RESOLUTION NO. 1411 CITY OF PRINEVILLE, OREGON

A RESOLUTION APPROVING AN INTERCHANGE SIGNAL MAINTENANCE AGREEMENT WITH THE STATE OF OREGON DEPARTMENT OF TRANSPORTATION

Whereas, the City of Prineville ("City") and the State of Oregon, acting by and through its Department of Transportation ("ODOT") have negotiated an Interchange Signal Maintenance Agreement tittle "Misc. Contracts and Agreements No. 33441 (the "Agreement") for the purposes of traffic signal maintenance and costs for traffic signals located within the City; and

Whereas, both City and ODOT own traffic signals within the City; and

Whereas, Pursuant to ORS 190.110, 366.572 and 366.576, the parties may enter into a cooperative agreement for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties; and

Whereas, Pursuant to ORS 810.210, ODOT is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current State standards and specifications; and

Whereas, ODOT and City have determined that it is both to their mutual benefit and to the general public's benefit if they jointly utilize ODOT and City maintenance resources; and

Whereas, City and ODOT have negotiated an agreement that defines the roles and responsibilities of the Parties regarding the traffic signals within the City; and

Whereas, City staff believes it is in the best interest of the City to approve and execute the Agreement.

Now, Therefore, the City of Prineville resolves that the Agreement attached hereto is hereby approved and that the Mayor is authorized to sign such Agreement on behalf of the City.

Approved by the City Council this <u>1349</u> day of August, 2019.

Stephen P. Uffelman, Mayor

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ATTEST:

Lisa Morgan, City Recorder

INTERCHANGE SIGNAL MAINTENANCE AGREEMENT City of Prineville

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT;" and the CITY OF PRINEVILLE, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties".

RECITALS

- 1. The traffic signals listed in Exhibit A, are part of the city street system under the jurisdiction and control of Agency
- 2. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
- 3. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current State standards and specifications.
- 4. State and Agency have determined that it is both to their mutual benefit and to the general public's benefit if they jointly utilize State and Agency maintenance resources.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

- 1. This Agreement shall supersede any existing traffic signal agreements between State and Agency if any there be.
- 2. Under such authority, State and Agency enter into this Agreement to identify the maintenance, timing adjustments, inspection, emergency repair, and electrical energy responsibilities for Signal Systems covered by this Agreement. "Signal Systems" means: signals; illumination connected to signals; detection and preemption devices, including video detection devices and illumination connected to them; flashers, interconnects, and all controls systems and required for the enumerated equipment. The Signal Systems covered by this Agreement are shown in the list marked Exhibit A, attached hereto and by this reference made a part of

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this Agreement. The scope of the work performed under this Agreement is limited to maintenance activities and does not include alteration, upgrade, or construction of sidewalks or curb ramps, or installation of pedestrian activated signals.

- 3. The total cost of the maintenance, timing adjustments and inspections shall not exceed \$5,000 per Agency owned Signal System, per calendar year. The estimated total cost amount for all signals during the term of this Agreement is \$25,000. Said cost is subject to review for inflation, and any changes shall be made by an amendment to this Agreement, signed by both Parties. All costs in excess of the estimate shall be the responsibility of Agency.
- 4. Maintenance costs do not include repairs performed on an emergency basis. The cost of emergency repairs will depend on the actual cost of the repairs and State shall invoice Agency for these repairs on Agency owned Signal Systems.
- 5. This Agreement shall become effective on the date that all required signatures are obtained and shall terminate on June 30, 2025 unless extended by a fully executed Amendment to this Agreement. Any pre-existing maintenance and electrical energy responsibilities shall survive termination of this Agreement.

AGENCY OBLIGATIONS

- Agency shall pay 100 percent of the electrical energy costs associated with Agency owned Signal Systems. Agency shall have the power company send bills directly to Agency.
- 2. Agency shall pay 50 percent of the electrical energy costs associated with State owned Signal Systems identified in Exhibit A.
- 3. Agency shall maintain the asphaltic concrete pavement surrounding the vehicle detector loops installed in the city streets in such a manner as to provide adequate protection for said detector loops.
- 4. Agency shall be responsible for locating all utilities in connection with the Signal Systems covered by this Agreement.
- 5. In cases where Agency modifies timing to add railroad or emergency vehicle preemption, bus priority, or other changes that affect vehicle or pedestrian clearances, or operation of the interstate ramps, such modifications shall be reported to State's Region Traffic Engineer. State shall retain the right of review of the traffic signal timing for signals on state highways and shall reserve the right to request adjustments when needed. All modifications shall follow guidelines set forth in the current Manual on Uniform Traffic Control Devices, and the current State Traffic Signal Policy and Guidelines.
- 6. In cases where an Agency construction project will impact the timing at Signal Systems covered by this Agreement, the Agency shall contact one of State's

contacts listed in this contract prior to the beginning of construction.

- 7. Agency shall include one or both of State's contacts listed in this contract in plan development on projects that include signal work or work that may impact the Signal Systems covered by this Agreement.
- 8. Agency grants State the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.
- Agency shall pay one-hundred (100) percent of the maintenance and timing adjustment costs associated with the Agency owned Signal Systems covered by this Agreement.
- 10. Agency shall pay one-hundred (100) percent of the emergency repair costs associated with the Agency owned Signal Systems covered by this Agreement.
- 11. Agency shall pay one-hundred (100) percent of the annual inspection costs associated with the Agency owned Signal Systems covered by this Agreement.
- 12. Agency shall cooperate with State to extract the signal programming from the Signal Systems covered by this Agreement.
- 13. Agency shall, upon receipt of invoice from State for maintenance, emergency repairs or annual inspection costs associated with Agency owned Signal Systems, reimburse State for one-hundred (100) percent of said costs and 50 percent of the electrical energy costs associated with State owned Signal Systems covered by this agreement. Agency shall remit payment within forty-five (45) days.
- 14. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS <u>656.017</u> and provide the required Workers' Compensation coverage unless such employers are exempt under ORS <u>656.126</u>. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its contractors complies with these requirements.
- 15. Agency acknowledges and agrees that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of Project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
- 16. Agency's Project Manager for this Project is Scott Smith, Maintenance/Street Lighting Manager, 541-883-5397, ssmith@cityofprineville.com, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

- 1. State shall submit billings to Agency for 50% of the percent of the electrical energy costs associated with State owned Signal Systems and work performed under this Agreement for the Signal Systems listed on Exhibit A.
- 2. State shall perform all necessary maintenance, signal timing adjustments, and emergency repairs of Signal Systems listed on Exhibit A.
- 3. State shall prioritize Agency requests for maintenance or repair based on resource availability and the State's Operational Notice MG-144.02 (Traffic Signal Maintenance Priority) attached hereto, marked Exhibit B, and by this reference made a part hereof.
- 4. State shall coordinate the operational inspections of each Signal System with Agency. State shall work cooperatively with Agency on the extraction of the signal programming from the Signal Systems as requested by Agency.
- 5. State shall retain the right to review, at its discretion, the Signal System timing and to make timing adjustments when needed.
- 6. State's primary contact for this Project is the Miranda Wells Traffic Operations Engineer, 4670, Bldg K, 63055 N highway 97, Bend, Oregon 97703, (541) 388-6309, Miranda.wells@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.
- 7. State's secondary contact for this Agreement is the David Hirsch Region Traffic Operations Engineer, 4670, Bldg K, 63055 N Highway 97, Bend, Oregon 97703, (541) 388-6472, david.hirsch@odot.state.or.us, or assigned designee upon individual's absence. State shall notify Agency in writing if any contact information changes during the term of this Agreement.

8. Americans with Disabilities Act Compliance:

a. The Parties agree that all work performed by either Party under this Agreement ("Work") shall comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA").

b. Scope of Work:

- The scope of the Work performed under this Agreement is limited to maintenance activities and shall not include alteration, upgrade, or construction of sidewalks or curb ramps, or installation of pedestrian activated signals.
- ii. If Work to be performed by either Party includes an alteration under

the ADA as set forth in ODOT Maintenance Operational Notices MG 144-03 or MG100-107 ("Alteration"), and thereby triggers additional modifications to the facility in order to comply with the ADA ("ADA Modifications"), and if the ADA Modifications cannot reasonably be included in the Work, then the Work falls outside the scope of this Agreement. The Parties may enter into a separate agreement for performance of such work and ADA Modifications. Whether specific Work may include an Alteration shall be determined by the Party responsible for performing the Work.

- c. For Work performed by ODOT under this Agreement, the Parties shall:
 - i. Utilize ODOT standards, including but not limited to ODOT Maintenance Operational Notices MG 100-107 ("MG 100-107"), MG144-03 ("MG144-03"), and MG Activities-2 ("MG Activities-2"), to ensure that the Work complies with the ADA, and,
 - Follow ODOT's processes for modification or upgrade of pedestrianactivated signals and performance of any ADA Modification, including but not limited to MG 144-03 and MG 100-107.
- d. Agency reaffirms its commitment to provide an accessible ADA-compliant transportation system and ensure that any feature or part of a feature that was addressed as part of the Work ("Feature"), including ADA Modifications, that falls under Agency's jurisdiction, is maintained in compliance with the ADA throughout the useful life of the Feature. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alterations during the useful life of the Feature complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
- e. Maintenance obligations in Subsection d above shall survive termination of this Agreement.

- f. ODOT Maintenance Operational Notices MG 100-107, MG144-03, MG Activities-2, and the OTTCH are incorporated herein by reference.
 - i. The OTTCH is available at http://www.oregon.gov/ODOT/Engineering/Pages/OTTCH.aspx
 Copies of MG 100-107, MG144-03, and MG Activities-2 are available for inspection at the ODOT District 11 Office located at District 11 Administration, 2557 Altamont Drive, Klamath Falls, OR 97603-5701 during regular business hours, or at the following locations online:
 - MG 100-107: https://www.oregon.gov/ODOT/Engineering/DOCS_ADA/MG100-107_w-diagram.pdf
 - MG 144-03: https://www.oregon.gov/ODOT/Engineering/DOCS_ADA/MG144-03.pdf
 - MG Activities-2: https://www.oregon.gov/ODOT/Engineering/Doc TechnicalGuidanc e/MG-Activities-2.pdf
 - ii. All references to MG 100-107, MG144-03, and MG Activities-2 in this Section refer to the version of the policy in place at the time the Services are performed.

GENERAL PROVISIONS

- 1. This Agreement may be terminated by mutual written consent of both Parties.
- State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Agreement.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for

performance of this Agreement.

- e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
- 3. Agency may terminate this Agreement effective upon delivery of written notice to State, or at such later date as may be established by Agency, under any of the following conditions:
 - a. If State fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If State fails to provide payment of its share of the cost of the Agreement.
 - c. If Agency fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or Agency is prohibited from paying for such work from the planned funding source.
- 4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
- 5. Both Parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Both Parties expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- 6. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party

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Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

- 7. With respect to a Third Party Claim for which the State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
- 8. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
- 9. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- 10. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- 11. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or

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representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification, or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

CITY OF PRINEVILLE, by and through its elected officials	STATE OF OREGON , by and through its Department of Transportation	
By Stephen P. Ufshine	By Region 4 Manager	
Date <u>Aug 13,201</u>	Date	
APPROVED AS TO LEGAL SUFFICIENCY	APPROVAL RECOMMENDED	
	ByState Traffic Engineer	
By NA	State Tranic Engineer	
Date	Date	
Agency Contact Scott Smith City of Prineville Maintenance/Street Lighting Manager Office: 541-883-5397 Fax: 541-851-2464 ssmith@cityofprineville.com	APPROVED AS TO LEGAL SUFFICIENCY By Rachel Bertoni via email Assistant Attorney General Date August 1, 2019	
	State Contact Miranda Wells - Traffic Operations Engineer, 63055 N Highway 97, Bldg k	

Bend, Oregon 97703

6309miranda.wells@odot.state.or.us

(541) 388-

EXHIBIT A

Agency owned Signal Systems in the table below are part of the city street system and under the jurisdiction and control of the Agency:

Agency owned Signal System(s):		
TSSU Number	Location	
10048	Main at 10th	

State owned signal systems listed in the table below are part of the State Highway System and under the jurisdiction and control of the State:

State owned Signal System(s	s):
TSSU Number	Location
10030	3 rd at Main Street
10031	3 rd at Deer Street
10032	3 rd at Elm Street
10099	3 rd at Harwood Street

EXHIBIT B



Highway Division Maintenance Leadership Team Operational Notice

Number	Supersedes	Effective Date	Cancellation Date
MG-144-02	New	March 1, 2015	Until further notice
Subject		issuing Body	
Traffic Signal Maintenance Priority		Lh h, h	ov
		State Maintenance & Operations Engineer	

PURPOSE:

Guidelines and considerations for use in prioritization of response to Traffic Signal maintenance requests.

BACKGROUND:

Documentation of expected Traffic Signal Maintenance priority to communicate expected requirements with our own staff, Local agency agreements and to outline expectations for expected response to Traffic Signal Maintenance calls. Traffic Signal Priority issues also come up as multiple calls for the limited staff arrive, possible on call support needed, and perspective for maintenance urgency.

PROCESS:

Call-Out Level A:

An emergency response effort with potential life safety issues, the maintenance crew arriving on-scene and repairing within a few hours as resources allow, including weekends and holiday.

Examples include.

- Damaged cabinet, poles or equipment in danger of falling
- Exposed wiring posing a perceived danger
- Twisted or conflicting primary signal indications facing the same approach
- Stuck signal indications
- Low hanging signals or electrical equipment
- Upraised Hand (don't walk) pedestrian signal indication burned out indications in an actuated environment.
- Detection failures for such movements as pedestrian, left-turn, and cross street signals
- Open controller cabinet or service pedestal.

Highway Division Notice MG144-02

EXHIBIT B – continued

- · Railroad or bridge pre-emption failure
- Signal off
- Power out (prior to responding first verify status and conditions with power company and advise local law enforcement.)
- Traffic signal in "conflict" red flashing operation (respond before next peak hour)
- School Speed limit beacons (before next normal school day operation)
- Rectangular Rapid Flash Pedestrian Beacon out of service.

Call out Level B:

Immediate response efforts, same work day or next workday response needs to be directed toward:

- Red or Yellow signal indication burned out
- · School warning beacons out of service
- Accessible Pedestrian signal tone failures
- · Emergency vehicle pre-emption failure (notification of emergency services or repair
- · Supplemental regulatory beacons out of service
- · Supplemental warning beacons out of service
- · Supplemental intersection beacons out of service
- Upraised Hand (don't walk) or walk pedestrian signal indication burned out in a nonactuated environment
- Ramp metering signals out of service
- · Lane control signals out of service

Call out Level C:

One work week, scheduled response efforts depending on severity:

- Burned out Green or Walking person (Walk) indications
- Damaged visors
- Broken lens
- · Flickering LED units
- · Missing visors or backplates
- · Transit priority out of service
- · Stuck pedestrian pushbutton
- · Trimming of trees to improve visibility of signals
- · Timing coordination failures
- Supplemental in-roadway lighting

Highway Division Notice MG144-02

EXHIBIT B – continued

Call out Level D:

Maintenance response efforts to accomplish during next scheduled maintenance visit

- · Calls for timing changes
- Annual inspections
- · Firmware updates

Regardless of the Maintenance call issues the following IMSA seven step process is critical to a safe operation and to avoid recurring or return maintenance calls; Step 8 was added to keep the TOC informed.

- Step 1: Observe intersection Operation
- Step 2: Identify the problem or problems
- Step 3: Determine the general areas that could create the observed symptoms
- Step 4: Isolate the cause
- Step 5: Test to determine which device is causing the problem
- Step 6: Correct the problem
- Step 7: Observe the signal operation to insure all problems have been corrected.
- Step 8: Call the TOC to give a Status update.

It is critical to remember that, no matter how many critical trouble calls are stacked up waiting for the technician to arrive, the complete checking and securing of the signal before the technician leaves the intersection is the top priority.

Other Considerations:

The timelines stated in the call out levels above are to be considered as general timelines.

There are many factors that may also impact the ability to perform repairs within the general timelines. These include: large scale emergencies, budget, staffing, material shortages, and availability of contractor resources, road and weather conditions or the need to respond to other highway priority safety issues.

When reviewing individual situations, maintenance managers should consider whether other interm measures are beneficial.

Highway Division Notice MG144-02