

AGENDA ITEM FOR ADMINISTRATIVE MEETING () Discussion only
(X) Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Fair Stage

<p>Background:</p> <p>The Fair Board has approved the transfer of the Les Schwab stage to the City of Hermiston. The county would retain the right to use the stage during the Fair. The City has plans to make improvements to the stage and has uses for the stage during periods outside of the Fair. The matter is before the Board to approve the transfer of the stage to the City of Hermiston</p>	<p>Requested Action:</p> <p>Approve transfer of the stage to the City of Hermiston and authorize the Chair to sign the agreement</p>
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ATTACHMENTS: Proposed agreement

*****For Internal Use Only*****

Checkoffs:

- () Dept. Heard (copy)
- () Human Resources (copy)
- () Fiscal
- (X) Legal (copy)
- () (Other - List:)

To be notified of Meeting:
Angie McNalley

Needed at Meeting:

Scheduled for meeting on: April 17, 2019

Action taken:

Follow-up:

**UMATILLA COUNTY
AND
THE CITY OF HERMISTON, OREGON**

This Transfer and Use Agreement is made by and between Umatilla County, hereinafter referred to as the "County", and the City of Hermiston, Oregon hereinafter referred to as the "City" to transfer ownership and user agreement for a mobile performing stage hereby referred to as the "Stage." The Stage is a portable stage, single-axle, 12'6" tall, 12'6" wide, 30'8" long (front) 20' (usable space back) , with a front 3' hitch, for a total length of 33'6". The Stage currently is not equipped with lights and is not licensed.

RECITALS

WHEREAS, the County owns Stage that is primarily used for the Umatilla County Fair, and

WHEREAS, the City has increasingly used the Stage for civic events and desires to improve the Stage; and

WHEREAS, the County desires to transfer the Stage to the City for improvements to be made to the Stage provided that the County retain use of the Stage annually for the Umatilla County Fair, and

WHEREAS, the City is willing accept the Stage, make improvements, provide necessary annual maintenance and store the Stage, and make the Stage available for the Umatilla County Fair as specified in this agreement; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the Parties agree as follows:

PURPOSE

It is the purpose of this agreement to transfer ownership of a mobile performing Stage owned by the County to the City, and to make the Stage available to the County annually for the Umatilla County Fair.

ARTICLE I.

TERM AND TERMINATION

1.1 Term. The term of this Agreement shall be perpetual until use of the Stage is relinquished by either party.

ARTICLE II.

STAGE OPERATION AND MAINTENANCE

2.01 Stage Uses. The City shall make available the Stage to the County for use at the Umatilla County Fair. Generally, this period shall be the third week of July through fair week in August annually. Other uses by the County will be considered on a case by case basis depending on the availability of the Stage. The City shall be responsible for transporting the Stage to and from the County.

2.02 Operating Costs. The City shall bare all operating and maintenance costs of the Stage

2.03 Repair and Replacement for Damage. If during the use of the Stage by the County the Stage is damaged, the County shall be fully responsible for the costs associated with repairing the Stage. It is the expectation that the Stage will be cared for by the County during all uses by the County and be free from damage and undue wear.

2.04 ~~User~~ Improvements. If the County desires to make improvements to the Stage for their use, they must obtain permission from the City in advance. City cannot make improvements that reduce the size of the performance area, and if any improvements are made to increase the footprint of the stage, to notify the County so that adequate area can be reserved for use during the Fair.

2.05 Sponsorship. During 2019, the signage of the stage sponsor, Les Schwab, shall remain on the stage. For Fair sponsorships after 2019, the sponsor signage will only include the time for which the County is in possession of the stage.

2.06 Sign Brackets. City will install on the stage permanent brackets to allow for the posting of the Umatilla County Fair dates in a highly visible position to remain on the stage at all times, and also to install brackets (forward and rear facing), to hang changing sponsor signage during the time the County is in possession of the stage. Each party will be responsible to hang and to remove its signage from the stage.

2.07 Hitch. The current size of the tow hitch is three inches. The tow hitch must remain a standard size to be maneuvered into position with a forklift ball attachment.

ARTICLE III.

ASSIGNABILITY AND EXCLUSIVITY

3.01 Assignment. This Agreement is a privilege for the benefit of the County and City only and may not be assigned in whole or in part to any other person or entity. Both Parties understand that this agreement is non-transferable.

ARTICLE IV.

INSURANCE

4.01 The County covenants and agrees that during the Term of this Agreement, the County will furnish to City, at the Board sole cost and expense, a certificate of insurance as proof that it has secured and paid for policies providing general liability insurance covering all risks related to the Board's activities on, and use and maintenance of the Property. The amounts of such insurance shall not be less than \$1,000,000.00 for personal injury or death, each occurrence.

ARTICLE V.

INDEMNIFICATION

5.01 BOTH THE COUNTY AND COUNTY SHALL, AT ITS SOLE COST AND EXPENSE, TO THE EXTENT ALLOWED AND LIMITED BY THE OREGON CONSTITUTION AND THE OREGON TORT CLAIMS ACT, INDEMNIFY AND HOLD HARMLESS THE OTHER PARTY AND ANY OFFICER, AGENT, EMPLOYEE, OR OFFICIAL OF CITY (HEREINAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST ANY AND ALL LIABILITY, OBLIGATIONS, DAMAGES, PENALTIES, CLAIMS, LIENS, COSTS, CHARGES, LOSSES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND CONSULTANTS), WHICH MAY BE IMPOSED UPON, INCURRED BY OR BE ASSERTED AGAINST THE INDEMNITEES BY REASON OF ANY ACT OR OMISSION OF THE BOARD, ITS PERSONNEL, EMPLOYEES, MEMBERS, PLAYERS, PARTICIPANTS, COACHES, AGENTS, CONTRACTORS OR SUBCONTRACTORS, RESULTING IN PERSONAL INJURY, BODILY INJURY, SICKNESS, DISEASE OR DEATH TO ANY PERSON OR DAMAGE TO, LOSS OF OR DESTRUCTION OF TANGIBLE OR INTANGIBLE PROPERTY, LIBEL, SLANDER, INVASION OF PRIVACY AND UNAUTHORIZED USE OF ANY TRADEMARK, TRADE NAME, COPYRIGHT, PATENT, SERVICE MARK OR ANY OTHER RIGHT OF ANY PERSON, FIRM OR CORPORATION, WHICH MAY ARISE OUT OF OR BE IN ANY WAY CONNECTED WITH THE BOARD'S ACTIVITIES ON, OR USE OR MAINTENANCE OF, THE PROPERTY OR THE BOARD'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, ORDINANCE OR REGULATION.

ARTICLE VI.

GENERAL PROVISIONS

6.01 Notices All notices required herein shall be sent to the respective Parties by certified mail, return receipt requested, at the following addresses:

To City: City of Hermiston
Attention: Director of Parks and Recreation
180 NE 2nd Street
Hermiston OR 97838

541-667-5009

To County: Umatilla County
Attention: Chair, Board of Commissioners
216 SE 4th Street
Pendleton OR 97801
541-278-6204

ARTICLE VII.

CONVEYANCE

The County transfers the Stage to the City and the City accepts transfer of the Stage under the terms and the conditions of this agreement.

EXECUTED this ____ day of _____, 2019.

CITY:

CITY OF HERMISTON, OREGON

By: _____
Byron D. Smith, City Manager

COUNTY:

UMATILLA COUNTY:

By: _____
William J. Elfering, Chair, Board of Commissioners

Attest:

City Clerk