds. No significant progress. Adam to consider discussion with Council to use Beck Park RR funds. No update at this time.



The skate park restroom project is near completion, installation of hand railing and landscaping are the only items left.

APPENDIX

FIELD SERVICES

Collection and Distribution staff is responsible for Sewer Collection and Water Distribution throughout the City. Water distribution duties include maintenance and repair of approximately 97 miles of water lines and 3,625 services that include service installations, mainline installation, meter reading, maintenance of more than 600 fire hydrants, and valve exercising of more than 1,700 water valves.

Sewer collection duties include maintenance and repair of approximately 78 miles of sanitary sewer lines within the city. Responsibilities include constructing new pipelines, cleaning all gravity sanitary sewer lines, repairing or replacing sanitary sewer lines as needed, providing line locations for all water and sewer lines, and maintaining eight lift stations plus a barscreen and one lift station from SRCl. The city has approximately 56 miles of storm drain collection lines and 1,450 catch basins throughout city limits. Duties include storm drain maintenance and repair, cleaning of approximately 11 miles of storm drain lines, and cleaning the catch basins.

*COLLECTION AND DISTRIBUTION STAFF MAINTAINS
78 MILES OF SANITARY SEWER LINES
56 MILES OF STORM DRAIN COLLECTION LINES,
AND 1,450 CATCH BASINS THROUGHOUT
CITY LIMITS*

The Street Maintenance Division maintains more than 122 lane miles of improved streets and more than 9 miles of alleys. The Street Division is responsible for resurfacing, repairing and maintaining the streets, installing and maintaining street signs and markings, tree trimming, and repairing all established pavement markings. The division also completes excavation and repair of deteriorating streets, gravel road grading, street sweeping, crack sealing, chipsealing, snow removal and sanding during the winter months, and weed control along the alleys. Street Maintenance staff assists the Chamber of Commerce by putting decorations on street lights during the Christmas season and replacing them with regular decorations when the season is over.

*STREET MAINTENANCE DIVISION MAINTAINS MORE THAN
122 LANE MILES OF IMPROVED STREETS
9 MILES OF ALLEYS
CHIPSEALS LAST A MINIMUM OF 8 YEARS,
AND PUBLIC WORKS CHIPSEALS 7 MILES PER YEAR*

As part of the Street Division's maintenance program, crews chipseal street surfaces in the summer months to protect them from water and weather damage and to keep them in good condition. A chipseal maintains the existing pavement, delaying further aging resulting from water and sun, provides a moisture barrier, and corrects existing pavement problems by sealing cracks. A chipseal application provides substantial savings to taxpayers and should last a minimum of 8 years with minimal maintenance

required. The city chipseals approximately 7 miles of streets per year.

APPENDIX CONTINUED

Water treatment plant staff is responsible for treatment of the city's drinking water supply. They must reliably produce high-quality water in adequate volume to meet city needs. Besides the daily laboratory checks, there are monthly, quarterly and yearly reports.

There are two sources of water for Ontario's estimated 11,090 residents: 80 percent comes from the Snake River and 20 percent comes from wells. Two plants treat the City's water. One is a conventional filtration plant and the other is an upflow clarifier. The steps for treatment are flocculation, sedimentation, filtration and disinfection, which meet the compliance of the Oregon Health Authority.

The Oregon Health Authority requires an operator be on duty 365 days a year. Ontario customers account for 3,845 water services, not including SRCl.

The water treatment plant has a reliable capacity (capacity with the largest pump out of service) of 8.3 mgd and a maximum capacity of 11 mgd. The water treatment plant average production is 6 mgd and the City's largest industrial user, Heinz Frozen Foods, uses an average of 2.2 million gallons (MG) of that water.

THE WATER TREATMENT PLANT HAS A RELIABLE CAPACITY OF 8.3 MGD AND A MAXIMUM CAPACITY OF 11 MGD.

APPROXIMATELY 80 PERCENT OF WATER COMES FROM THE SNAKE RIVER, THE OTHER 20 PERCENT FROM WELLS.

The City retains surface and groundwater rights permits for a combined total of 38.23 cubic feet per second (cfs), 24.71 mgd for municipal use.

All of the City's potable water is treated and disinfected at the water treatment plant. The plant has an original 8-mgd design capacity based on the optimum filter loading rates. The City expanded its treatment capacity in 2006, through the addition of two adsorption clarification and filtration tanks.

WASTEWATER TREATMENT PLANT

The wastewater treatment plant collects wastewater from the entire city and SRCl. The prison accounts for approximately 16 percent of the flow to the plant.

Wastewater treatment plant operators use a conventional treatment system of aerated lagoons and secondary chlorination treatment. Effluent from the treatment process is used to irrigate forage crops during the growing season. Nine lift stations transport sanitary sewer waste to the Wastewater Treatment Plant. Wastewater is screened and the flow measured at the headworks. Five cells (lagoons) with 25 mechanical aerators assist with biological treatment. Onsite generation of chlorine is used for disinfection.

Average discharge volume is approximately 1.5 mgd. Winter discharge is to the Snake River from November through March. Summer discharge is land applied to approximately 353 acres of cropland at the Skyline Farm.

APPENDIX CONTINUED

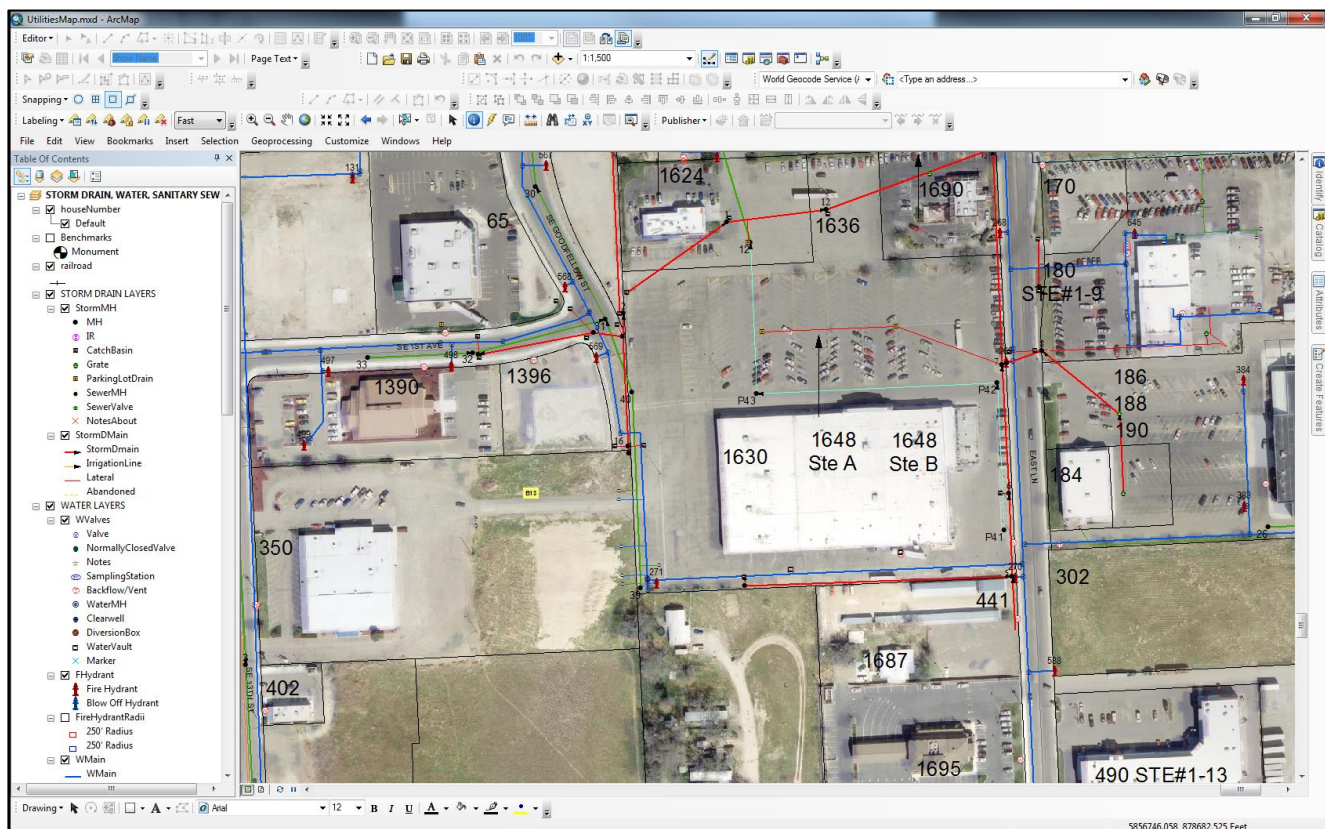
PARKS DEPARTMENT

The Ontario park system consists of both active and passive recreational areas. There are four neighborhood parks, one community park, one large urban park, and numerous special use sites in the park system. In total, the City owns 13 park and recreational areas representing more than 1,012 acres of land. The city also owns the Wayne King Skateboard Park.

ENGINEERING DIVISION

The Engineering Division reviews plans for construction of public improvements, maintains the city's mapping system, and manages the engineering projects within both the Capital Improvements and Maintenance Programs. The department provides technical support to residents, developers, builders, other city departments, consulting engineers, and surveyors. The staff reviews and approves construction plans for subdivisions, partitions, streets, sanitary sewer, water lines, and storm drainage construction projects. They also design projects, prepare bid documents for public works maintenance projects, and provide project management for public improvements.

The Geographic Information System (GIS) database is maintained by Engineering Department staff. The department also provides support to the city by creating, analyzing, and maintaining the city's geographical digital data. They provide updates to the record maps for all city utilities, right-of-way, easements, land division plots, and city base maps.





September 2020 ACTIVITY REPORT



September 2020



Emergency Medical:

(Types of medical calls responded to: Falls with injury, fall lift assists, medical emergencies, medical alarms, assaults, etc.)

CITY	151
RURAL	17

1 of these emergency calls required back-up crews to be called in to respond to 2nd call.

Hazmat Team Calls:

0

Fire Related Emergency Calls:

(Types of fire related calls responded to: Rescue calls, building fires, vehicle fires, smoke detector/fire alarm activation, unauthorized burning, etc.)

	TOTAL	General	Mutual Aid
CITY	26	1	0
RURAL	15	6	5

6 of these emergency calls required back-up crews to be called in to respond to 2nd call.

TOTAL CALLS FOR MONTH

CITY	177
RURAL	32

FIREFIGHTER TRAINING:

8/28/20 – Extrication Demo and new techniques presented.



9/1/20 – Post Incident Analysis of some of the past few months fires.

9/8,15,22/20 – Due to Covid-19 distancing requirements and group size limitations we are doing circuit drills in small groups. The staff rotates to different stations for Water Rescue, Drone flight operations, Rural water supply, Community water supply and master streams, and Aerial operations.





September 2020



PERMITS ISSUED:

City Open Burns 0

City Burn Barrels 0

Rural Open Burns 0

Rural Burn Barrels 0

INSPECTIONS:

8/28/20 – Airport Agricultural service centers with the State Fire Marshal.

9/3/20 – Final remodel occupancy 700 block of S. Oregon.

9/3/20 – St. Peter's School occupancy certifications.

9/23/20 -Final remodels at Giggles and Wiggles day care, and NAPA Auto Parts.

9/25/20 – New dispensary Treasure Valley Cannabis Company.

COMMUNITY INVOLVEMENT:

8/25/20 – Staff physicals.

8/27/20 & 8/28/20 – Annual Fire Pump testing.



September 2020



9/4/20 – Birthday parade.



9/11/20 – Patriot Day Ceremony.



September 2020



8/25/20 – Ladder Truck 109 Repairs.

Summary of Calls of Interest:

City Incidents:

9/7/20 2565 SW. 4th ave #10 Dispatched for a downed power line. Arrived on scene to find a power line down; caused by high winds and a large branch that fell across the line. R1 notified dispatch of the pole number and requested Idaho Power. R1 cleared some of the debris from the house.

9/13/20 1991 SW. 6th ave R1 was called for two cars that were on fire in front of an apartment complex. Both appeared to have fire in the engine compartment areas. Multiple OPD officers were on scene. R1 made fire attack on the Ford vehicle; Fire was knocked down on the Ford and suppression was switched to the BMW. The fuel tank on the BMW was leaking out of several holes. Interviews and evidence was gathered by law enforcement. Owner of the BMW stated he came out and saw fire under his front driver's side wheel. he then went back to the Ford and stated there was a flaming rag on the window he flicked it off onto the ground and it appeared to have a sticky gel like accelerant on it. Owners of both cars stated that they had no mechanical issues and had just driven the vehicles recently earlier that day and evening. Cause is under investigation.

9/14/20 991 NW 4th ve. Rescue 1 was called to scene of house fire. R1 arrived on scene at the same time as Chief who established command. R-1 prepared to make entry with smoke coming



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from the house. Occupant told R-1 that the fire was in the back bedroom. R-1 made entry and looked for fire. The Tic was used to locate the fire due to heavy smoke. When the fire was located, it had self-extinguished. The inside panes of window were both broken from the heat. The outside pane was broken because window would not slide open to ventilate. After ventilation was complete an investigation was conducted. Fire damage was contained to the bedroom with smoke damage throughout the house. Area of origin was obvious on top of the bed near the head of it near the wall, but the ignition source was unable to be determined.

9/15/20 251 NE. Goodfellow St. R-1 was dispatched for report of a storage container on fire. Rescue arrived to find two shopping carts on fire. Rescue used the booster line to quickly extinguish the flames. A worker from a business across the street saw the flames and found two shopping carts between two storage containers with small flames. He pushed the carts out from between the containers. There were a few aerosol cans that had bled in the carts. Later, an employee from another motel called to say that he had video of the person setting the fire and he would forward to Ontario Police for arson investigation.

9/15/20 621 Reiter Dr. R1 went to assist with smoke detectors that started chirping like there was a low battery. Upon arrival and inspection R1 found that there were also CO detectors near the smoke detectors, and they were the chirping with a low battery. R1 replaced the batteries in the CO alarms. No more chirping and alarms all tested normal.

9/21/20 239 NW 6th St. R1 was called for a burning complaint on their neighbor they felt that it looked very unsafe. Upon arrival R1 approached the RP and then explained that there was still a county wide burn ban in effect. The RP immediately started to extinguish the fire without incident and stated they would wait until the burn ban was lifted and they could get a permit.

9/22/20 113 NE 4th St. unit 18 R1 was dispatched for an explosion and smoke coming from a storage unit. Arrived on scene to find LE at the storage unit. LE stated that they saw smoke coming from the unit, made access, and then extinguished a small fire. LE stated that someone had been living in the unit. The owner arrived and stated that he was going through the eviction process with the tenant. We found small pile of melted plastic and other burned material in the middle of the shed on the concrete floor. A small propane torch as well as two lighters were also in the vicinity of the fire. The occupant also had marijuana and paraphernalia in the unit. A few of the storage units at this location are being used as a residence.

9/22/20 1517 SE 5th Ave. 102 responded to a small cooking fire behind Ware-mart. This appears to be another transient cooking fire that was extinguished.

Rural Incidents:



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8/28/20 HWY 20/26 and HWY 201 R1 called for a truck and trailer fire that was contained to the trailer brakes on the driver's side. A by passer helped the truck driver with two fire extinguishers to put out the flames. Using the TIC the brakes showed 600 degrees f. the booster line was used to cool the brakes. The operator stated that he just had work done on those wheels and brakes today.

9/6/20 304 S. Plymouth Mutual Aid New Plymouth. Ontario Pumper tender 155 responded with full crew to assist New Plymouth fire with a structure fire in a single-story family residence. The crew was assigned to salvage and overhaul to check for extension into the attic. The fire appeared to have started in a closet between two bedrooms. Both bedrooms or the attic showed no sign of fire extension, all heat was concentrated in the closet framing.

9/7/20 HWY 20/26 and Apple Valley Mutual Aid Parma Fire 157 responded with a crew of 4 to assist with a grass fire. Heavy winds were pushing the fire into brush and trees. The crew was later reassigned to protect a possible structure fire and then reassigned again to a haystack fire.

9/8/20 I-84 MP 369 R-1 dispatched to a semi-truck loaded with hay on the trailer that was smoking. Upon arrival R-1 found truck driver extinguishing fire with a small fire extinguisher. R-1 hosed down the burned hay bale to ensure no rekindle.

9/8,9/20 Mutual Aid Washington County and Cambridge fire and Idaho Dept of Lands. Both days crews and equipment responded to be water supply and fire protection for the large Woodhead fire.

9/10/20 HWY 20/26 and Lee Rd. Mutual Aid Vale Fire requesting a brush truck for assistance in extinguishing a brush fire, no structures were threatened. Ontario Brush 157 was assigned to mop up the fire line and create a 10' perimeter past the black on the east flank and then to secure the north flank.

9/15-22/20 I-84 MP 375 the crews responded numerous times for smoke near the freeway and the railroad trestle. The homeless camp continues to have a small, controlled fire in the area and also a grass and brush fire was slowly burning on the east side of the railroad tracks on the island. The homeless have been told about the burn ban but they just continue to have small fires. The staff put out the fire on the island with just a few hot areas that were burning in the already burned area. The fire was not going to go anywhere.

The crews responded to several illegal burns that they had the responsible parties put out the fire. him that there was a burn ban in effect. The homeowner had already put the fire out.



Police Stat Report

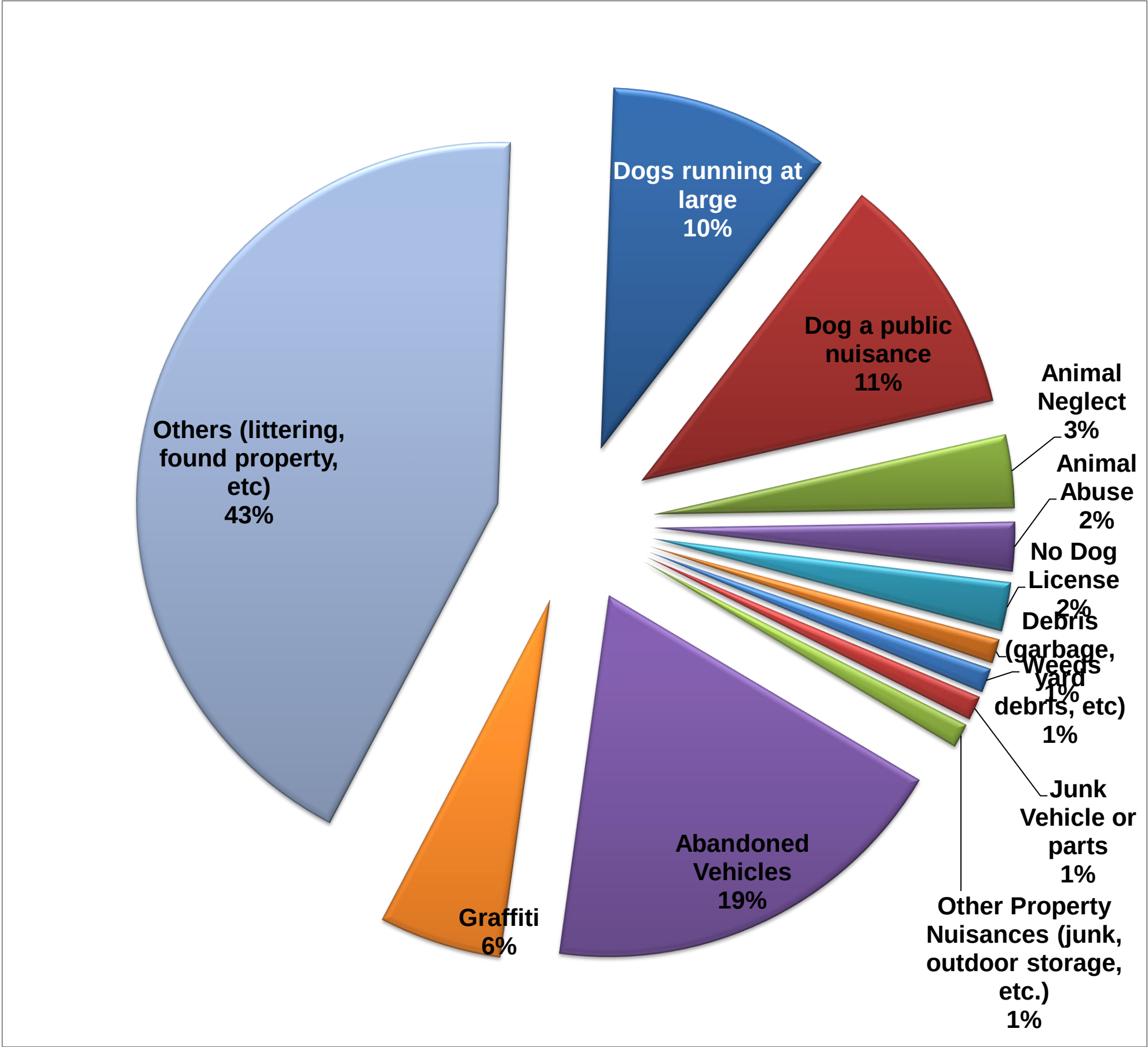
2020

Activity	Month of July	Month of August	Month of September	YTD 2020	Previous YTD (2019)	Qrt1 Jan-Mar	Qrt2 Apr-Jun	Qrt3 July-Sep
Calls for Service	919	966	838	7870	8189	2705	2442	2723
Traffic Stops	149	127	132	1502	1672	549	545	408
Cited Traffic/Parking	48	63	67	694	660	227	289	178
Motor vehicle Crashes	48	38	31	316	348	93	106	117
Arrests	44	71	35	626	825	284	192	150
Arrests w/Use of Force	1	2	2	9	11	3	1	5
SRO Cases	0	0	0	75	191	75	0	0
Gang Related Cases	1	2	8	23	415	6	6	11
Graffiti	3	2	10	50	59	22	13	15
Death Investigations	4	4	5	23	7	5	5	13
Burglary	11	18	6	100	142	37	28	35
Robbery	0	0	0	4	9	3	1	0
Thefts	81	81	71	616	549	207	176	233
Assault	14	11	13	124	118	43	43	38
Homicide	0	0	0	1	3	1	0	0
Sex Crimes	3	4	0	41	37	23	11	7
Alarms	31	35	26	254	222	68	94	92

CODE ENFORCEMENT

September 2020 STATS

Violation	2020	2019
Dogs running at large	9	26
Dog a public nuisance	10	6
Animal Neglect	3	3
Animal Abuse	2	0
No Dog License	2	1
Debris (garbage, yard debris, etc)	1	1
Weeds	1	2
Junk Vehicle or parts	1	3
Other Property Nuisances (ju	1	3
Abandoned Vehicles	17	15
Derelict Structures		0
Graffiti	5	3
Others (littering, found property, etc)	39	32
Dogs taken to AniCare	0	12
Civil Penalties Issued	0	2
C.P. Amount Sent	\$0	\$1,500
Total Parking Citations	2	0
Total Violations	75	97
Total Cases	75	93



Notes:

Due to COVID 19 - AniCare is closed so dogs are being transported; as a result, officers can be more proactive

Some cases have multiple violations; for example if a case has weeds,debris, junk, there are 3 violations, but only one case.



BOARD OF DIRECTORS

Meeting Agenda

October 6, 2020 – 7 am TUESDAY

LIVE with ZOOM option

Farmers Mutual Telephone Company Conference Room
Fruitland

1. Call meeting to order Chair Patrick Nauman
2. Introduction of attendees
3. Approval of September meeting minutes
4. Update on Annual Meeting Chair Patrick Nauman
5. Financial update for September Sandy Hemenway
6. City and Community Highlights
Fruitland, Ontario, Payette, Weiser, New Plymouth, Nyssa, Vale
7. County Highlights
Payette County, Washington County, & Malheur County
8. Executive Director Report
 - i. Updates
 1. Projects
 2. Activities
 - ii. Visitor Center
9. Round Table Discussion
10. Adjourn

This meeting will be held in a large conference room with social distancing – Call in or zoom options will be available for those unable to attend.

*****All SREDA monthly meetings are open to the public*****

MALHEUR COUNTY COURT MINUTES

September 9, 2020

The regularly scheduled meeting of the County Court was called to order by Judge Dan Joyce at 9:00 a.m. in the County Court Office of the Malheur County Courthouse with Commissioner Larry Wilson present and Commissioner Don Hodge present telephonically. Staff present was Administrative Officer Lorinda DuBois. Various members of the public, media and staff were present electronically. Notice of the meeting was posted on the County website and emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice. The meeting was audio recorded. The agenda is recorded as instrument #[2020-3282](#)

PUBLIC HEARING - SUPPLEMENTAL BUDGET

Judge Joyce opened the public hearing for consideration of supplemental budget Resolution R20-37. Notice of the hearing was published in the Argus Observer. A public hearing was required as the supplemental budget will adjust the current budget fund by 10% or more of the expenditures of that fund. No public comments were received. Judge Joyce closed the hearing. Commissioner Wilson moved to approve Resolution R20-37: In the Matter of Fiscal Year 2020/2021 Supplemental Budget by Resolution Under Local Budget Law ORS 294.471. Commissioner Hodge seconded and the motion passed unanimously. The purpose of the supplemental budget is to allocate funds in the Boat License Fund from the sale of equipment that was not anticipated when the adopted budget was prepared; the funds are to be used to purchase a new boat. See instrument #[2020-3283](#)

PLANNING DEPARTMENT - GRANT APPLICATION

Planner Eric Evans met with the Court and explained he is in the process of completing a grant application to the Eastern Oregon Border Economic Development Board and requested that \$10,000 from Technical Assistance in the Economic Development fund be earmarked as match funds for the grant. The general concept of the grant application is for planning and legal consultant services to assist with the development of possible higher density rural housing opportunities in the Border Board region. Consensus of the Court was to approve the request for \$10,000 as match funds in the grant application.

MINUTES

Commissioner Wilson moved to approve Court Minutes of September 2, 2020 as written. Commissioner Hodge seconded and the motion passed unanimously.

EMPLOYMENT AGREEMENT

Commissioner Hodge moved to approve Accounting Technician - employment of PERS retiree Employment Agreement with Judy Bond. Commissioner Wilson seconded and the motion passed unanimously. The agreement expires December 31, 2020. See instrument #[2020-3284](#)

PICTURES

Ms. DuBois explained the monuments in front of the courthouse were recently refurbished and shared before and after pictures.

COURT ADJOURNMENT

Judge Joyce adjourned the meeting.

MALHEUR COUNTY COURT MINUTES

September 23, 2020

The regularly scheduled meeting of the County Court was called to order by Judge Dan Joyce at 9:00 a.m. in the County Court Office of the Malheur County Courthouse with Commissioner Don Hodge and Commissioner Larry Wilson present. Staff present was Administrative Officer Lorinda DuBois and Juvenile Counselor Sara Runnels. Various members of the public, media and staff were present electronically. Notice of the meeting was posted on the County website and emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice. The meeting was audio recorded. The agenda is recorded as instrument # [2020-3457](#)

BOPTA

Clerk Gayle Trotter met with the Court regarding names of persons to serve on the Board of Property Tax Appeals (BOPTA) board. A board must be appointed annually by the County Court no later than October 15th; a minimum of four persons must be appointed; and board training is required every two years. One individual from last year is willing to serve again this year (Terry Geddes). Staff advertised in the newspapers seeking interested persons and one individual contacted Ms. Trotter expressing interest. Judge Joyce has given Ms. Trotter names of two individuals who may be interested in serving. Ms. Trotter will meet with the Court again next week.

COURT MINUTES

Commissioner Wilson moved to approve Court Minutes of September 9, 2020 as written. Commissioner Hodge seconded and the motion passed unanimously.

VECTOR CONTROL DISTRICT

Vector Control Board Trustee Carl Hill's term expires October 31, 2020 and Mr. Hill has expressed that he does not wish to continue to serve on the Board. Commissioner Wilson moved to appoint Jimmy Simpson to the Vector Control Board of Trustees to fill Mr. Hill's position beginning November 1, 2020. Commissioner Hodge seconded and the motion passed unanimously.

CROSSING PERMITS

Commissioner Hodge moved to approve Crossing Permit #31-20 to Idaho Power Company to upgrade an overhead bank of transformers on Alberta Avenue #768; Permit #34-20 to Idaho Power to relocate a pole on Pioneer Road #917; and Permit #35-20 to Oregon Idaho Utilities Inc. to place new cable along Big Bend Road #1104 and Rockefeller Road #837. Commissioner Wilson seconded and the motion passed unanimously. Original permits will be kept on file at the Road Department.

MOA - ADA COUNTY

Commissioner Hodge moved to approve Memorandum of Agreement between County of Malheur, State of Oregon and County of Ada, State of Idaho FY 2021. Commissioner Wilson seconded and the motion passed unanimously. The agreement is for juvenile offenders under the jurisdiction of Malheur County to be temporarily housed at the Ada County Detention Center. A copy will be returned for recording.

CHECK REGISTER

Commissioner Wilson moved to approve the Accounts Payable Register for June 2020. Commissioner Hodge seconded and the motion passed unanimously.

WILDLIFE SERVICES

Scott Phillips, Wildlife Specialist with USDA Animal and Plant Health Inspection Service (APHIS) Wildlife Services met with the Court (also present was Mr. Phillips new supervisor) regarding the bird management program. There is a continual increase in interest in the bird management program and the cost for the DRC product is heavily impacting the budget. Mr. Phillips inquired if the County would be agreeable to contributing additional funding to support the cost of the DRC; or, if the Court would support charging the producer for the cost of the DRC used on their property (the producer would only be charged the cost of the product - not personnel costs). Beef Northwest is currently the largest user for control of starlings; approximately 2,000 grams of DRC was used at Beef Northwest last season. Due to the increased interest in the program it is likely that the DRC use may double this year. The cost of the DRC is \$2.00 per gram. The Court requested Mr. Phillips further discuss the matter with Ms. DuBois.

VOCA GRANT - TCATT

Juvenile Counselor Sara Runnels explained that the Tri-County Anti-Trafficking Taskforce (TCATT) had received the Victims of Crime Act grant in the amount of \$250,000 to fund a full-time coordinator for the taskforce from October 2020 to September 2022. The grant will be managed through the District Attorney's Office and the coordinator will be located in office space at the Justice Court facility. Commissioner Wilson moved to approve Oregon Department of Justice VOCA Intergovernmental Grant Award Agreement, 2020-2022 VOCA Competitive Grant Agreement VOCA-FI-2020-MalheurCo.DAVAP-00075. Commissioner Hodge seconded and the motion passed unanimously. See instrument # [2020-3472](#)

COUNTY POLICIES

Commissioner Hodge moved to approve updated County Policy 117 - Separation From Employment; the policy was updated to include additional information under the returning County property paragraph; and moved to approve Departing and New Employee Computer Policy - this policy sets forth the exceptions of supervisory employees upon the departure of former employees and upon the arrival of new employees. Commissioner Wilson seconded and the motion passed unanimously. See instrument # [2020-3460](#) and # [2020-3461](#)

BYLAWS - COMMUNITY MENTAL HEALTH COMMITTEE

Commissioner Hodge moved to approve the Bylaws of the Malheur County Community Mental Health, Local Alcohol and Drug and Development Disabilities Advisory Committee. Commissioner Wilson seconded and the motion passed unanimously. See instrument #[2020-3458](#)

MOU - SHERIFF'S ASSOCIATION

Commissioner Hodge moved to approve Memorandum of Understanding between Malheur County and Malheur County Sheriff's Association. Commissioner Wilson seconded and the motion passed unanimously. The MOU extends the current collective bargaining agreement to December 31, 2021. See instrument # [2020-3462](#)

VETERANS TRANSPORTATION GRANT

Commissioner Wilson moved to approve State of Oregon, Oregon Department of Veterans' Affairs 2020-21 Transportation of Veterans in Highly Rural Areas Grant Agreement - Malheur County. Commissioner Hodge seconded and the motion passed unanimously. Grant funding is not to exceed \$40,500 for the period of September 15, 2020 through September 14, 2021. Malheur Council on Aging and Community Services (MCOA&CS) will provide the transportation services. A copy will be returned for recording.

MCOA&CS - DRUG AND ALCOHOL TESTING POLICY

Commissioner Wilson moved to approve Malheur Council on Aging & Community Services Drug and Alcohol Testing Policy. Commissioner Hodge seconded and the motion passed unanimously. The policy was recently updated at the request of ODOT; MCOA&CS's Executive Board has approved the policy. ODOT requires that the County also approve the policy as it relates to the public transit and paratransit services provided by MCOA&CS with ODOT funds the County receives. See instrument #[2020-3459](#)

REF # 3500

The County received a written offer from Gregg Zehr to purchase Ref. #3500 (tax lot 7100) for \$800. The County acquired the property through the tax foreclosure process and offered the property for sale at the County Land Sale in 2002 and the property did not sell. Ref. # 3500 is an 8 foot strip of property; Gregg Zehr owns the adjoining lot to the south and Richard Zehr owns the adjoining lot to the north. It appears that a building on Richard Zehr's property may be encroaching on the County's lot; however, Richard Zehr submitted a notarized statement indicating he is agreeable to Gregg Zehr purchasing the lot. Surveyor/Engineer Tom Edwards has visited with Gregg Zehr about the possible encroachment issue. Commissioner Hodge moved to authorize the sale of Ref. #3500 to Gregg Zehr for \$800.00 plus recording costs of \$92.00. Commissioner Wilson seconded and the motion passed unanimously.

COURT ADJOURNMENT

Judge Joyce adjourned the meeting.