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Clackamas County
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May 21, 2026

BCC Agenda Item: _____

Board of County Commissioners
Clackamas County

Authorization of Written Consent to legal representation by Cable Huston in condemnation litigation. No fiscal impact. No County General Funds are involved.

Previous Board Action/Review: Briefed in Executive Session 5/19/2026

Performance Clackamas: Public Trust in Good Government

Counsel Review: Yes

Procurement Review: N/A

Contact Person: Sarah Foreman

Contact Phone: 503-655-8363

EXECUTIVE SUMMARY: The Office of County Counsel requests the consent of this Board for Cable Huston to provide legal representation to Clackamas County in certain condemnation litigation. Cable Huston represents the Cities of Lake Oswego, Tualatin, and West Linn as defendants in an unrelated matter in which the County is also a defendant. Informed written consent is required because the County and the Cities may potentially become adverse in the unrelated matter.

RECOMMENDATION: The Office of County Counsel requests that this Board approve and authorize Chair Roberts to sign the attached conflict waiver letter, providing consent to Cable Huston to represent Clackamas County in the condemnation litigation.

Respectfully submitted,

s/Sarah Foreman

Sarah Foreman
Assistant County Counsel

For Filing Use Only



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May 20, 2026

VIA E-MAIL

Clackamas County
Sarah Foreman
Caleb Huegel
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Re: *Waiver of Potential Conflict*

Dear Counsel:

As you know, Cable Huston LLP (“Firm”) represents Clackamas County (“County”) with respect to certain condemnation litigation (“County Matters”). The City of Lake Oswego, City of Tualatin, and City of West Linn (collectively, “Cities”) seek to engage the Firm to jointly defend the Cities in an unrelated lawsuit captioned *Marks v. Metro et al.*, Case No. 3:26-cv-00745-YY, pending in the United States District Court for the District of Oregon (“Marks Lawsuit”), in which Clackamas County (“County”) is also a defendant.

The Firm has not identified a conflict between the Cities and the County in the Marks lawsuit, but it is possible that one could arise in the future. Accordingly, we ask that the County: (1) waive any potential future conflict and consent to the Firm’s representation of the Cities in the Marks Lawsuit, including if the Cities become adverse to the County in the Marks Lawsuit, without the need for any further notice or consent; and (2) agree that the Firm’s representation of the County in the County Matters will not prevent or disqualify the Firm from representing the Cities in the Marks Lawsuit, including if the Cities become adverse to the County in the Marks Lawsuit, as long as the following are true:

1. The representation of the Cities in the Marks Lawsuit does not involve any attorney-client work that the Firm has done for County; and
2. The representation of the Cities in the Marks Lawsuit would not place the Firm in a position to use the County’s confidences or secrets against the County.

Under the Oregon Rules of Professional Conduct, which apply to all Oregon attorneys, my Firm may not oppose a current client, even in an unrelated matter, without the informed consent of all affected clients after an explanation about the material risks of and reasonable alternatives to consenting. In deciding whether or not to consent, the County should consider how our representation of the Cities could or might affect the County. For example, clients that

are asked to waive or consent to conflicts typically should consider whether there is any material risk that “their” attorney will be less zealous or eager on their behalf due to the conflict. Similarly, clients should consider whether there is any material risk that their confidences or secrets will be used adversely to them due to the conflict. In the present case, I do not personally believe that there is a material risk of either type because of the unrelated nature of the contemplated work. Nevertheless, these are issues that the County should consider for itself. In fact, the Oregon Rules of Professional Conduct require that I recommend that the County seek independent counsel to assist it in deciding whether or not the consent requested in this letter should be given. The County does not have to do so if it does not wish to, however.

By signing below, the County acknowledges, understands, and agrees to the above potential waiver of conflict. We do not view this waiver and consent to permit any unauthorized disclosure or use of any of the County’s confidential or privileged information or documents, which the County has previously provided to the Firm or will provide to the Firm in the future.

Please review this matter carefully. If the County has any questions that it would like me to answer prior to reaching a decision on this issue, please let me know. If the County is willing to consent after such review as the County believes appropriate, please sign below in the space provided and return an original or scanned copy to me for my files.

Thank you.

Sincerely,



Nicole M. Swift

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On behalf of Clackamas County, I hereby acknowledge receipt of this letter and consent to the terms and conditions outlined above.

Signature: _____

Printed Name: _____

Title: _____

Dated: _____