

Salem Area Mass Transit District

BOARD OF DIRECTORS MEETING

Thursday, October 27, 2016

6:30 PM

Courthouse Square – Senator Hearing Room

555 Court Street NE, Salem, Oregon 97301

AGENDA

REGULAR BOARD MEETING

A. CALL TO ORDER & NOTE OF ATTENDANCE

B. PLEDGE OF ALLEGIANCE – Director Colleen Busch

C. ANNOUNCEMENTS & CHANGES TO AGENDA

D. PRESENTATION - None

E. PUBLIC COMMENT - Each person’s comments are limited to three (3) minutes.

F. CONSENT CALENDAR

1. Approval of Minutes [Action]

a. Board Meeting of September 22, 2016 **1**

2. Routine Business Items [Action]

a. Approval of the Special Districts Association of Oregon SDIS Board Check List **9**

G. ITEMS DEFERRED FROM THE CONSENT CALENDAR

H. ACTION ITEMS

1. Approval of the Contract between SAMTD and Tyler Technologies for Consolidated Finance and Human Resources Software Replacement **13**

2. Adopt the Proposed FY2018 Budget Calendar **59**

I. INFORMATION ITEMS - None

J. REPORTS

1. Board Subcommittee Reports and Minutes [*Receive and File*] **61**

a. August 26, 2016 Strategic Planning Subcommittee Meeting

K. BOARD & MANAGEMENT ISSUES

1. General Manager

2. Board President

3. Board of Directors

L. ADJOURNMENT

Next Regular Board Meeting Date: Thursday, December 8, 2016

BOARD MEETING PROCEDURES

- **CONSENT CALENDAR AND AGENDA ITEMS** All items on the Consent Calendar will be adopted as a group by a single motion unless a Board member requests to withdraw an item for discussion. Action on items requested for discussion will be deferred until after adoption of the Consent Calendar. Comments on specific items will be taken after the staff report and before Board discussion for each agenda item.
- **APPEARANCE OF INTERESTED CITIZENS & AGENCIES** Time is designated on every Board agenda for questions or statements by persons in the audience on any items of Board business, including those items appearing on the agenda that are subject to public hearing. Individual citizens will be invited to come forward in a manner similar to that prescribed for public hearings and make any statement they wish, being limited to three minutes. Members of any agency wishing to make statements should submit their statement in writing to the Clerk of the Board per the agenda deadline below. At the designated meeting, the agency representative will be invited to come forward to speak for a limit of five minutes on their item.
- **TO GET ITEMS ON THE AGENDA** All communication and matters that appear on the Board agenda must be submitted to the Clerk of the Board by noon on Wednesday, one week prior to the Board meeting. You are encouraged to mail, email or bring your written communication to the Cherriots Administration Office (see address below). The Board of Directors email address is: Board@cherriots.org
- **SPECIAL ACCOMMODATIONS** Those individuals needing special accommodations such as sign or other language interpreters to participate in the Board meeting must request such services at least 48 hours prior to the meeting. Please direct your request to the Clerk of the Board at 503-588-2424. Individuals with a hearing impairment may call Oregon Telecommunications Relay Service, 711.

PROCEDIMIENTOS DE LA REUNIÓN

- **CALENDARIO DE CONSENTIMIENTO Y ARTÍCULOS DE AGENDA** Todos los artículos en el Calendario de Consentimiento serán adoptados como grupo por un única propuesta a menos que un miembro de la Junta solicita retirar un artículo para discusión. La acción sobre artículos solicitados para discusión serán diferidos hasta después de la adopción del Calendario de Consentimiento. Comentarios sobre artículos específicos serán adoptadas tras el informe de personal y antes de la discusión de la Junta para cada orden del día.
- **COMPARECENCIA DE LOS CIUDADANOS Y AGENCIAS INTERESADAS** Este es el tiempo designado en cada orden del día de la Junta para preguntas o declaraciones por las personas en la audiencia, de cualquiera de los puntos de los asuntos de la Junta, incluyendo aquellos puntos que aparecen en el orden del día que estén sujetos a una audiencia pública. Se le invita a los ciudadanos individuales a presentarse en una forma similar a los prescritos para las audiencias públicas y a hacer cualquier declaración que deseen, estando limitadas a (3) minutos. Cualquier miembro de una agencia que desee hacer declaraciones en ese momento debe enviar la información al personal de la Junta de acuerdo a los plazos abajo mencionados. En la reunión designada, el miembro de la agencia será invitado a presentarse para hablar, con un límite de (5) minutos en su asunto.
- **PARA TENER ASUNTOS EN EL ORDEN DEL DIA** Para que todas las comunicaciones y asuntos aparezcan en el orden del día de la Junta, deben ser enviados al personal de la Junta antes del mediodía del miércoles de la semana previa a la reunión de la Junta. Si Ud. tiene algún asunto que quiera presentar ante la Junta en el futuro, le animamos a mandarlo por correo o traer una comunicación por escrito al Distrito de Transito del Área de Salem, 555 Court St NE, Suite 5230, Salem, OR 97301; 503-588-2424; Board@cherriots.org
- **NECESIDADES ESPECIALES** Aquellos individuos que necesiten servicios especiales como Interpretes para el lenguaje de señales u otros, para participar en la reunión de la Junta, deben solicitar dichos servicios al menos 48 horas antes de la reunión. Por favor dirigir su solicitud al Secretario de la Junta al 503-588-2424. Las personas sordas por favor llamar al Servicio de Telecomunicaciones de Oregon, 711.

For an electronic copy of the Board meeting agenda packet, go to www.cherriots.org/board. Regular Board meetings are televised on Channel 21; and can be viewed at any time on CCTVs website at <http://www.cctvsalem.org/>

SAMTD Board of Directors Email: Board@cherriots.org
General Manager's Ofc / Cherriots Administration Ofc
555 Court Street NE, Suite 5230 / Salem, OR 97301
Phone (503) 588-2424 / Website: www.cherriots.org/board

**Salem Area Mass Transit District
BOARD OF DIRECTORS**

September 22, 2016

Index of Board Actions

<u>Action</u>	<u>Page</u>
Moved to approve the Consent Calendar:	3-4
1. <u>Approval of Minutes</u>	
a. Regular Board meeting of August 25, 2016	
 Moved to oppose the City of Salem’s current land use action to expand the City’s urban growth boundary and amend the Transportation System Plan; and authorize Director Lincoln to testify on behalf of the SAMTD Board of Directors at the Public Hearing at the October 12, 2016 Special Joint Meeting of the City of Salem, City of Keizer, Marion County and Polk County.	 5-6

Regular Board meetings are video recorded and are available for viewing on the CCTV website at www.cctvsalem.org.

Salem Area Mass Transit District
BOARD OF DIRECTORS

***Corrected* MINUTES**

September 22, 2016 Regular Meeting
Courthouse Square – Senator Hearing Room
555 Court Street NE, Salem, Oregon 97301

PRESENT: Board	President Robert Krebs; Directors John Hammill, Colleen Busch, Marcia Kelley, Jerry Thompson, Kathy Lincoln, and Director Steve Evans
Staff	Allan Pollock, General Manager arrived at 6:35 p.m; David Trimble, Chief Operating Officer; Paula Dixon, Director of Administration; Steve Dickey, Director of Transportation Development; Patricia Feeny, Director of Communications; Chip Colby, Information Technology Manager; Chris French, Senior Planner; Matt Berggren, Planning Technician; Jared Isaksen, Finance Manager left at 6:40 p.m; Wendy Feth, Accountant, Jenny Furniss, Social Media Specialist and Susie Primmer, Technology Services Support Analyst left at 6:45 p.m; Linda Galeazzi, Executive Assistant; Ben Fetherston, SAMTD Legal Counsel
Guests	Anne Baker, Accounting Supervisor for the City of Albany, and member of the Oregon Government Finance Officers Association (OGFOA); citizens, David Beem and Randy Morgan

- A. CALL TO ORDER AND NOTE OF ATTENDANCE** **6:31 PM**
President Krebs called the meeting to order. Attendance was noted and a quorum was present.
- B. PLEDGE OF ALLEGIANCE** **6:31 PM**
Director Steve Evans led the Pledge of Allegiance.
- C. ANNOUNCEMENTS AND CHANGES TO THE AGENDA** **6:31 PM**
Two items were added to the agenda. Staff added a presentation of a new commercial advertising the West Salem Connector under agenda item D; and issues related to the Salem River Crossing Project will be added under agenda item H.2, at the request of Director Kathy Lincoln.
- D. PRESENTATIONS** **6:33 PM**
1. Certificate of Achievement for Excellence in Financial Reporting
Anne Baker, representing the Government Finance Officers Association (GFOA) of the United States and Canada, presented the District with the Certificate of Achievement for Excellence in Financial Reporting (CAFR) Award. Ms. Baker said this

was the fourth year in a row that the District has received this recognition. There were 111 recipients of the award in Oregon, and 12 were special districts. The CAFR Program was established in 1945 to encourage and assist members of the GFOA to go beyond minimum requirements of generally accepted accounting principles to prepare comprehensive annual financial reports that demonstrate the spirit of transparency and full disclosure. By achieving this award, the District has confirmed that its financial statements are more than just numbers. The Board can be assured that the District's financial position is transparent, fully disclosed and of the highest quality comparable at a national level. Staff recognition for this award went to finance manager, Jared Isaksen; accountant, Wendy Feth, and the entire staff of the Finance Department. The Board of Directors was also acknowledged for providing an environment of excellence at the District.

Allan Pollock joined the Board meeting at 6:35 p.m. after having given testimony at the Legislature's Joint Committee on Transportation Preservation and Modernization public hearing held in Hearing Room F at the Oregon State Capital.

2. Commercial Ad for West Salem Connector Advertising Campaign 6:40 PM

Ms. Furniss unveiled the new video ad for the West Salem Connector advertising campaign produced in partnership with Allied Video Productions. Board members received handouts of promotional materials and the press the Connector has received to include the American Public Transportation Association's (APTA) *Voices for Public Transit* post on June 24, 2016, the Westside Newspaper, and the July 13, 2016 post on West Salem Neighborhood Association's Facebook page.

E. PUBLIC COMMENT 6:46 PM

David Beem (Address on File): Mr. Beem said he is an advocate for people with disabilities and is a member of the Marion County Fair Board. Mr. Beem wants Saturday transit service to the State Fair, and a sales tax to help support the service.

President Krebs said the Board continues to look for ways to fund the service.

F. CONSENT CALENDAR 6:48 PM

Motion: Moved to approve the Consent Calendar:
1. Approval of Minutes
a. Regular Board meeting of August 25, 2016
Motion by: Director Marcia Kelley
Seconded: Director John Hammill
Vote: Motion passed unanimously (7)

G. ITEMS DEFERRED FROM THE CONSENT CALENDAR - None

ACTION ITEMS 6:48 PM

H.2 Potential Action on Issue Related to the Salem River Crossing Project

Staff report: Verbal

Presenter: Director Kathy Lincoln

Director Lincoln provided a recap of events that has led to her request for the Board to reconsider their support of the Salem River Crossing (SRC) project and to talk about the City of Salem's pending land use action to expand the urban growth boundary area in West Salem for a new highway and bridge corridor **and amend the Transportation System Plan to include the bridge, and take a Goal 15 exception for the Willamette River Greenway. Under regional procedures, the cities of Salem, Keizer and Marion and Polk counties all must concur in the UGB expansion.**

In her report, Director Lincoln notes that on August 26, the Board's Salem River Crossing (SRC) Subcommittee (President Krebs, Director Lincoln and Director Evans) met with transportation planner, Julie Warncke from the City of Salem and representative from SKATS and ODOT, Karen Odenthal and Daniel Fricke to talk about the progress on the SRC. *[See agenda item J.2.b for the Minutes of the August 23, 2016 meeting of the Salem River Crossing Committee in the September 22, 2016 agenda packet.]* This was the first time that the transit Board has been included in conversations about the progress of the project since 2014 when the Board voted to support the *Salem Alternative* (the "preferred alternative"). **The Board sent a letter, dated July 15, 2013, making recommendations on proposed elements for consideration in the design phase of the project. Resolution 2014-03 was adopted by the Board on April 24, 2014 supporting the Salem Alternative and recommending a policy statement be added to the Oversight Team's policy statement. The SRC Oversight Team also voted to accept the "preferred alternative." It has been a year since the SRC Oversight Team's last meeting and the approved "preferred alternative" plan has been amended since that time.** Congestion, traffic impact, geology, and land use reports are not complete, yet the City of Salem has scheduled a joint hearing with the cities of Keizer and Salem, and Marion and Polk Counties on October 12, 2016 **to consider a Salem Ordinance to adopt land use actions** based on unpublished reports. Director Lincoln expressed her concern about their rushing to make a decision without taking the care they need for a project of this size. It is unknown at this time, which governmental body will have jurisdiction over the bridge project. There is no plausible funding to maintain the bridge. Proposed funding could include tolls and property taxes, and/or increases in the gas tax or vehicle registration tax. The local community could end up carrying the tax burden while the City works to get state and federal funds; but that is not a certainty at this time. The project could sit on the shelf for years. It is important that the transit district be included in some of these conversations. There are no provisions in the design of the bridge for express lanes or park & rides. The reports are not completed yet, so the Board has no information about how the new alternative will operate.

Salem-Keizer Transit in partnership with ODOT and the City of Salem paid for an alternative mode study in 2010. The study suggested several ways to reduce traffic congestion by increasing transit, having better pedestrian and bicycle facilities, adjusting State work schedules and paying more for parking in the downtown area. Those kinds of things should be done before the city launches into huge construction projects for new infrastructure. It does not seem like any of those recommendations have been attempted or any provision made for them.

Director Lincoln's goal is not to stop the process but felt it was important for the Board to appear at the City's hearing and make a statement that the District is happy to work with the City but they are moving too fast to try to implement this project into the State's Transportation System Plan.

Director Kelley spoke about a potential gas tax that might be proposed. She sits on the local Area Commission on Transportation (ACT) and asked about potential funding from the State for the project. She was told there were very little state funds, and the bridge was not a high priority. ODOT contributed 10% of \$319 million toward the Selwood Bridge. It was not known what the federal contribution was. Cost for the SRC project is estimated at \$400-\$500 million. ACT funds will be difficult to get. It seems a bit precipitous without having the rest of the information. She understands the politics but does not feel it's appropriate. Director Kelley voiced her concern about voting to move forward with the SRC project without a meeting of the Oversight Committee.

Director Evans was concerned about the design creating a bottleneck in the turn lanes that transit buses and trucks will have a hard time dealing with.

Board members discussed next steps. The EIS needs to be completed for federal funding and the land use process is a state process. The transit Board is supposed to be a partner but has not been invited to the table to advocate for transit elements on the bridge. The advantages that could be gained will not be there. It sets precedence where transit needs will not be considered and money will be funneled into the bridge. The Board wants to have a bigger role in the process.

Motion: Moved to oppose the City of Salem's current land use action to expand the City's urban growth boundary and amend the Transportation System Plan; and authorize Director Lincoln to testify on behalf of the SAMTD Board of Directors at the Public Hearing at the October 12, 2016 Special Joint Meeting of the City of Salem, City of Keizer, Marion County and Polk County.

Motion by: Director John Hammill

Seconded: Director Jerry Thompson

Vote: Motion passed unanimously (7)

INFORMATION ITEMS

I.1 Briefing on the APTA Annual Conference

7:05 PM

Staff report: Robert Krebs, President, SAMTD Board of Directors
Allan Pollock, General Manager

President Krebs and Mr. Pollock reported on the meetings they attended at the American Public Transportation Association (APTA) Conference in Los Angeles, California on September 11-14, 2016. President Krebs plans to obtain a copy of a new video produced by the National Association of Railroad Passengers (NARP) for use by the District. He spoke about the Los Angeles Metro ballot measure in the November election; and a new concept called "*parklets*" (using on-street parking spaces in commercial districts for miniature parks) that could incorporate the use of attractive bus stops that provides green space and benches. There are now battery-powered, electric buses that can travel up to 300 miles on a charge; and a new rail/transit car plant is being built in South Chicago near the old Pullman Coach Plant

Ms. Feeney and Mr. Trimble also attended the conference.

I.2 Review of Proposed Changes to Strategic Plan Update Process

7:23 PM

Staff report: Verbal

Presenter: Allan Pollock, General Manager

The Strategic Planning Subcommittee held their kick-off meeting on August 26, 2016. President Krebs, and Directors Kathy Lincoln and John Hammill were in attendance to discuss a refresh of the current Strategic Plan. The discussion took a substantial turn to scrap the current plan and start over. Mr. Pollock advised that this was a big project. They will need the help of a consultant to work through that process.

Director Hammill concurred with Mr. Pollock's summary of the meeting. It has been five years since the Strategic Plan was updated. He felt the District's view had broadened.

Director Thompson recommended a Board work session to discuss starting over with a new Plan. The Board agonized over the first one; he does not want to do that again.

President Krebs agreed that there will be work sessions to discuss a new Plan.

REPORTS

J.1 FY2016 Year End Performance Report

7:26 PM

Staff report: The Staff Report is on pages 9-10 of the agenda; Performance Measures for FY2016 are on pages 11-16

Presenter: Matt Berggren, Planning Technician

Performance measures for fiscal year 2016 began on July 1, 2015 and ended June 30, 2016. All data was compared to the previous fiscal year. The data for these measures is derived from adjusted Trapeze schedules, vehicle fareboxes, passenger counting systems, and the District's reservation software to include *RouteMatch* and *Mobility DR*.

Mr. Berggren provided a summary of the changes in performance with an explanation –

- Average Daily Revenue Hours by Service: Cherriots and CARTS were up 4.3% and 0.9% respectively. The RED Line and CherryLift were down 0.4% and 1.4% respectively.
- Average Daily Revenue Miles by Service: Cherriots and CARTS were up 6.5% and 3.4% respectively. The RED Line had no change; and CherryLift was down by 2.3%.
- Average Daily Boardings (or Unlinked Trips) by Service: All were down; Cherriots at -11.4%, CARTS at -14.2%, the RED Line at -2.2% and CherryLift at -6.6%.

Mr. Berggren said the District expects ridership to improve in fiscal year 2017 as staff works to improve the on-time performance on Cherriots and CARTS routes; and as the State Employer Bus Pass Program gets fully implemented.

Director Evans inquired about the size of the buses used for Route 15X Airport Park & Ride Express and whether smaller buses could be used. Mr. Berggren explained that 30-foot buses were used as part of the regular fleet. Smaller buses do not reduce cost overall.

Director Hammill noticed that Route 14/Windsor Island had less ridership than all of the other routes due to the construction in that area. He said it makes it hard for people when they want to use the service. The Board will need to wait a year to see if there are improvements.

J.2 Board Subcommittee Report

7:50 PM

Minutes of the Board's August 8, 2016 Work Session, August 23, 2016 Salem River Crossing Subcommittee meeting, and the minutes of the September 6, 2016 STF Advisory Committee meeting, on pages 19-29 of the agenda, were received and filed.

Board members appointed to local, regional and/or national committees may present testimony at public hearings on specific issues on behalf of the District as the need arises. Board members inform the Board of the issues discussed in the committees listed on page 17 of the agenda as they relate to transit and the District. Minutes for the external meetings can be found on the agencies websites.

BOARD AND MANAGEMENT ISSUES

K.1 General Manager

7:50 PM

Mr. Pollock reported on the testimony he gave at the Legislature's Joint Committee on Transportation Preservation and Modernization public hearing prior to the Board meeting. He said Mayor Cathy Clark from the City of Keizer was also in attendance and will give testimony. He announced that Charles Marohn, founder and president of *Strong Towns* will lead a curbside chat and presentation about the financial health of our cities on October 5, 2016 in Loucks Auditorium at the Salem Library from 7:00-9:00 p.m. Cherriots *Trip Choice* (fka *Rideshare*) is a sponsor of the event. Local elected officials will

meet with Mr. Marohn at 1:30 p.m. in the Senator Hearing Room at Courthouse Square.

Mr. Pollock reported on the Cherriots Bus Roadeo, the first in at least eleven years. He thanked Transportation Manager, Charlie Clarke and his committee of staff who helped to judge the events. There were 24 volunteers to include Director Busch with a barbeque to follow for all of the participants. Staff will have an after action meeting to review this event and potential future events.

K.2 Board President

7:52 PM

President Krebs reports on his transit-related Board and community service activities. He attended the elected officials and stakeholders meeting and public meeting at the Stayton Public Library on September 20, 2016 regarding the CARTS regional transportation plan project. He said the Board will take another look at the transportation plan after hearing the testimonies at those meetings.

K.3 Board of Directors

7:53 PM

Board members give an account, verbally and in writing, of their transit-related Board and community service activities that may be of interest to the other Board members and to the public. These activities include their attendance at their local neighborhood association meetings or talking with citizens about their experience while riding the bus, or about bus shelters or bus stops.

Several Board members attended the CARTS Regional Meeting held at the Stayton Library on September 20, where citizens and elected officials and staff expressed their concerns about changes to service routes in their area.

Director Kelley will follow up with the Director of Region Two regarding its staff proposed project list for the Enhance Non-Highway Funding. There was not one transit project listed in the proposed list for Region Two. She will request the project lists from the other regions as well, noting that non-highway funding is for transit projects as well.

L. Meeting Adjourned

8:10 PM

Respectfully submitted,

Robert Krebs, President

MEMO TO: BOARD OF DIRECTORS

**FROM: MICHIEL MAJORS, SAFETY & LOSS CONTROL SPECIALIST
PAULA DIXON, DIRECTOR OF ADMINISTRATION**

THRU: ALLAN POLLOCK, GENERAL MANAGER

SUBJECT: APPROVAL OF SDIS OREGON ETHICS LAW BEST PRACTICES CHECKLIST

Issue

Shall the Board approve the Special Districts Insurance Services (SDIS) *Oregon Ethics Law Best Practices Checklist* as reviewed in the Board Work Session on October 10, 2016?

Background

Every year the SDIS offers member districts the opportunity to receive up to a 10% discount on their property and liability premiums through five opportunities at two percent (2%) each. A 10% discount is equal to approximately \$24,000.

One of the District's opportunities for a two percent credit is to complete the SDIS' Oregon Ethics Law Best Practices Checklist, and have members of the Board review and approve the answers. The checklist is not scored; but is to be used as a self-assessment tool for the District to reduce their overall risk of loss. The District will qualify for the full 10% discount with the completion of the SDIS Oregon Ethics Law Best Practices Checklist.

Board members reviewed the SDIS Oregon Ethics Law Best Practices Checklist during the Board's Work Session on October 10, 2016. The completed Best Practices Checklist is included in this report as Attachment A.

Recommendation

Staff recommends approval of the Best Practices Checklist, as attached, which completes the requirement required by the SDIS to qualify for a premium discount on the District's 2017 property and casualty insurance contributions.

Proposed Motion

I move that the Board authorize President Krebs to sign the Oregon Ethics Law Best Practices Checklist to certify that the Board has reviewed and approved all of the answers; which completes the requirement required by the SDIS to qualify for a premium discount on the District's 2017 general liability, auto liability and property insurance contributions.

Oregon Ethics Law Best Practices Checklist

**** To be completed by the Board of Directors****

District Name: Salem Area Mass Transit District

****Our insurance services website is changing!** The site will be launched **October 3, 2016**. At that time, the Best Practices checklist will be available to complete online. ******

Below is the Best Practices Checklist for you to complete and return. Your answers will not be scored but are to be used for self-assessment. Submission of your complete and signed checklist verifying review from your board of directors (signature line on page 2) will result in a 2% credit to your 2017 property/casualty insurance contributions.

Steps to receive this credit to your 2017 general liability, auto liability, and property insurance contributions:

- Board of Directors and District Manager (if applicable) complete all questions on checklist.
- Board of Directors review and approve answers.
- Representative of the Board fill out and sign page 2 of the checklist.
- After filling out and signing page 2, return **entire checklist** by mail, email, or fax (OR complete online) to SDIS by **November 15, 2016**.

Completing the checklist online saves time and gives you immediate access to valuable resources. After the new insurance site has been launched, you will be able to complete the checklist online using the following steps:

- Go to **www.sdao.com**
- Click the Sign In button and enter your user credentials.
- After signing in, click on the Insurance Site tab.
- Once on the SDIS Insurance Site homepage, click Insurance on the left.
- Click Best Practices on the left, under Forms.
- Click Take Survey.
- Complete survey and click Save.

Read the statement and check Yes if the statement is true of your board and No if it is not.

		Yes	No
1.	Familiar with the permissible statutory provisions regarding Oregon Ethics Law (ORS 244), i.e., conflicts of interest, gifts, and financial gain.	✓	
2.	Aware that Oregon Government Ethics Commission, or OGEC, enforces government ethics laws.	✓	
3.	Recognize that ethics laws apply to all district elected or appointed officials, employees, and agents, irrespective of whether the person is compensated for services.	✓	
4.	Distribute a copy of OGEC's Guide for Public Officials and 2015 Supplement to each board and staff member.		✓
5.	Adopt an Oregon Ethics Law policy (sample available through SDAO).	✓	
6.	Provide annual ethics trainings to all board members and staff.		✓
7.	Understand the difference between an actual and potential conflict of interest.	✓	

8.	Aware of the requirements for declaring an actual or potential conflict of interest under Oregon Ethics Law.	✓	
9.	Informed of who is considered a relative for the purpose of the ethics laws.	✓	
10.	Understand the "but for" test and how it relates to financial gain or avoiding financial detriment.	✓	
11.	Recognize that anything acquired through an official compensation package is not financial gain.	✓	
12.	Aware that a "gift" is something of economic value received by a public official, his relatives, or household members.	✓	
13.	Realize that food and beverages at a reception, when they are an incidental part of the reception or consumed at an event when a public official represents the district, are not a gift.	✓	
14.	Familiar with the definition of "legislative or administrative" interest.	✓	
15.	Aware that there is a \$50 gift limit from a source that has an administrative or legislative interest in the district. This includes invitations to events or activities such as concerts, plays, sporting events, and hunting.	✓	
16.	Realize that the maximum penalty for an ethics violation is \$5,000. In addition to this penalty, if a public official financially benefits by violating Oregon Ethics Law, the OGE can impose a civil penalty in an amount equal to twice the amount the public official realized as a result of the violation.	✓	

Filling out the form below certifies that your Board of Directors has reviewed and approved all answers:

District Name: Salem Area Mass Transit District

Your Name: Robert Krebs **Your Title:** Board President

Signature: _____ **Date:** _____

Return the signed checklist (OR complete online) by **November 15, 2016** to receive a 2% credit to your 2017 general liability, auto liability, and property insurance contributions.

How to Submit Your Best Practices Checklist

Mail
SDIS
PO Box 12613
Salem, OR 97309-0613

Email
memberservices@sdao.com

Fax
(503) 371-4781

Online
www.sdao.com

If you have any questions, please contact SDAO Member Services at 800-285-5461 or by email at memberservices@sdao.com.

MEMO TO: BOARD OF DIRECTORS

**FROM: JARED ISAKSEN, FINANCE MANAGER
PAULA DIXON, DIRECTOR OF ADMINISTRATION**

THRU: ALLAN POLLOCK, GENERAL MANAGER

SUBJECT: CONTRACT FOR HR/FINANCE SOFTWARE REPLACEMENT

Issue

Shall the Board authorize the General Manager to execute a contract with Tyler Technologies for their *Munis* software as replacement software for Human Resources (HR) and Finance needs?

Background and Findings

Salem Area Mass Transit District (SAMTD) currently uses two different software solutions for its HR and Finance needs. These solutions were first implemented in 2008 (Finance) and 2009 (HR). Using two different systems requires duplication of data entry and presents difficulties in producing certain ad hoc reports. In addition, neither system separately provides robust report writing capabilities or the capacity to implement electronic workflow. To obtain a solution which will integrate and replace these systems, provide for adequate reports and implement electronic workflow, a Request for Proposals (RFP) was issued to procure replacement software.

Since the replacement software will be funded with Federal 5307 Capital funds, the proposed contract was procured under procedures required by the Federal Transit Administration. The RFP was issued on February 16, 2016.

The activities of the procurement process performed by SAMTD staff are listed below:

1. RFP #2016-01 was issued on February 16, 2016. A pre-proposal conference was held on March 10, 2016, and the RFP process closed on April 21, 2016, at 3:00 p.m.
2. Three (3) proposals were received by the due date of April 21, 2016.
3. The responders were Fleet Net, Ininitek, and Tyler Technologies.
4. An evaluation and selection committee, comprised of SAMTD staff, was appointed to review and evaluate proposals based on proposed costs, ability of proposer to meet requirements of software, quality of support, warranties, and services, conversion/implementation plan, training, interview/presentation, and references.
5. All proposals were determined to be responsive to the above-mentioned factors.

6. The Evaluation Committee met on three (3) occasions for scoring, which included: individual scoring, technical scoring, and post-interview scoring.
7. One (1) proposer was interviewed on July 26, 2016.
8. The Evaluation Committee determined in their final meeting that Tyler Technologies' *Munis* software was the most responsive to the procurement criteria as detailed in the table below. The proposed price includes purchase, implementation, data conversion, estimated travel expenses and the maintenance cost for the first year.

Evaluation Criteria	Maximum Score Possible	Infinitek	Tyler Technologies	Fleet Net
Total 5-Year Cost (Initial, maintenance, and support)	500	410	480	450
Ability to meet or exceed the requirements	500	390	485	300
Quality of Proposer's support, warranties, and service	500	430	480	370
Conversion/Implementation Plan	375	330	355	330
Training	250	175	230	190
References	250	120	200	90
TOTAL SCORE	2,375	1,855	2,230	1,730
References	250	N/A	200	N/A
Interview/Presentation	200	N/A	195	N/A

	Price
Module Licenses	\$ 116,100
Implementation	\$ 127,450
Data Conversion	\$ 27,800
Estimated Travel Expenses	\$ 38,360
Year One Maintenance	\$ 6,830
Total Initial Cost	\$ 316,540
Contingency	\$ 30,000
Total Cost with Contingency	\$ 346,540

This information was presented to the Board at the work session on October 10, 2016. A draft of the contract is included as Attachment A to this memo.

Recommendation

Staff recommends the Board authorize the General Manager to negotiate the final contract language and to execute a contract with Tyler Technologies for the *Munis* software in the not to exceed amount of \$346,540, which includes a contingency of \$30,000.

Proposed Motion

I move the Board authorize the General Manager to negotiate the final contract language and to execute a contract with Tyler Technologies for the *Munis* software in the not to exceed amount of \$346,540.



LICENSE AND SERVICES AGREEMENT

This License and Services Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to license the software products and perform the services set forth in the Investment Summary and Tyler desires to perform such actions under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **“Agreement”** means this License and Services Agreement.
- **“Business Travel Policy”** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **“Client”** means Salem Area Mass Transit District.
- **“Defect”** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **“Developer”** means a third party who owns the intellectual property rights to Third Party Software.
- **“Documentation”** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **“Effective Date”** means the date on which your authorized representative signs the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **“Investment Summary”** means the agreed upon cost proposal for the software, products, and services attached as Exhibit A.
- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“Maintenance and Support Agreement”** means the terms and conditions governing the provision of maintenance and support services to all of our customers. A copy of our current Maintenance and Support Agreement is attached as Exhibit C.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Software, as applicable and attached as Exhibit D.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.



- “**Third Party Products**” means the Third Party Software and Third Party Hardware.
- “**Third Party Software**” means the third party software, if any, identified in the Investment Summary.
- “**Tyler**” means Tyler Technologies, Inc., a Delaware corporation.
- “**Tyler Software**” means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- “**we**”, “**us**”, “**our**” and similar terms mean Tyler.
- “**you**” and similar terms mean Client.

SECTION B – SOFTWARE LICENSE

1. License Grant and Restrictions.

- 1.1 We grant to you a license to use the Tyler Software for your internal business purposes only, in the scope of the internal business purposes disclosed to us as of the Effective Date. You may make copies of the Tyler Software for backup and testing purposes, so long as such copies are not used in production and the testing is for internal use only. Your rights to use the Tyler Software are perpetual but may be revoked if you do not comply with the terms of this Agreement.
- 1.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
- 1.3 You may not: (a) transfer or assign the Tyler Software to a third party; (b) reverse engineer, decompile, or disassemble the Tyler Software; (c) rent, lease, lend, or provide commercial hosting services with the Tyler Software; or (d) publish or otherwise disclose the Tyler Software or Documentation to third parties.
- 1.4 The license terms in this Agreement apply to updates and enhancements we may provide to you or make available to you through your Maintenance and Support Agreement.
- 1.5 The right to transfer the Tyler Software to a replacement hardware system is included in your license. You will give us advance written notice of any such transfer and will pay us for any required or requested technical assistance from us associated with such transfer.
- 1.6 We reserve all rights not expressly granted to you in this Agreement. The Tyler Software and Documentation are protected by copyright and other intellectual property laws and treaties. We own the title, copyright, and other intellectual property rights in the Tyler Software and the Documentation. **The Tyler Software is licensed, not sold.**

2. License Fees. You agree to pay us the license fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
3. Escrow. We maintain an escrow agreement with a third party under which we place the source code for each major release of the Tyler Software. You may be added as a beneficiary to the escrow agreement by completing a standard beneficiary enrollment form and paying the annual beneficiary fee set forth in the Investment Summary. You will be responsible for maintaining your ongoing status as a beneficiary, including payment of the then-current annual beneficiary fees. Release of source code for the Tyler Software is strictly governed by the terms of the escrow agreement.
4. Limited Warranty. We warrant that the Tyler Software will be without Defect(s) as long as you have a



Maintenance and Support Agreement in effect. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect as set forth in the Maintenance and Support Agreement.

SECTION C – PROFESSIONAL SERVICES

1. Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in our industry standard implementation plan. We will finalize that documentation with you upon execution of this Agreement.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
3. Additional Services. The Investment Summary contains the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. We make all reasonable efforts to schedule our personnel for travel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us. You further agree to provide a reasonably suitable environment, location, and space for the installation of the Tyler Software and any Third Party Products, including, without limitation, sufficient electrical circuits, cables, and other reasonably necessary items required for the installation and operation of the Tyler Software and any Third Party Products.
7. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any



deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).

SECTION D – MAINTENANCE AND SUPPORT

This Agreement includes the period of free maintenance and support services identified in the Invoicing and Payment Policy. If you have purchased ongoing maintenance and support services, and continue to make timely payments for them according to our Invoicing and Payment Policy, we will provide you with maintenance and support services for the Tyler Software under the terms of our standard Maintenance and Support Agreement.

If you have opted not to purchase ongoing maintenance and support services for the Tyler Software, the Maintenance and Support Agreement does not apply to you. Instead, you will only receive ongoing maintenance and support on the Tyler Software on a time and materials basis. In addition, you will:

- (i) receive the lowest priority under our Support Call Process;
- (ii) be required to purchase new releases of the Tyler Software, including fixes, enhancements and patches;
- (iii) be charged our then-current rates for support services, or such other rates that we may consider necessary to account for your lack of ongoing training on the Tyler Software;
- (iv) be charged for a minimum of two (2) hours of support services for every support call; and
- (v) not be granted access to the support website for the Tyler Software or the Tyler Community Forum.

SECTION E – THIRD PARTY PRODUCTS

To the extent there are any Third Party Products set forth in the Investment Summary, the following terms and conditions will apply:

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. Upon payment in full of the Third Party Software license fees, you will receive a non-transferable license to use the Third Party Software and related documentation for your internal business purposes only. Your license rights to the Third Party Software will be governed by the Third Party Terms.
 - 2.1 We will install onsite the Third Party Software. The installation cost is included in the installation fee in the Investment Summary.
 - 2.2 If the Developer charges a fee for future updates, releases, or other enhancements to the Third Party Software, you will be required to pay such additional future fee.
 - 2.3 The right to transfer the Third Party Software to a replacement hardware system is governed by the Developer. You will give us advance written notice of any such transfer and will pay us for any required or requested technical assistance from us associated with such transfer.
3. Third Party Products Warranties.



- 3.1 We are authorized by each Developer to grant or transfer the licenses to the Third Party Software.
- 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
- 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Maintenance. If you have a Maintenance and Support Agreement in effect, you may report defects and other issues related to the Third Party Software directly to us, and we will (a) directly address the defect or issue, to the extent it relates to our interface with the Third Party Software; and/or (b) facilitate resolution with the Developer, unless that Developer requires that you have a separate, direct maintenance agreement in effect with that Developer. In all events, if you do not have a Maintenance and Support Agreement in effect with us, you will be responsible for resolving defects and other issues related to the Third Party Software directly with the Developer.

SECTION F – INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you for all fees set forth in the Investment Summary per our Invoicing and Payment Policy, subject to Section F(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within ~~thirty (30) days of your receipt of the applicable invoice~~ a reasonable time. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION G – TERMINATION

1. For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section I(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) days ~~window set forth in~~ after you give notice under Section I(3). In the event of termination for cause, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination.
2. Lack of Appropriations. If you should not appropriate or otherwise receive funds sufficient to purchase, lease, operate, or maintain the software or services set forth in this Agreement, you may unilaterally terminate this Agreement effective on the final day of the fiscal year through which you have funding. You will make every reasonable effort to give us at least thirty (30) days written notice prior to a termination for

lack of appropriations. In the event of termination due to a lack of appropriations, you will pay us for all undisputed fees and expenses related to the software and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Any disputed fees and expenses must have been submitted to the Invoice Dispute process set forth in Section F(2) at the time of termination in order to be withheld at termination. You will not be entitled to a refund or offset of previously paid license and other fees.

3. Force Majeure. Except for your payment obligations, either you or we may terminate this Agreement if a Force Majeure event suspends performance of scheduled tasks for a period of forty-five (45) days or more. In the event of termination due to Force Majeure, you will pay us for all undisputed fees and expenses related to the software and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Any disputed fees and expenses must have been submitted to the Invoice Dispute process set forth in Section F(2) at the time of termination in order to be withheld at termination. You will not be entitled to a refund or offset of previously paid license and other fees.

SECTION H – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.

- 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 1.2 Our obligations under this Section H(1) will not apply to the extent the claim or adverse final judgment is based on your: (a) use of a previous version of the Tyler Software and the claim would have been avoided had you installed and used the current version of the Tyler Software, and we provided notice of that requirement to you; (b) combining the Tyler Software with any product or device not provided, contemplated, or approved by us; (c) altering or modifying the Tyler Software, including any modification by third parties at your direction or otherwise permitted by you; (d) use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties; or (e) willful infringement, including use of the Tyler Software after we notify you to discontinue use due to such a claim.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; (c) replace it with a functional equivalent; or (d) terminate your license and refund the license fees and maintenance and support fees paid for the infringing Tyler

Software, as depreciated on a straight-line basis measured over seven (7) years from the Effective Date. We will pursue those options in the order listed herein. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. General Indemnification.

2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

2.2 ~~To the extent permitted by applicable law~~ Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. **DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
4. **LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) PRIOR TO FORMAL TRANSITION TO MAINTENANCE AND SUPPORT, THE TOTAL ONE-TIME FEES SET FORTH IN THE INVESTMENT SUMMARY; OR (B) AFTER FORMAL TRANSITION TO MAINTENANCE AND SUPPORT, THE THEN-CURRENT ANNUAL MAINTENANCE AND SUPPORT FEE. THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS H(1) AND H(2).**
5. **EXCLUSION OF CERTAIN DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR PUNITIVE, ~~INDIRECT, OR CONSEQUENTIAL~~ DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
6. Insurance. During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$~~12~~,000,000; (b) Automobile Liability of at least \$~~12~~,000,000; (c) Professional Liability of at least \$~~12~~,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as



well. We will provide you with copies of certificates of insurance ~~upon your written request~~ within thirty (30) days of signing of this Agreement.

SECTION I – GENERAL TERMS AND CONDITIONS

1. Additional Products and Services. You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date, and thereafter at our then-current list price, by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. Optional Items. Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. Dispute Resolution. You agree to provide us with written notice within ~~thirty (30) days of a reasonable time~~ after becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.
4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either

your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.

9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. The proposal submitted by Tyler Technologies in response to Salem-Keizer Transit Districts Request for Proposal is hereby incorporated and made a part of this Agreement. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and



includes, without limitation, personal identifying information (e.g., social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. Tyler acknowledges that Client is subject to the Oregon Public Records Law and will take reasonable steps to notify Tyler if Client receives a request for disclosure of Tyler confidential information. In the event that Tyler requests Client to assert the application of an exemption from disclosure under applicable Oregon law, Tyler will defend and indemnify Client from all costs, expenses and liability relating to assertion of an exemption from disclosure. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:

- (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
- (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
- (c) a party receives from a third party who has a right to disclose it to the receiving party; or
- (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.

18. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.

19. Governing Law. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law. Tyler agrees to comply with the terms and conditions in Exhibit F in connection with its performance under this Agreement.

20. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.

21. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.

22. Contract Documents. This Agreement includes the following exhibits:

- | | |
|-----------|---|
| Exhibit A | Investment Summary |
| Exhibit B | Invoicing and Payment Policy
Schedule 1: Business Travel Policy |
| Exhibit C | Maintenance and Support Agreement
Schedule 1: Support Call Process |
| Exhibit D | Third Party Terms |
| Exhibit E | Tyler Systems Management Terms |



Exhibit F State and Federal Required Contract Clauses

23. Tax Certification. Tyler hereby certifies, under penalty of perjury, that Tyler is, to the best of its knowledge, not in violation of any tax laws described in ORS 305.380(4).

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

Salem Area Mass Transit District

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
St. NE, Ste. 5230
Yarmouth, ME 04096
Attention: Associate General Counsel
Isaksen, Finance Manager

Address for Notices:

Salem Area Mass Transit District
925 Commercial Street SE, Suite 100555 Court
Salem, OR 97302-41731-3980
Attention: _____ Jared



Exhibit A
Investment Summary

The following Investment Summary details the software, products, and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

TO BE INSERTED



Exhibit B Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable license and services fees in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. Tyler Software.

- 1.1 *License Fees:* License fees are invoiced as follows: (a) 25% on the Effective Date; (b) 60% on the date when we make the applicable Tyler Software available to you for downloading (the "Available Download Date"); and (c) 15% on the earlier of use of the Tyler Software in live production or 180 days after the Available Download Date.
- 1.2 *Maintenance and Support Fees:* Year 1 maintenance and support fees are waived through the earlier of (a) availability of the Tyler Software for use in a live production environment; or (b) one (1) year from the Effective Date. Year 2 maintenance and support fees, at our then-current rates, are payable on that earlier-of date, and subsequent maintenance and support fees are invoiced annually in advance of each anniversary thereof. Your fees for each subsequent year will be set at our then-current rates.

In no event shall increases exceed the increase (expressed as a percentage) in the Portland- Salem, OR-WA area Consumer Price Index for Wage Earners from the most recently published six month period. There is no percentage limitation on the amount of decreases that may be made under this clause. Price adjustments may take place annually as set forth above.

2. Professional Services.

- 2.1 *Implementation and Other Professional Services (including training):* Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.
- 2.2 *Consulting Services:* If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Business System Design document, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
- 2.3 *Conversions:* Fixed-fee conversions are invoiced 50% upon initial delivery of the converted data, by conversion option, and 50% upon Client acceptance to load the converted data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
- 2.4 *Requested Modifications to the Tyler Software:* Requested modifications to the Tyler Software are



invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in the Maintenance and Support Agreement.

2.5 *Other Fixed Price Services*: Other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where “Project Planning Services” are provided, payment will be due upon delivery of the Implementation Planning document.

2.6 *Change Management Services*: If you have purchased any change management services, those services will be invoiced in the following amounts and upon the following milestones:

Acceptance of Change Management Discovery Analysis	15%
Delivery of Change Management Plan and Strategy Presentation	10%
Acceptance of Executive Playbook	15%
Acceptance of Resistance Management Plan	15%
Acceptance of Procedural Change Communications Plan	10%
Change Management Coach Training	20%
Change Management After-Action Review	15%

3. Other Services and Fees.

3.1 *Systems Management*: Systems Management Services are invoiced on the Available Download Date. Systems Management Services will renew automatically for additional one (1) year terms at our then-current Systems Management Services fee, unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term.

4. Third Party Products.

4.1 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.

4.2 *Third Party Software Maintenance*: The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.

4.3 *Third Party Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.

5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B at Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. ~~Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.~~

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is:

Bank: Wells Fargo Bank, N.A.
 420 Montgomery
 San Francisco, CA 94104
 ABA: 121000248
 Account: 4124302472
 Beneficiary: Tyler Technologies, Inc. – Operating





Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

Tyler's Travel Management Company (TMC) will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven day advance booking requirement is mandatory. When booking less than seven days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is scheduled to exceed six hours, only economy or coach class seating is reimbursable.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five days = one checked bag
- Six or more days = two checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee's private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.



B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a “mid-size” or “intermediate” car. “Full” size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler’s TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

“No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are



governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

- Breakfast 15%
- Lunch 25%
- Dinner 60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee’s hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.





Exhibit C Maintenance and Support Agreement

We will provide you with the following maintenance and support services for the Tyler Software. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

1. Term. We provide maintenance and support services on an annual basis. The initial term commences on the Effective Date, and remains in effect for one (1) year. The term will renew automatically for additional one (1) year terms unless terminated in writing by either party at least thirty (30) days prior to the end of the then-current term. We will adjust the term to match your first use of the Tyler Software in live production if that event precedes the one (1) year anniversary of the Effective Date.
2. Maintenance and Support Fees. Your year 1 maintenance and support fees for the Tyler Software are listed in the Investment Summary, and your payment obligations are set forth in the Invoicing and Payment Policy. We reserve the right to suspend maintenance and support services if you fail to pay undisputed maintenance and support fees within thirty (30) days of our written notice. We will reinstate maintenance and support services only if you pay all past due maintenance and support fees, including all fees for the periods during which services were suspended.
3. Maintenance and Support Services. As long as you are not using the Help Desk as a substitute for our training services on the Tyler Software, and you timely pay your maintenance and support fees, we will, consistent with our then-current Support Call Process:
 - 3.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (limited to the then-current version and the immediately prior version); provided, however, that if you modify the Tyler Software without our consent, our obligation to provide maintenance and support services on and warrant the Tyler Software will be void;
 - 3.2 provide telephone support during our established support hours;
 - 3.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
 - 3.4 provide you with a copy of all major and minor releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
 - 3.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with our then-current release life cycle policy.
4. Client Responsibilities. We will use all reasonable efforts to perform any maintenance and support services



remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain a VPN for backup connectivity purposes.

5. Hardware and Other Systems. If you are a self-hosted customer and, in the process of diagnosing a software support issue, it is discovered that one of your peripheral systems or other software is the cause of the issue, we will notify you so that you may contact the support agency for that peripheral system. We cannot support or maintain Third Party Products except as expressly set forth in the Agreement.

In order for us to provide the highest level of software support, you bear the following responsibility related to hardware and software:

- (a) All infrastructure executing Tyler Software shall be managed by you;
 - (b) You will maintain support contracts for all non-Tyler software associated with Tyler Software (including operating systems and database management systems, but excluding Third-Party Software, if any); and
 - (c) You will perform daily database backups and verify that those backups are successful.
6. Other Excluded Services. Maintenance and support fees do not include fees for the following services: (a) initial installation or implementation of the Tyler Software; (b) onsite maintenance and support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (c) application design; (d) other consulting services; (e) maintenance and support of an operating system or hardware, unless you are a hosted customer; (f) support outside our normal business hours as listed in our then-current Support Call Process; or (g) installation, training services, or third party product costs related to a new release. Requested maintenance and support services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.
 7. Current Support Call Process. Our current Support Call Process for the Tyler Software is attached to this Exhibit C at Schedule 1.



Exhibit C
Schedule 1
Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support:

- (1) Tyler Community – an on-line resource, Tyler Community provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (2) On-line submission (portal) – for less urgent and functionality-based questions, users may create unlimited support incidents through the customer relationship management portal available at the Tyler Technologies website.
- (3) Email – for less urgent situations, users may submit unlimited emails directly to the software support group.
- (4) Telephone – for urgent or complex questions, users receive toll-free, unlimited telephone software support.

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools and other information including support contact information.
- (2) Tyler Community – available through login, Tyler Community provides a venue for clients to support one another and share best practices and resources.
- (3) Knowledgebase – A fully searchable depository of thousands of documents related to procedures, best practices, release information, and job aides.
- (4) Program Updates – where development activity is made available for client consumption

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Clients may receive coverage across these time zones. Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	



Issue Handling

Incident Tracking

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique incident number. This system tracks the history of each incident. The incident tracking number is used to track and reference open issues when clients contact support. Clients may track incidents, using the incident number, through the portal at Tyler’s website or by calling software support directly.

Incident Priority

Each incident is assigned a priority number, which corresponds to the client’s needs and deadlines. The client is responsible for reasonably setting the priority of the incident per the chart below. The goal of this structure is to help the client clearly understand and communicate the importance of the issue and to describe expected responses and resolutions.

Priority Level	Characteristics of Support Incident	Resolution Targets
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. Tyler’s responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. Tyler’s responsibility for loss or corrupted data is limited to assisting the client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack. Tyler’s responsibility for lost or corrupted data is limited to assisting the client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days. Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

Incident Escalation

Tyler Technology’s software support consists of four levels of personnel:

- (1) Level 1: front-line representatives
- (2) Level 2: more senior in their support role, they assist front-line representatives and take on escalated issues
- (3) Level 3: assist in incident escalations and specialized client issues
- (4) Level 4: responsible for the management of support teams for either a single product or a product group

If a client feels they are not receiving the service needed, they may contact the appropriate Software Support Manager. After receiving the incident tracking number, the manager will follow up on the open issue and determine the necessary action to meet the client’s needs.

On occasion, the priority or immediacy of a software support incident may change after initiation. Tyler encourages clients to communicate the level of urgency or priority of software support issues so that we can respond appropriately. A software support incident can be escalated by any of the following methods:

- (1) Telephone – for immediate response, call toll-free to either escalate an incident’s priority or to escalate an issue through management channels as described above.
- (2) Email – clients can send an email to software support in order to escalate the priority of an issue
- (3) On-line Support Incident Portal – clients can also escalate the priority of an issue by logging into the client incident portal and referencing the appropriate incident tracking number.

Remote Support Tool

Some support calls require further analysis of the client’s database, process or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Support is able to quickly connect to the client’s desktop and view the site’s setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



Exhibit D
DocOrigin End User License Agreement

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

ATTENTION: THE SOFTWARE PROVIDED UNDER THIS AGREEMENT IS BEING LICENSED TO YOU BY **OF SOFTWARE LTD.** AND IS NOT BEING SOLD. THIS SOFTWARE IS PROVIDED UNDER THE FOLLOWING AGREEMENT THAT SPECIFIES WHAT YOU MAY DO WITH THE SOFTWARE AND CONTAINS IMPORTANT LIMITATIONS ON REPRESENTATIONS, WARRANTIES, CONDITIONS, REMEDIES, AND LIABILITIES.

DocOrigin

SOFTWARE LICENSE

IMPORTANT-READ CAREFULLY: This End-User License Agreement ("**Agreement**" or "**EULA**") is a legal agreement between you (either an individual person or a single legal entity, who will be referred to in this EULA as "**You**") and OF Software Ltd. for the DocOrigin software product that accompanies this EULA, including any associated media, printed materials and electronic documentation (the "**Software**"). The Software also encompasses any software updates, add-on components, web services and/or supplements that may be provided to you or made available to you after the date you obtain the initial copy of the Software to the extent that such items are not accompanied by a separate license agreement or terms of use. If you receive the Software under separate terms from your distributor, those terms will take precedence over any conflicting terms of this EULA.

By installing, copying, downloading, accessing or otherwise using the Software, you agree to be bound by the terms of this EULA. If you do not agree to the terms of this EULA, do not install, access or use the Software; instead, you should remove the Software from all systems and receive a full refund.

IF YOU ARE AN AGENT OR EMPLOYEE OF ANOTHER ENTITY YOU REPRESENT AND WARRANT THAT (I) THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS DULY AUTHORIZED TO ACCEPT THIS AGREEMENT ON SUCH ENTITY'S BEHALF AND TO BIND SUCH ENTITY, AND (II) SUCH ENTITY HAS FULL POWER, CORPORATE OR OTHERWISE, TO ENTER INTO THIS AGREEMENT AND PERFORM ITS OBLIGATIONS HEREUNDER.

1. LICENSE TERMS

1.1 In this Agreement a "**License Key**" means any license key, activation code, or similar installation, access or usage control codes, including serial numbers digitally created and or provided by OF Software Ltd., designed to provide unlocked access to the Software and its functionality.

1.2 **Evaluation License.** Subject to all of the terms and conditions of this Agreement, OF Software Ltd. grants You a limited, royalty-free, non-exclusive, non-transferable license to download and install a copy of the Software from www.docorigin.com on a single machine and use it on a royalty-free basis for no more than 120 days from the date of installation (the "**Evaluation Period**"). You may use the Software during the Evaluation Period solely for the purpose of testing and evaluating it to determine if You wish to obtain a commercial, production license for the Software. This evaluation license grant will automatically end on expiry of the Evaluation Period and you acknowledge and agree that OF Software Ltd. will be under no obligation to renew or extend the Evaluation Period. If you wish to continue using the Software You may, on payment of the applicable fees, upgrade to a full license (as further described in section 1.3 below) on the terms of this Agreement and will be issued with a License Key for the same. If you do not wish to continue to license the Software after expiry of the Evaluation Period, then You agree to comply with the termination obligations set out in section [7.3] of this Agreement. For greater certainty, any document generated by you under an evaluation license will have a 'spoiler' or watermark on the output document. Documents generated by DocOrigin software that has a valid license key file also installed will not have the 'spoiler' produced. You are not permitted to remove the watermark or 'spoiler' from documents generated using the software under an evaluation license.

1.3 **Development and Testing Licenses.** Development and testing licenses are available for purchase through authorized distributors and resellers of OF Software Ltd. only. Subject to all of the terms and conditions of this Agreement, OF Software Ltd. grants You, a perpetual (subject to termination by OF Software Ltd. due to your breach of the terms of this Agreement), non-exclusive, non-transferable, worldwide non-sublicensable license to download and install a copy of the Software from www.docorigin.com on a single machine and



use for development and testing to create collateral deployable to Your production system(s). You are not entitled to use a development and testing license for live production purposes.

- 1.4 Production Licenses.** Production licenses are available for purchase through authorized distributors and resellers of OF Software Ltd. only. Subject to all of the terms and conditions of this Agreement, OF Software Ltd. grants You, a perpetual (subject to termination by OF Software Ltd. due to your breach of the terms of this Agreement), non-exclusive, non-transferable, worldwide non-sublicenseable license to use the Software in accordance with the license type purchased by you as set out on your purchase order as further described below. For greater certainty, unless otherwise agreed in a purchase order concluded with an approved distributor of the Software, and approved by OF Software, the default license to the Software is a per-CPU license as described in A. below:
- A. Per-CPU.** The total number of CPUs on a computer used to operate the Software may not exceed the licensed quantity of CPUs. For purposes of this license metric: (a) CPUs may contain more than one processing core, each group of two (2) processing cores is consider one (1) CPU., and any remaining unpaired processing core, will be deemed a CPU. (b) all CPUs on a computer on which the Software is installed shall be deemed to operate the Software unless You configure that computer (using a reliable and verifiable means of hardware or software partitioning) such that the total number of CPUs that actually operate the Software is less than the total number on that computer.
 - B. Per-Document.** This is defined as a fee per document based on the total number of documents generated annually by merging data with a template created by the Software. The combined data and template produce documents of one or more pages. A document may contain 1 or more pages. For instance a batch of invoices for 250 customers may contain 1,000 pages, this will be counted as 250 documents which should correspond to 250 invoices.
 - C. Per-Surface.** This is defined as a fee per surface based on the total number of surfaces generated annually by merging data with a template created by the Software. The combined data and template produce documents of one or more pages, the pages may be printed one side (one surface) or duplexed (2 surfaces). The documents may be rendered to a computer file (i.e. PDF), each page placed in the file is considered a surface. A document may contain 1 or more surfaces. For instance a batch of invoices for 250 customers may contain 500 pages duplexed, this will be counted as 1000 surfaces.
- 1.5 Disaster Recovery License.** You may request a Disaster Recovery license of the Software for each production license You have purchased as a failover in the event of loss of use of the production server(s). This license is for disaster recovery purposes only and under no circumstance may the disaster recovery license be used for production simultaneously with a production license with which it is paired.
- 1.6 Backup Copies.** After installation of the Software pursuant to this EULA, you may store a copy of the installation files for the Software solely for backup or archival purposes. Except as expressly provided in this EULA, you may not otherwise make copies of the Software or the printed materials accompanying the Software.
- 1.7 Third-Party Software License Rights.** If a separate license agreement pertaining to an item of third-party software is: delivered to You with the Software, included in the Software download package, or referenced in any material that is provided with the Software, then such separate license agreement shall govern Your use of that item or version of Third-Party Software. Your rights in respect to any third-party software, third-party data, third-party software or other third-party content provided with the Software shall be limited to those rights necessary to operate the Software as permitted by this Agreement. No other rights in the Software or third-party software are granted to You.

2. LICENSE RESTRICTIONS

Any copies of the Software shall include all trademarks, copyright notices, restricted rights legends, proprietary markings and the like exactly as they appear on the copy of the Software originally provided to You. You may not remove or alter any copyright, trademark and/or proprietary notices marked on any part of the Software or related documentation and must reproduce all such notices on all authorized copies of the Software and related documentation. You shall not sublicense, distribute or otherwise make the Software available to any third party (including, without limitation, any contractor, franchisee, agent or dealer) without first obtaining the written agreement of (a) OF Software Ltd. to that use, and (b) such third party to comply with this Agreement. You further agree not to (i) rent, lease, sell, sublicense, assign, or otherwise transfer the Software to anyone else; (ii) directly or indirectly use the Software or any information about the Software in the development of any software that is competitive with the Software, or (iii) use the Software to operate or as a part of a time-sharing service, outsourcing service, service bureau, application service provider or managed service provider offering. You further agree not to reverse engineer, decompile, or disassemble the Software.

3. UPDATES, MAINTENANCE AND SUPPORT

- 3.1 During the validity period of Your License Key, You will be entitled to download the latest version of the Software from the DocOrigin website www.docorigin.com. Use of any updates provided to You shall be governed by the terms and conditions of this Agreement. OF Software Ltd. reserves the right at any time to not release or to discontinue release of any Software and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of the Software.
- 3.2 On expiry of your maintenance and support contract, you will have the right to continue using the current version(s) of the Software which you downloaded prior to the date of expiry of your License Key. However, you will need to renew maintenance and support in order to receive a new License Key that will unlock the more current version(s) of the Software. For greater certainty, if you attempt to use an expired License Key to download the latest version of the Software, the Software will revert to being a locked, evaluation copy of that version of the Software.

4. INTELLECTUAL PROPERTY RIGHTS.

This EULA does not grant you any rights in connection with any trademarks or service marks of OF Software Ltd. or DocOrigin. All title and intellectual property rights in and to the Software, the accompanying printed materials, and any copies of the Software are owned by OF Software Ltd. or its suppliers. All title and intellectual property rights in and to the content that is not contained in the Software, but may be accessed through use of the Software, is the property of the respective content owners and may be protected by applicable copyright or other intellectual property laws and treaties. This EULA grants you no rights to use such content. If this Software contains documentation that is provided only in electronic form, you may print one copy of such electronic documentation.

5. DISCLAIMER OF WARRANTIES.

TO THE GREATEST EXTENT PERMITTED BY LAW, THE LICENSED SOFTWARE AND TECHNICAL SUPPORT PROVIDED BY OF SOFTWARE LTD. HEREUNDER ARE PROVIDED ON AN "AS IS" BASIS AND THERE ARE NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS OR IMPLIED, WRITTEN OR ORAL, ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE, REGARDING THEM OR ANY OTHER PRODUCT OR SERVICE PROVIDED UNDER THIS AGREEMENT OR IN CONNECTION WITH THIS AGREEMENT BY OF SOFTWARE LTD. OF SOFTWARE LTD. DISCLAIMS ANY IMPLIED WARRANTIES OR CONDITIONS OF QUALITY, MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. OF SOFTWARE LTD. DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE SHALL MEET ANY OR ALL OF YOUR PARTICULAR REQUIREMENTS, THAT THE SOFTWARE WILL OPERATE ERROR-FREE OR UNINTERRUPTED OR THAT ALL ERRORS OR DEFECTS IN THE SOFTWARE CAN BE FOUND OR CORRECTED.

In certain jurisdictions some or all of the provisions in this Section may not be effective or the applicable law may mandate a more extensive warranty in which case the applicable law will prevail over this Agreement.



6. LIMITATIONS OF LIABILITY.

- 6.1 TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL OF SOFTWARE LTD. BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, LEGAL EXPENSES, LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF REVENUE, LOST OR DAMAGED DATA, LOSS OF COMPUTER TIME, COST OF SUBSTITUTE GOODS OR SERVICES, OR FAILURE TO REALIZE EXPECTED SAVINGS OR ANY OTHER COMMERCIAL OR ECONOMIC LOSSES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF OF SOFTWARE LTD. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES, OR SUCH LOSSES OR DAMAGES ARE FORESEEABLE.
- 6.2 THE ENTIRE LIABILITY OF OF SOFTWARE LTD. AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO THE SOFTWARE AND TECHNICAL SUPPORT AND ANY OTHER PRODUCTS OR SERVICES SUPPLIED BY OF SOFTWARE LTD. IN CONNECTION WITH THIS AGREEMENT FOR DAMAGES FOR ANY CAUSE AND REGARDLESS OF THE CAUSE OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH OR NEGLIGENCE, WILL BE LIMITED IN THE AGGREGATE TO THE AMOUNTS PAID BY YOU FOR THE SOFTWARE, TECHNICAL SUPPORT OR SERVICES GIVING RISE TO THE CLAIM.
- 6.3 THE DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS AND LIMITATION OF LIABILITY CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT. YOU ACKNOWLEDGE THAT BUT FOR THE DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS AND LIMITATION OF LIABILITY, NEITHER OF SOFTWARE LTD. NOR ANY OF ITS LICENSORS OR SUPPLIERS WOULD GRANT THE RIGHTS GRANTED IN THIS AGREEMENT.

7. TERM AND TERMINATION

- 7.1 The term of this Agreement will begin on download of the Software and, in respect of an Evaluation License, shall continue for the Evaluation Period, and in respect of all other license types defined in Section 1, shall continue for as long as You use the Software, unless earlier terminated sooner under this section 7.
- 7.2 OF Software Ltd. may terminate this Agreement in the event of any breach by You if such breach has not been cured within five (5) days of notice to You. No termination of this Agreement will entitle You to a refund of any amounts paid by You to OF Software Ltd. or its applicable distributor or reseller or affect any obligations You may have to pay any outstanding amounts owing to OF Software Ltd. or its distributor.
- 7.3 Your rights to use the Software will immediately terminate upon termination or expiration of this Agreement. Within five (5) days of termination or expiration of this Agreement, You shall purge all Software and all copies thereof from all computer systems and storage devices on which it was stored, and certify such to OF Software Ltd.

8. GENERAL PROVISIONS

- 8.1 **No Waiver.** No delay or failure in exercising any right under this Agreement, or any partial or single exercise of any right, will constitute a waiver of that right or any other rights under this Agreement. No consent to a breach of any express or implied term set out in this Agreement constitutes consent to any subsequent breach, whether of the same or any other provision.
- 8.2 **Severability.** If any provision of this Agreement is, or becomes, unenforceable, it will be severed from this Agreement and the remainder of this Agreement will remain in full force and effect.
- 8.3 **Assignment.** You may not transfer or assign this Agreement (whether voluntarily, by operation of law, or otherwise) without OF Software Ltd.'s prior written consent. OF Software Ltd. may assign this Agreement at any time without notice. This Agreement is binding upon and will inure to the benefit of both parties, and their respective successors and permitted assigns.
- 8.4 **Governing Law and Venue.** This Agreement shall be governed by the laws of the Province of Ontario. No choice of laws rules of any jurisdiction shall apply to this Agreement. You consent and agree that the courts of the Province of Ontario shall have jurisdiction over any legal action or proceeding brought by You arising out of or relating to this Agreement, and You consent to the jurisdiction of such courts for any such action or proceeding.

8.5 **Entire Agreement.** This Agreement is the entire understanding and agreement between You and OF Software Ltd. with respect to the subject matter hereof, and it supersedes all prior negotiations, commitments and understandings, verbal or written, and purchase order issued by You. This Agreement may be amended or otherwise modified by OF Software Ltd. from time to time and the most recent version of the Agreement will be available on the OF Software website www.docorigin.com.

Last Updated: [July 18 2013]



Exhibit E
Tyler Systems Management (“TSM”) Agreement

Invoice to: Salem Area Mass Transit District (“CUSTOMER”) Contact: _____

Address: _____ Telephone: _____

CUSTOMER agrees to purchase, and Tyler Technologies, Inc. (“TYLER”) agrees to provide, the services listed below in accordance with the following terms and conditions.

I. Term of Agreement:

This Tyler Systems Management Agreement (herein “TSM Agreement”) is effective as of the Available Download Date of the License and Services Agreement (“Agreement”) between TYLER and the CUSTOMER and shall remain in force for an initial one (1) year term. Upon expiration of that initial term, the TSM Agreement will automatically renew for additional one year terms, at Tyler’s then-current rates, unless terminated by either party at least thirty (30) days’ in advance of the upcoming renewal date.

The headings used in the TSM Agreement are for reference purposes only and shall not be deemed a part of this TSM Agreement.

II. Scope of the Agreement:

Both parties acknowledge that this TSM Agreement covers only the services described below, for the internal business operations of the Salem Area Mass Transit District.

III. Payment:

1. As set forth in the Invoicing and Payment Policy (Exhibit B to the Agreement), CUSTOMER agrees to pay TYLER \$6,682 for the services described below. This payment is due and payable upon execution of the TSM Agreement. Thereafter, payments for any renewal payable will be due annually in advance. Payment terms are net thirty (30) days from invoice date.
2. Additional Charges. Any systems management services and/or related materials performed or supplied by TYLER for CUSTOMER that are not in-scope, as defined herein, will be invoiced to CUSTOMER on a time and materials basis at TYLER’S then-current rates

IV. Covered System:

Servers that are required to run the Tyler application.



V. Scope of Services: TYLER will provide the following services for the benefit of CUSTOMER:

- a. TYLER SYSTEMS MANAGEMENT Service is available during TYLER's then-current business hours. TYLER'S current business hours are set forth at <http://www.tylertech.com/client-support>. CUSTOMER may contact a TSM technician using the contact information set forth at <http://www.tylertech.com/client-support>. Calls will be recorded and answered on a first in first out basis, except on reports that declare CUSTOMER'S system down, in which case CUSTOMER'S call will be moved to the head of the queue
- b. TSM services are restricted to the primary production server(s) that the Tyler Software subject to this TSM Agreement is installed on. In cases where a stand-by server is employed, the stand-by server is included within the scope of this TSM Agreement, as long as the stand-by server is only used in the event of the primary production server failing.
- c. Database: Database administration services are restricted to three TYLER databases: one live database, one training database, and one test database.
 - (1) In cases where additional databases exist, each additional database will be subject to additional fees, which TYLER will quote to CUSTOMER at TYLER'S then-current rates.
- d. Application Software: In-scope TSM services include two complete sets of the Tyler Software subject to this TSM Agreement: one live set and one test/train set.
- e. Required Foundation Software: TSM services include the support and installation of all foundation software TYLER requires CUSTOMER to procure to utilize one live, one train and one test database. Required foundation software is set forth at <https://check.tylertech.com/>. TYLER does not support, and this TSM Agreement does not include support services for, any Microsoft product that is not required foundation software. TYLER will reasonably cooperate with CUSTOMER in investigating issues within the Tyler Software that may be created by a Microsoft product, but it is CUSTOMER'S responsibility to pursue support on Microsoft products directly from Microsoft or its authorized partners.
- f. TYLER will also perform system administrative tasks on the installed operating system and database administrative tasks on the installed database engine software.
- g. TYLER will also provide a remote installation and configuration of a new or upgraded server, at CUSTOMER'S request, once every two (2) years.

VI. CUSTOMER Responsibilities:

- a. CUSTOMER shall provide, at no charge to TYLER, full and free access to the programs covered hereunder, including working space; adequate facilities within a reasonable distance from the equipment; and use of machines, attachments, features, or other equipment necessary to provide the specified support and maintenance service.
- b. CUSTOMER shall install and maintain for the duration of this TSM Agreement a stable high speed network connection available for remote connections. CUSTOMER shall pay for installation, maintenance and use of such equipment and associated communication line use charges. TYLER, at its option, shall use this remote interface in connection with error correction.



VII. General

- a. **Non-Assignability:** CUSTOMER shall not have the right to assign or transfer its rights hereunder to any party.
- b. **Excused Non-Performance:** TYLER shall not be responsible for delays in servicing the products covered by this TSM Agreement caused by strikes, lockouts, riots, epidemic, war, government regulations, fire, power failure, acts of God, or other causes beyond its control.
- c. **Limitation of Liability:** TYLER'S liability hereunder shall not exceed CUSTOMER'S actual, direct damages, not to exceed the TSM services fees paid for the year in which CUSTOMER'S claim accrues. CUSTOMER SHALL NOT, IN ANY EVENT, BE ENTITLED TO, AND TYLER SHALL NOT BE LIABLE FOR, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE, EVEN IF TYLER TECHNOLOGIES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, IRRESPECTIVE OF THE NATURE OF CUSTOMER'S CLAIM.
- d. **Governing Law:** This TSM Agreement shall be governed by, and construed in accordance with, the laws of CUSTOMER'S state of domicile. The invalidity or unenforceability of any provisions of this agreement shall not affect the validity or enforceability of any other provision.
- e. **Modification of this Contract:** No modifications or amendment of this TSM Agreement shall be effective unless set forth in writing and signed by both CUSTOMER and TYLER.
- f. **Suspension:** Support and services will be suspended whenever CUSTOMER's account is thirty (30) days overdue. Support and services will be reinstated when CUSTOMER's account is made current by paying all past due fees.
- g. **Reservation of Rights:** TYLER reserves all right, title and interest, including but not limited to intellectual property rights, in and to the Tyler Software, the TSM services, and any services or deliverables related thereto, except as expressly set forth in this TSM Agreement.

Exhibit F

State and Federal Contract Clauses

In connection with its performance under this Agreement, Tyler (the Contractor) agrees to comply with the following requirements.

1. COMPLIANCE WITH RULES AND REGULATIONS

Contractor will comply with all laws and regulations governing the use of federal, state and local funding received by SAMTD as a source of funds for payment to Contractor for providing services under this Agreement. Contractor shall indemnify and hold harmless SAMTD and all of its officers, officials, agents, and employees against any claim, demands, and causes of action of any kind or character, or any liability arising from or based upon the violation of any such law, ordinance, or regulations whether by Contractor or its employees.

In performing its obligations under this Agreement, the Contractor shall obtain and pay for any applicable licenses required by the State of Oregon, Secretary of State or other applicable licenses and permits required to conduct business as a commercial property leasing agent and per ORS 279 responsible Proposer.

Contractor represents warrants and agrees that it will at all times perform its obligations under this Agreement in compliance with all applicable federal regulations.

All contractual provisions required by FTA, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any SAMTD requests which would cause SAMTD to be in violation of the FTA terms and conditions.

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, creed, national origin, sex, age, or disability in the performance of this Agreement.

2. INSURANCE

SAMTD shall be named as additional insured on all required liability policies, with an endorsement providing for cross-liability coverage. SAMTD may require current copies of insurance endorsement. Procuring of such required insurance shall not be construed to limit Contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury or loss caused by Contractor's negligence or neglect connected with this Agreement.

Insurance policies required for this Agreement may not be cancelled without thirty (30) days advance notice to SAMTD. Policies must be replaced with comparable coverage prior to lapse of old policy.

3. FTA FUNDING

This procurement may be funded, in whole or in part, by grant funds provided by the Federal Transit Administration. This Agreement shall be governed by applicable federal laws and regulations relating to third-

party contracts. See Section 11 for certain FTA requirements. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any SAMTD requests which would cause the SAMTD to be in violation of the FTA terms and conditions.

In the event of any conflict between the provisions of this Agreement and state statutes, the state statutes shall control. In the event of any conflict between this Agreement and the FTA contract clauses, the FTA contract clauses shall control. Not every requirement of the foregoing state statutes or the FTA contract clauses will apply in each instance to the performance of Contractor under this particular contract. The nature of the obligations under this Agreement will determine which requirements of state law and FTA contract clauses will apply. Requirements that do not apply will not be enforced.

4. TERMINATION OF CONTRACT; REMEDIES

In the event that SAMTD elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, such waiver by SAMTD shall not limit SAMTD's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

Upon termination of this Agreement, Contractor shall account for any property in its possession paid for from funds received from SAMTD, or property supplied to the Contractor by SAMTD.

Termination for default shall not be SAMTD's exclusive remedy and SAMTD may pursue any additional remedies it may have for damages or injunctive relief on account of Contractor's breach of contract.

In the event this Agreement is terminated by mutual agreement, the Contractor shall be entitled to reasonable compensation in accordance with ORS 279C.660 determined on the basis of the contract price in the case of any fully completed separate item or portion of the work for which there is a separate or unit contract price and, with respect to any other work, determined as a percent of the contract price equal to the percentage of the work completed. In addition, the Contractor is entitled to a reasonable amount of compensation for preparatory work and for all costs and expenses arising out of termination. The foregoing does not apply to suspension of the work or termination of this Agreement that occurs as a result of the Contractor's violation of federal, state or local statutes, ordinances, rules or regulations in existence at the time this Agreement was executed or as a result of violations of the terms of this Agreement.

5. HOURS of WORK. In performing its obligations under this Agreement, Contractor agrees to comply with all applicable state laws, including, without limitation, ORS 279B.020, 279B.200 – 279B.240 and 279C.540, each of which is incorporated herein by reference. Contractor agrees: (1) that no person performing work under this Agreement may be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100, the employee shall be paid at least time and a half pay:

(a)(A) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

(B) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

(b) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

and (2) Contractor must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

6. OMITTED

7. OMITTED

8. NON-APPROPRIATION

If the governing body of SAMTD fails to specifically appropriate sufficient funds to make the payments due in any fiscal year and no such appropriation is legally made, SAMTD may terminate this Agreement at the end of the then-current fiscal year and all obligations of the parties under this Agreement arising thereafter shall terminate. Nothing in this Agreement shall be deemed in any way to obligate SAMTD beyond the current fiscal year.

9. RIGHT TO AUDIT

SAMTD or its designee shall be entitled to audit all relevant Contractor's and sub-consultants' records, and shall be allowed to interview any of the Contractor's and sub-consultants' employees, throughout the term of this Agreement and for a period of three years after final payment or longer if required by law, to the extent necessary to adequately permit evaluation and verification of:

a. Contractor's compliance with contract requirements,

b. Compliance with provisions for pricing change orders, invoices or claims submitted by the Contractor or any of its payees.

10. INDEPENDENT CONTRACTOR

At all times the Contractor, any of its employees, or its subconsultants and subcontractors, and their subsequent employees shall be considered independent contractors and not as SAMTD employees. The Contractor shall exercise all supervisory control and general control over all workers' duties, payment of wages to Contractor's employees and the right to hire, fire and discipline their employees and workers. As an independent contractor, payment under this Agreement shall not be subject to any withholding for tax, social security or other purposes, nor shall the Contractor or its employees be entitled to SAMTD-paid sick leave, pension benefit, vacation, medical benefits, life insurance or workers' unemployment compensation or the like.

11. FTA CONTRACT CLAUSES

(1) In connection with the performance by Contractor of work or services within the scope of this Agreement, Contractor agrees to comply with the following requirements, and to include these requirements in all subcontracts of every tier:

No Obligation by the Federal Government. - (1) SAMTD and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subconsultant who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subconsultant who will be subject to the provisions.

Incorporation of Federal Transit Administration (FTA) Terms - The provisions of this Addendum include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Fly America - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their consultants are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Energy Conservation - The consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned Contractor certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

Recovered Materials – The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to

those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

Civil Rights - The following requirements apply to the Contractor and its subconsultants at every tier:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

(2) In connection with the performance by Contractor of work or services within the scope of this Agreement, Contractor agrees to comply with the following requirements, and to include these requirements in all subcontracts exceeding \$100,000 in value of every tier. Suspension and Debarment apply to contracts equal to or in excess of \$25,000.

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Contract Work Hours and Safety Standards for Public Works, or contracts > \$100,000

(1) Overtime requirements - No consultant or subconsultant contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the consultant and any subconsultant responsible therefor shall be liable for the unpaid wages. In addition, such consultant and subconsultant shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages – The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the consultant or subconsultant under any such contract or any other Federal contract with the same prime consultant, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime consultant, such sums as may be determined to be necessary to satisfy any liabilities of such consultant or subconsultant for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts - The consultant or subconsultant shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subconsultants to include these clauses

in any lower tier subcontracts. The prime consultant shall be responsible for compliance by any subconsultant or lower tier subconsultant with the clauses set forth in paragraphs (1) through (4) of this section.

Suspension and Debarment - This contract is a covered transaction for purposes of 49 CFR Part 29 if it equals or exceeds \$25,000.00. As such, the consultant is required to verify that none of the consultant, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The consultant is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by Recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

(3) In connection with the performance by Contractor of work or services within the scope of this Agreement, Contractor agrees to comply with the following provisions, which need not be included in subcontracts:

Access to Records - The following access to records requirements apply to this Contract:

1. In accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the District, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. [reserved]

3. [reserved]

4. [reserved]

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the



event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the District, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

Disadvantaged Business Enterprise (DBE)

(1) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 1.5 %. A separate contract goal has not been established for this procurement.

(a.) The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as District deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The Contractor required to report its DBE participation obtained through race-neutral means throughout the period of performance.

(b.) The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from the District. In addition, the Contractor may not hold retainage from its subcontractors. The Contractor must promptly notify District, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of District

Rights and Remedies - The duties and obligations imposed by the Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the District or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

MEMO TO: BOARD OF DIRECTORS
FROM: JARED ISAKSEN, FINANCE MANAGER
THRU: ALLAN POLLOCK, GENERAL MANAGER
SUBJECT: FY 2017-2018 BUDGET CALENDAR

Issue

Shall the Board adopt the proposed Budget Calendar for the FY2017-18 budget preparation?

Background and Findings

Pursuant to Oregon Budget Law, the FY2017-18 budget must be adopted by the Board no later than June 30, 2017 in order for the District to continue to operate.

As required under Oregon Budget Law, the Board selects a budget committee to review and approve a proposed budget. Prior to the first Budget Committee meeting, a notice of the meeting must be published twice between 10 and 30 days before the meeting, separated by at least five days. The proposed calendar schedules these publications during the weeks of April 10 and April 17, 2017.

The budget committee work begins with an orientation meeting, proposed for Thursday May 4, 2017. At its first meeting after the orientation, the budget committee receives the proposed budget presented by the General Manager. During this and any subsequent meetings, the committee reviews and ultimately approves the budget. The Budget Committee schedule will be three Thursday evenings starting at 6:00 PM on May 11, May 18, and June 1 (if needed).

The Budget Committee will present the approved budget to the Board at the June 22, 2017 Board meeting; and the Board will hold a Budget Hearing. Prior to that meeting, the District is required to publish a summary of the budget, along with a notice of the budget hearing, between 5 and 30 days prior to the board meeting. This publication will occur the week of June 5, 2017.

This information was reviewed by the Board at the work session on October 10, 2016.

Recommendation

Staff recommends the Board adopt the FY2017-18 Budget Calendar as described in detail in Attachment A.

Proposed Motion

I move the Board adopt the FY2017-18 Budget Calendar as proposed in Attachment A.

Salem Area Mass Transit District

**BUDGET CALENDAR
 Fiscal Year 2017-2018**

Day	Date	Time	Responsible	Activity
Thursday	October 27, 2016	6:30 PM	Finance	Board adopts FY 2016-2017 Budget Calendar
Mon - Fri	Week of April 10, 2017		Finance	Publish First Notice of Budget Committee Meeting (10-30 Days)
Mon - Fri	Week of April 17, 2017		Finance	Publish Second Notice of Budget Committee Meeting (5-30 Days)
Friday	April 28, 2017		Executive Team	Executive Team approves draft for Budget Committee consideration
Thursday	May 4, 2017	6:00 PM	Finance	Budget Committee Orientation
Thursday	May 11, 2017	6:00 PM	Executive Team	First Budget Committee Meeting - Election of Officers & Budget Message
Thursday	May 18, 2017	6:00 PM	Finance	Second Budget Committee meeting - Deliberation & Approval
Thursday	June 1, 2017	6:00 PM	Finance	Third Budget Committee Meeting - Deliberation & Approval (if necessary)
Mon - Fri	Week of June 5, 2017		Finance	Publish Budget Summary and Notice of Budget Hearing (5-30 Days)
Thursday	June 22, 2017	6:30 PM	Budget Committee	Board holds Budget Hearing
Thursday	June 22, 2017	6:30 PM	Board	Board of Directors adopts 2017/2018 Budget, makes appropriation and levies taxes
Friday	July 14, 2017		Finance	Adopted budget and levy certification form due to County Assessors (July 15, 2017)

MEMO TO: BOARD OF DIRECTORS

FROM: ALLAN POLLOCK, GENERAL MANAGER

SUBJECT: BOARD MEMBER COMMITTEE REPORT

Issue

Shall the Board report on their committee participation and meetings attended?

Background and Findings

Board members are appointed to local, regional, or national committees. Board members also present testimony at public hearings on specific issues as the need arises. After these meetings, public hearings, or other activities attended by individual members on behalf of SAMTD, time is scheduled for an oral report or update. The following activities have designated board member representation:

<u>Board/Committee</u>	<u>Director(s)</u>
Special Transportation Fund Advisory Committee (STFAC)	Director Hammill Alternate: Director Thompson
Mid-Willamette Area Commission on Transportation (MWACT)	Director Kelley Alternate: Director Lincoln
Mid-Willamette Valley Council of Governments (MWVCOG)	Director Thompson Alternate: President Krebs
Salem-Keizer Area Transportation Study Policy Committee (SKATS)	President Krebs Alternate: Director Busch
Oregon Metropolitan Planning Organization Consortium (OMPOC)	President Krebs Alternate: Director Busch

Recommendation

Receive and File

Proposed Motion

None

Salem Area Mass Transit District
Board of Directors

~ **Strategic Planning Subcommittee** ~

Friday, August 26, 2016
10:00 a.m. – 11:30 a.m.

Cherriots Administration Office - Mill Creek Conference Room 5147
555 Court Street NE, Suite 5230, Salem, Oregon 97301

MINUTES

(This meeting was audio-recorded.)

PRESENT:

Board	President Bob Krebs; Directors Kathy Lincoln and John Hammill
Staff	Allan Pollock, General Manager; Linda Galeazzi, Executive Assistant
Guests	None

1. CALL TO ORDER 10:00 AM

The Strategic Planning Subcommittee meeting was called to order.

2. 2016-2017 Strategic Plan Update

Subcommittee members received a handout (Attachment A) detailing a potential process to refresh the Strategic Business Plan with a goal to have the updated plan in place for adoption by the Board in January 2017 prior to creating the fiscal year 2018 budget.

Director Hammill spoke about his vision for a very different Strategic Plan. He gave several examples from the current Strategic Plan that he felt did not take into account the people the Board was trying to reach – potential riders, actual riders and those that pay the bills. The Board has a policy of 25% coverage and 75% frequency. The performance reporting and tracking has not provided the kind of information the Board needs to know if the 25/75% is accomplishing what the Board had in mind; what the return for the investment is. For example, how many transfers are being made and are they on time.

Director Lincoln questioned if the Board's aim was for current riders, new riders or commuters.

President Krebs said they may need to find out what goes into the transportation planning.

Director Hammill asked whether they should look at an integrated regional system for those who buy tickets in Stayton to travel to the downtown area, to the hospital or to the campus. Service excellence is what the Board is striving for. One example is having transit centers at the end of routes; like the transit center at Glen Creek in West Salem to reduce congestion on the bridge.

Director Lincoln saw the transit centers as collecting points for riders coming in to Salem from the outer areas.

Director Hammill asked the question if there were plans in the design to add another route – a collector route - to the area where the South Salem Transit Center will be located. How long it will take to make sure the route(s) accommodate the needs of the people in the neighborhood by creating a route that they will use.

Director Lincoln asked about the marketing and collaborating with local government officials; building relationships with local groups. What would serve the entire city?

Mr. Pollock advised that this is a responsibility of elected officials to meet with elected officials.

Director Hammill spoke about the possibility that marketing lacks research. If there is a goal to get people to work, what are the demographics used. Is there research done through interviews with employers to find out what the potential demand is in designing routes and schedules prior to creating a route.

Mr. Pollock advised that there will be marketing and phone surveys conducted in the Fall.

Director Lincoln said the State's Employer Bus Pass Program was a good start. She asked how the Board puts all of this into a strategic vision.

President Krebs asked if the Board should schedule a planning retreat with the full Board.

Mr. Pollock advised that it does not have to be done fast to do it right. The committee can do what they feel is appropriate. How do you want to accomplish this task? What do you want it to look like?

President Krebs suggested that the committee begin with a general plan and build details into it.

Director Hammill volunteered to write up a list of detailed suggestions that could be used in the Strategic Plan.

Mr. Pollock advised that the committee will need to decide on a standing meeting date and time. They will need idea input from the full Board, and have management input; they will need the current strategic plan to help with their modifications.

The committee did some brainstorming of ideas to include in a strategic plan with the use of:

- Technology and fast moving buses
- Working with local officials
- Reporting that give the kind of information the Board can use to make informed decisions as was suggested above - is the service accomplishing what the Board had in mind; what is the return for the investment.
- What kind of service does the Board want it to be? Does the Board want service for the suburban home, the multi-family homes on the corridors, for commuters, express during peak hours; exclusive lanes for transit with signaling systems; more park & ride lots that are further out?

President Krebs said they can look at the *KISS* syndrome for their goals so that they are not too wordy.

Director Hammill said they need to be able to tell "our story" with more specifics and not be so vague.

Director Lincoln said funding streams are specific to each mode.

President Krebs noted that the City owns the streets so getting exclusive lanes would mean working with City officials for high capacity and exclusive lanes.

Mr. Pollock advised that staff and the Board will need help with the development of a new strategic plan from a consultant. Things are changing and they will want somebody to help steer them in a good direction.

Director Lincoln recommended that they include as many people in the community as possible. We want people to use the service and be proud of that they helped with the input into the service planning process.

Additional input considered was congestion, increasing density, traffic jams (the non-productive time for those on the clock); social media that is becoming more common; the CARTS redesigned system and marketing those changes; and electric buses.

Director Hammill suggested that they come up with some budget packages that the Budget Committee could look at. It is a good time to have technology included in the strategic plan.

Director Lincoln asked about the Salem River Crossing project, the SKATS policy, the TIP amendments and transit priorities. It has to be costed out with a funding source. Is there a list of priorities for the CMAQ funds? Mr. Pollock advised that staff was working on it.

Director Lincoln said she would be happy to contact the new city councilors to discuss support for transit.

President Krebs said they will not get advertising done in the next few months for the student bus pass program. They will need a policy for pass distribution. He and Director Kelley need to meet with the Salem/Keizer Foundation Board to discuss a policy.

Mr. Pollock advised that legal counsel is reworking the advertising policy. He noted that no plan has been presented by the SKSD Education Foundation (SKEF) Board. The transit board will need a plan to know how the passes will be distributed. There is no expense; there is revenue replacement. The free passes are meant to be for students who cannot purchase passes otherwise. The District will not need to do advertising for this program but the SKEF will need to address that. The question was asked – what is our Board trying to accomplish with this partnership; does the SKEF really want to head up this program. Is it possible the Boys & Girls Club wants to do it? The Board needs to discuss these issues amongst themselves.

NEXT STEPS -

- Director Hammill will put the ideas down on paper.
- Mr. Pollock will work on an RFQ for a consultant.
- The committee will need to set a standing date and time to meet.

3. SUBCOMMITTEE MEETING ADJOURNED

11:30 AM

Cherriots 2016-17 Strategic Plan Update

Goal:

- Present a new strategic plan for Board adoption at the January 2017 meeting

Purpose:

- To provide a strategic document that sets the course for the next 5, 10, and 20 years

Process Steps

Activity	Responsible Party	Task
Update background	Pollock	The intro of the plan lays a foundation of current situation and services we provide. Update narrative for today.
Review and update definitions of values	Board Sr. Management Team Employees	Create a common definition of the five district values so that when a value is discussed we have a common meaning
Define the future	Board Sr. Management Team Community Stakeholders	What should Cherriots look like in 2022, 2027, 2037. This is meant to be aspirational and support the vision statement. It depicts the ideal state.
Define strategic pillars	Board Sr. Management Team Employees	Create a common definition of the six strategic pillars so that when a value is discussed we have a common meaning
Define strategic pillars objectives	Board Sr. Management Team	The outcomes we want to achieve
Define strategic pillars action items	Sr. Management Team	How we achieve the outcomes

Strategic objectives will be for the period 7/1/17 – 6/30/19

Strategic Pillar

Objective

Action Items

Timeline:

Update background	October – November
Review and update definitions of values	October
Define the future	September – October
Define strategic pillars	October
Define strategic pillar objectives	November
Define strategic pillar action items	December

Present draft strategic plan to the Board at the December work session

Present final version to the Board for adoption at the January 2017 meeting

Salem Area Mass Transit District
Board of Directors

~ **Strategic Planning Subcommittee** ~

Friday, August 26, 2016
10:00 a.m. – 11:30 a.m.

Cherriots Administration Office - Mill Creek Conference Room 5147
555 Court Street NE, Suite 5230, Salem, Oregon 97301

MINUTES

(This meeting was audio-recorded.)

PRESENT:

Board	President Bob Krebs; Directors Kathy Lincoln and John Hammill
Staff	Allan Pollock, General Manager; Linda Galeazzi, Executive Assistant
Guests	None

1. CALL TO ORDER 10:00 AM

The Strategic Planning Subcommittee meeting was called to order.

2. 2016-2017 Strategic Plan Update

Subcommittee members received a handout (Attachment A) detailing a potential process to refresh the Strategic Business Plan with a goal to have the updated plan in place for adoption by the Board in January 2017 prior to creating the fiscal year 2018 budget.

Director Hammill spoke about his vision for a very different Strategic Plan. He gave several examples from the current Strategic Plan that he felt did not take into account the people the Board was trying to reach – potential riders, actual riders and those that pay the bills. The Board has a policy of 25% coverage and 75% frequency. The performance reporting and tracking has not provided the kind of information the Board needs to know if the 25/75% is accomplishing what the Board had in mind; what the return for the investment is. For example, how many transfers are being made and are they on time.

Director Lincoln questioned if the Board's aim was for current riders, new riders or commuters.

President Krebs said they may need to find out what goes into the transportation planning.

Director Hammill asked whether they should look at an integrated regional system for those who buy tickets in Stayton to travel to the downtown area, to the hospital or to the campus. Service excellence is what the Board is striving for. One example is having transit centers at the end of routes; like the transit center at Glen Creek in West Salem to reduce congestion on the bridge.

Director Lincoln saw the transit centers as collecting points for riders coming in to Salem from the outer areas.

Minutes of Strategic Planning Subcommittee
Salem Area Mass Transit District

August 26, 2016 –

Page 1

Director Hammill asked the question if there were plans in the design to add another route – a collector route - to the area where the South Salem Transit Center will be located. How long it will take to make sure the route(s) accommodate the needs of the people in the neighborhood by creating a route that they will use.

Director Lincoln asked about the marketing and collaborating with local government officials; building relationships with local groups. What would serve the entire city?

Mr. Pollock advised that this is a responsibility of elected officials to meet with elected officials.

Director Hammill spoke about the possibility that marketing lacks research. If there is a goal to get people to work, what are the demographics used. Is there research done through interviews with employers to find out what the potential demand is in designing routes and schedules prior to creating a route.

Mr. Pollock advised that there will be marketing and phone surveys conducted in the Fall.

Director Lincoln said the State's Employer Bus Pass Program was a good start. She asked how the Board puts all of this into a strategic vision.

President Krebs asked if the Board should schedule a planning retreat with the full Board.

Mr. Pollock advised that it does not have to be done fast to do it right. The committee can do what they feel is appropriate. How do you want to accomplish this task? What do you want it to look like?

President Krebs suggested that the committee begin with a general plan and build details into it.

Director Hammill volunteered to write up a list of detailed suggestions that could be used in the Strategic Plan.

Mr. Pollock advised that the committee will need to decide on a standing meeting date and time. They will need idea input from the full Board, and have management input; they will need the current strategic plan to help with their modifications.

The committee did some brainstorming of ideas to include in a strategic plan with the use of:

- Technology and fast moving buses
- Working with local officials
- Reporting that give the kind of information the Board can use to make informed decisions as was suggested above - is the service accomplishing what the Board had in mind; what is the return for the investment.
- What kind of service does the Board want it to be? Does the Board want service for the suburban home, the multi-family homes on the corridors, for commuters, express during peak hours; exclusive lanes for transit with signaling systems; more park & ride lots that are further out?

President Krebs said they can look at the *KISS* syndrome for their goals so that they are not too wordy.

Director Hammill said they need to be able to tell "our story" with more specifics and not be so vague.

Director Lincoln said funding streams are specific to each mode.

President Krebs noted that the City owns the streets so getting exclusive lanes would mean working with City officials for high capacity and exclusive lanes.

Mr. Pollock advised that staff and the Board will need help with the development of a new strategic plan from a consultant. Things are changing and they will want somebody to help steer them in a good direction.

Director Lincoln recommended that they include as many people in the community as possible. We want people to use the service and be proud of that they helped with the input into the service planning process.

Additional input considered was congestion, increasing density, traffic jams (the non-productive time for those on the clock); social media that is becoming more common; the CARTS redesigned system and marketing those changes; and electric buses.

Director Hammill suggested that they come up with some budget packages that the Budget Committee could look at. It is a good time to have technology included in the strategic plan.

Director Lincoln asked about the Salem River Crossing project, the SKATS policy, the TIP amendments and transit priorities. It has to be costed out with a funding source. Is there a list of priorities for the CMAQ funds? Mr. Pollock advised that staff was working on it.

Director Lincoln said she would be happy to contact the new city councilors to discuss support for transit.

President Krebs said they will not get advertising done in the next few months for the student bus pass program. They will need a policy for pass distribution. He and Director Kelley need to meet with the Salem/Keizer Foundation Board to discuss a policy.

Mr. Pollock advised that legal counsel is reworking the advertising policy. He noted that no plan has been presented by the SKSD Education Foundation (SKEF) Board. The transit board will need a plan to know how the passes will be distributed. There is no expense; there is revenue replacement. The free passes are meant to be for students who cannot purchase passes otherwise. The District will not need to do advertising for this program but the SKEF will need to address that. The question was asked – what is our Board trying to accomplish with this partnership; does the SKEF really want to head up this program. Is it possible the Boys & Girls Club wants to do it? The Board needs to discuss these issues amongst themselves.

NEXT STEPS -

- Director Hammill will put the ideas down on paper.
- Mr. Pollock will work on an RFQ for a consultant.
- The committee will need to set a standing date and time to meet.

3. SUBCOMMITTEE MEETING ADJOURNED

11:30 AM

Cherriots 2016-17 Strategic Plan Update

Goal:

- Present a new strategic plan for Board adoption at the January 2017 meeting

Purpose:

- To provide a strategic document that sets the course for the next 5, 10, and 20 years

Process Steps

Activity	Responsible Party	Task
Update background	Pollock	The intro of the plan lays a foundation of current situation and services we provide. Update narrative for today.
Review and update definitions of values	Board Sr. Management Team Employees	Create a common definition of the five district values so that when a value is discussed we have a common meaning
Define the future	Board Sr. Management Team Community Stakeholders	What should Cherriots look like in 2022, 2027, 2037. This is meant to be aspirational and support the vision statement. It depicts the ideal state.
Define strategic pillars	Board Sr. Management Team Employees	Create a common definition of the six strategic pillars so that when a value is discussed we have a common meaning
Define strategic pillars objectives	Board Sr. Management Team	The outcomes we want to achieve
Define strategic pillars action items	Sr. Management Team	How we achieve the outcomes

Strategic objectives will be for the period 7/1/17 – 6/30/19

Strategic Pillar

Objective

Action Items

Timeline:

Update background	October – November
Review and update definitions of values	October
Define the future	September – October
Define strategic pillars	October
Define strategic pillar objectives	November
Define strategic pillar action items	December

Present draft strategic plan to the Board at the December work session

Present final version to the Board for adoption at the January 2017 meeting