

**CITY OF LINCOLN CITY
CITY COUNCIL AGENDA**

MONDAY SEPTEMBER 23, 2024, 6:00 PM

6:00 PM - The Lincoln City Council will hold a Regular Meeting in the Council Chambers, 801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367.

Public comments can be submitted to publiccomment@lincolncity.org, by attending the City Council meeting, or by telephone.

Public comments submitted by email to publiccomment@lincolncity.org will be entered into the official record, distributed to the governing body, and summarized; however, due to personal privacy issues they are not generally published in the online Agenda packet.

****PUBLIC COMMENT VIA EMAIL WILL ONLY BE RECOGNIZED UPON RECEIPT OF AN EMAIL SENT TO:
publiccomment@lincolncity.org****

Citizens requesting to give public comment via telephone must email publiccomment@lincolncity.org no later than noon on the meeting day. The request must include the person's name, the subject the person wishes to address, and the phone number the person intends to use for the meeting. Instructions will be sent to the person requesting prior to the meeting. Persons who will give public comment via telephone will need to leave the microphone muted until the public comment portion of the meeting.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing-impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting. To request information in an alternate format or other assistance, please contact the City's ADA Coordinator, Kevin Mattias, at [541-996-1013](tel:541-996-1013) or kmattias@lincolncity.org. Visit the [ADA Accessibility | City of Lincoln City, OR](#) webpage to view how the City continues to remain in compliance with Title II of the Americans with Disabilities Act regarding City programs, services, processes, and facilities.

The Lincoln City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

Agenda materials for this meeting are available at www.lincolncity.org under "Government", then select "Public Meeting Agendas, Packets & Videos". To stream the meeting in HD, please visit www.lincolncity.org/government/streaming. This meeting will be televised live on Channel 4, and rebroadcast on Channel 4 multiple times a day.

If you wish to speak on an agenda or non-agenda item, please sign up on the sheet near the entrance door to the Council Chambers. You will be called to speak during the "Public Comment" section. Comments or testimony on agenda items listed under "public hearing/public comment" will be taken at that time.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Regular Meeting – September 9, 2024, 6:00 PM
2. Regular Meeting – Minutes of Work Session – September 16, 2024, 5:00 PM

E. COUNCIL DELIBERATIONS

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

Article I, Section 8, of the Oregon Constitution provides: No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right. Be advised: Comments by citizens under this Public Comments Section of the Agenda or under Public Hearings are solely the opinions and statements of the speakers and are not statements by the City of Lincoln City and do not represent the opinions of the City of Lincoln City, its officers and employees.

G. PRESENTATIONS

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

J. ORDINANCES

K. RESOLUTIONS

L. SPECIAL ORDER OF BUSINESS

1. Construction Contract Award for SE 3rd Street Sidewalk- Public Works is requesting to award the construction of the SE 3rd Street Sidewalk to K&E Excavating, Inc. The project will construct a sidewalk on the north side of SE 3rd Street from Hwy 101 to SE Neptune Ave. The project will add 11 parking spaces on the south side near the existing public parking lot and will include a water quality swale.

2. Head to Bay Trail Repair Award - Public Works is requesting a construction award to repair the damaged sections of the Head to Bay Trail on West Devils Lake Road. K&E Excavating Inc. was the only bid received. We believe we have determined the cause of these damages in the future but at this time the damaged sections need to be repaired.

3. Holmes Rd. Pump Station Sewer Main Replacement Award- Public Works is requesting a sewer mainline replacement construction project be awarded to K&E Excavating Inc. This pipeline is broken and allowing ground water to flow into the City's sewer system. This project will replace the existing line with a new line.

4. IGA For D River - Intergovernmental Agreement for the Improvement and Operation of D River Park between the State of Oregon, Oregon Parks and Recreation Department, and the City of Lincoln City, Oregon.

5. IGA for Oregon Cascades West Council of Governments for Grant Services - An Intergovernmental Agreement (IGA) with Oregon Cascades West Council of Governments for grant prospecting, writing and administration services.

M. CITY MANAGER/CITY ATTORNEY REPORTS

N. ACTIONS, IF ANY, BASED ON WORK SESSION, EXECUTIVE SESSION OR PUBLIC COMMENT

O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

Article I, Section 8, of the Oregon Constitution provides: No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right. Be advised: Comments by citizens under this Public Comments Section of the Agenda or under Public Hearings are solely the opinions and statements of the speakers and are not statements by the City of Lincoln City and do not represent the opinions of the City of Lincoln City, its officers and employees.

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Q. ADJOURNMENT

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF THE MEETING

September 9, 2024, 6:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets, and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE: _____

A. CALL TO ORDER

Mayor Wahlke called the meeting to order at 6:00 PM

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Marci Baker	City Councilor	Present	
Todd Barker	City Councilor	Present	
Judy Casper	Councilor Ward 3	Present	
Riley Hoagland	Councilor Ward 2	Present	
Rick Mark	Councilor Ward 3	Present	
Mitch Parsons	Councilor Ward 1	Present	
Susan Wahlke	Mayor	Present	

Staff Present: Daphnee Legarza, City Manager; David James Robinson, City Attorney; Chief Broderick, Lincoln City Police Department; Jeanne Sprague, Parks and Recreation Director; Stephanie Reid, Public Works Director; Debbie Bridges, Finance Director; Jamie Young, City Recorder; Shannon Macias, Deputy Recorder.

C. PLEDGE OF ALLEGIANCE

Mayor Wahlke led the Pledge of Allegiance.

D. CONSENT AGENDA

MOTION:	Consent Agenda
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT:	Passed

1. Regular Meeting – Minutes of Work Session – August 19, 2024, 5:00 PM
2. Regular Meeting – Minutes of Regular Meeting – August 26, 2024, 6:00 PM
3. OLCC Approval - On-Premise Liquor License - Anna Thai Basil

E. COUNCIL DELIBERATIONS

None

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

Penelope Kaczmarek spoke regarding the Lincoln County Water Systems Alliance.

G. PRESENTATIONS

None

H. PUBLIC HEARING / ORDINANCE

None

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Public Hearing: Resolution 2024-27 Supplemental Budget

Mayor Wahlke opened the public hearing at 6:14 pm. Debbie Bridges Finance Director reviewed the staff report for the supplemental budget. The Council and Staff discussed the information provided. Chief Broderick spoke about the capabilities of the drone that is requested. No citizens were present for comment. Mayor Wahlke closed the public hearing at 6:24 PM.

J. ORDINANCES

2. **Ordinance No.: First Reading** Ordinance No. 2024-09 An Ordinance Amending Ord. 2017-05 § 1 and Ord. 2013-03 § 1, amending the City of Lincoln City Municipal Code 2.06.025

MOTION:	Motion to Approve First Reading of Ordinance 2024-09 An Ordinance Amending the Definition of Quorum
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT:	Passed by Roll Call Vote

3.

MOTION: Motion to Approve Second Reading and Adoption of Ordinance 2024-09 An Ordinance Amending the Definition of Quorum
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Marci Baker, Councilor Ward 2
AYES: Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT: Passed by Roll Call Vote

4. **Ordinance No.: First Reading** ORDINANCE NO. 2024-14 AN ORDINANCE AMENDING ORDINANCES 2005-04 §1, 2013-15 §4, 5, AND 6, OF THE LINCOLN CITY MUNICIPAL CODE 2.05 TO INCREASE PUBLIC CONTRACTING PROCUREMENT THRESHOLDS TO MATCH STATE PROCUREMENT THRESHOLDS.

Mr. Robinson reviewed the staff report. The Council and Staff discussed the information provided.

MOTION: Motion to Approve First Reading of Ordinance 2024-14 An Ordinance to Increase Public Bidding Thresholds
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Todd Barker, Councilor Ward 1
AYES: Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT: Passed by Roll Call Vote

5.

MOTION: Motion to Approve Second Reading and Adoption of Ordinance 2024-14 An Ordinance to Increase Public Bidding Thresholds
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Todd Barker, Councilor Ward 1
AYES: Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT: Passed by Roll Call Vote

K. RESOLUTIONS

6. Resolution No. 2024-27 A Resolution of the City of Lincoln City, Adopting the Supplemental Budget for the Fiscal Year 2024-25, as Approved by the City Council, and Making Appropriations

MOTION: Motion to Approve Resolution 2024-27: Supplemental Budget
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Marci Baker, Councilor Ward 2
AYES: Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT: Passed via Voice Vote

L. SPECIAL ORDER OF BUSINESS

7. Water Treatment Plant Shop Building Contract Award

Ms. Reid Public Works Director reviewed the staff report. The Council and Staff discussed the information.

MOTION: Motion to Approve the Bid Award for the Water Treatment Plant Shop Building Project in the Amount of \$261,753.00 with a Construction Contingency of \$26,175.30 (10 Percent of Bid Amount) for a Total Award Amount of \$287,928.30

MOVER: Rick Mark, Councilor Ward 3

SECONDER: Todd Barker, Councilor Ward 1

AYES: Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke

RESULT: Passed by Roll Call Vote

8. SW Bard Road Closure Notice Sept.11th-13th

Ms. Reid Public Works Director reviewed the staff report. The Council and Staff discussed the information.

MOTION: Motion to Approve the SW Bard Road Closure Notice Sept.11th-13th

MOVER: Mitch Parsons, Councilor Ward 1

SECONDER: Judy Casper, Councilor Ward 3

AYES: Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke

RESULT: Passed via Voice Vote

M. CITY MANAGER/CITY ATTORNEY REPORTS

Ms. Legarza gave an update on current events. Ms. Legarza congratulated Kirsten Brodbeck-Kenney on her recent three-year term appointment on an advisory group to the Oregon Department of Education LGBTQ2SIA+ [Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Two Spirit, Intersex, Asexual, and others) Student Success Advisory Group: [LGBTQ2SIA+ Student Success Advisory Group Charter <https://www.oregon.gov/ode/students-and-family/equity/LGBTQ2SIAStudentEducation/Pages/LGBTQ2SIA--Advisory-Group-Charter.aspx>](https://www.oregon.gov/ode/students-and-family/equity/LGBTQ2SIAStudentEducation/Pages/LGBTQ2SIA--Advisory-Group-Charter.aspx) This advisory group is tasked to bring professional, community, and personal perspectives to the group regarding the well-being and challenges experienced by LGBTQ+ youth in our area.

Mr. Robinson spoke about LOC training and sign code regulations. The Council inquired about political signs and Mr. Robinson explained.

N. ACTIONS, IF ANY, BASED ON WORK SESSION, EXECUTIVE SESSION OR PUBLIC COMMENT

Mayor Wahlke spoke about the Lincoln County Water Systems Alliance and their ask for money in 2021 and the great plans that they have. Mayor Wahlke thanked them for coming and speaking before the Council.

O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

None

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Mark spoke about STR posting signs about the fireworks ban and made a motion. Councilor Mark asked about the PIO posting agenda information on the website. Councilor Mark asked about who the Lincoln County Water Systems Alliance is and gave information about the water supply with the County. Ms. Reid, Public Works Director, spoke about the Lincoln County Water Systems Alliance.

Councilor Barker asked about the 2nd Street flooding and asked for a status update. Ms. Reid the Public Works Director explained the process to the Council.

Councilor Hoagland spoke about the lighting on the ocean and the effects on marine animals. Council gave consensus to share the information provided by Councilor Hoagland to the Council.

Councilor Baker spoke about the Lincoln Alerts and where to sign up. The Council and Staff had a discussion regarding the information that was sent out via text. Chief Broderick said they already have a meeting scheduled to talk with the County about the process.

Councilor Casper spoke about the Regional Waste District and the current events. Councilor Casper spoke about the traffic and pedestrian issues on SW Coast near Canyon Way. Ms. Legarza gave an update.

9.

MOTION:	Motion to Direct Staff to Bring Back Language Requiring STR Rentals Post Signs Regarding Fireworks Ban
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Todd Barker, Councilor Ward 1
AYES:	Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT:	Passed by Voice Vote

10.

MOTION:	Motion to Direct Staff to Schedule an Executive Session on 9/30 for Staff Interview for the City Manager Review
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Todd Barker, Councilor Ward 1
AYES:	Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT:	Passed by Voice Vote

11.

MOTION:	Motion to Direct Staff When Possible to Schedule Ribbon Cutting and Ground Breakings in the Evenings
MOVER:	Mitch Parsons, Councilor Ward 1
SECONDER:	Marci Baker, Councilor Ward 2
AYES:	Baker, Barker, Casper, Hoagland, Mark, Parsons, Wahlke
RESULT:	Passed by Voice Vote

Q. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 7:27 PM.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF THE WORK SESSION MEETING

September 16, 2024, 5:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets, and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE: _____

1. **CALL TO ORDER**

Mayor Wahlke called the meeting to order at 5:00 PM. Mayor Wahlke said that she would have to leave at 5:30 PM. Council President Casper continued the meeting.

Attendee Name	Title	Status	Arrived
Marci Baker	City Councilor	Present	
Todd Barker	City Councilor	Present	
Judy Casper	Councilor Ward 3	Present	
Riley Hoagland	Councilor Ward 2	Absent	
Rick Mark	Councilor Ward 3	Present	
Mitch Parsons	Councilor Ward 1	Present	
Susan Wahlke	Mayor	Present	

Staff Present: Daphnee Legarza, City Manager; David James Robinson, City Attorney; Abigail Edwards, Human Resources Director; Jamie Young, City Recorder

2. **DISCUSSION ITEMS**

A. 2025-2026 League of Oregon Cities - Legislative Priorities

Mr. Robinson, City Attorney started the discussion about legislative priorities. Mr. Robinson gave the Council the Priorities Ballot from the LOC (League of Oregon Cities) Mr. Robinson said that the priorities are due by 5:00 PM on September 27th to the LOC. The Council and Staff discussed the information provided.

B. Project and City Initiative Updates for June 2023 – June 2024

Ms. Legarza spoke to the Council about the City Initiative and Projects. Ms. Legarza provided a handout. The Council and Staff had a discussion of the initiatives and project including the strategic priorities.

Mayor Wahlke left the meeting at 5:31 PM.

C. Miscellaneous

Councilor Mark asked about helping North Lincoln Fire & Rescue with a grant for a boat. Councilor Mark spoke about the incident with the shoot and getting information to the public with a radio system. Ms. Legarza said that the Police Chief just met with the County about Lincoln Alerts. The Council and Staff discussed emergency alert methods.

Councilor Barker spoke about a Citizen making contact about the Planning Commission Hearing and a question regarding the Agenda. Councilor Barker was wondering how to approach getting the information. The Council and Staff had a discussion.

Ms. Legarza said that the Council needs to select a voting delegate needs selected before October 4th.

3. ADJOURNMENT

Council President Casper adjourned the meeting at 6:28 PM.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

Construction Contract Award for SE 3rd Street Sidewalk

Meeting Date:	September 23, 2024	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	10 minutes

Question:

Should the City Council award the construction contract to K&E Excavating Inc. for the SE 3rd Street Sidewalk (Hwy 101 to SE Neptune) project?

Staff Recommendation:

Staff recommends that City Council approve the construction contract to K&E Excavating Inc.

Authority:

LCMC 2.05.060 (Procurement of goods and services shall be awarded as provided in the Public Contracting Code, ORS Chapter [279B](#), the Model Rules). This project follows the rule for bids awarded by competitive bid.

Background:

The City Council approved a budget for construction of the SE 3rd Street Sidewalk in July 2022. Staff has hired consultants to perform survey and CAD work for the project and staff has designed the project.

This project constructs sidewalk on the north side of SE 3rd St. from just east of HWY 101 to SE Neptune Ave. Project will add 11 parking spaces on the south side SE 3rd St. by the public parking lot and will include a water quality swale.

Bids Results:

Public Works Department advertised the project for bid on July 29 & 31, 2024 and opened bids on August 22, 2024. Five responsible and responsive bids were received.

Bidder	Bid Amount
K&E Excavating	\$1,294,854.20
Pacific Excavating	\$1,414,230.00
Dan Kauffman Excavating	\$1,432,853.00
D&D Concrete & Utilities	\$1,522,057.00
Brown Contracting Inc	\$2,285,508.00

The lowest responsive and responsible bidder was K&E Excavating in the amount of \$1,294,854.20.

Financial Impact:

The project budget for FY 24-25 is \$1,500,000. The following table shows the full costs incurred in FY 2022-23 and FY 2023-24 and the estimated cost to construct and complete the project in FY 2024-25. The construction has a completion date of Sept 1, 2025.

Item	Cost incurred too date	Cost to Complete
Surveying	\$28,705.00	
CAD Work	\$90,000.00	
Bid Advertise	\$417.62	
Bureau of Labor and Industries		\$ 1,294.85
Construction Bid		\$ 1,294,854.20
Art (1/2 of one percent of the construction bid)		\$ 6,474.27
Construction Contingency		\$129,485.42
Total	\$119,122.62	\$1,315,571.86

Recommendation:

Staff recommends the construction contract be awarded to K&E Excavating. in the amount of \$1,294,854.20 with a construction contingency of \$129,485.42 (10 percent of bid amount) for a total award amount of \$1,424,339.62.

Motions:

Move to approve the bid award for the SE 3rd Street Sidewalk Project (from Highway 101 to SE Neptune) in the amount of \$1,294,854.20 with a construction contingency of \$129,485.42 (10 percent of bid amount) for a total award amount of \$1,424,339.62

Attachments:

Bid Tab

Attachments:

Bid Tab (PDF)

SE 3rd - HWY 101 to SE Netune				Engineer's Estimate		K&E Excavating		Pacific Excavation		Dan Kauffman Excavation		D&D Concrete and Utilities		Brown Contracting Inc	
	ITEMS	QUANTITY	UNIT	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
GENERAL BID ITEMS															
00210	Mobilization	1	LS	\$100,000.00	\$100,000.00	\$125,000.00	\$125,000.00	\$145,000.00	\$145,000.00	\$11,250.00	\$11,250.00	\$152,000.00	\$152,000.00	\$220,000.00	\$220,000.00
00225	Temporary Work Zone Traffic Control, Complete	1	LS	\$75,000.00	\$75,000.00	\$115,000.00	\$115,000.00	\$118,435.70	\$118,435.70	\$37,415.80	\$37,415.80	\$110,000.00	\$110,000.00	\$275,000.00	\$275,000.00
00280	Inlet Protection	11	EA	\$150.00	\$1,650.00	\$80.00	\$880.00	\$60.00	\$660.00	\$175.00	\$1,925.00	\$100.00	\$1,100.00	\$150.00	\$1,650.00
00280	Sediment Fence/straw Wattles	1854	FT	\$8.00	\$14,832.00	\$4.00	\$7,416.00	\$3.00	\$5,562.00	\$6.50	\$12,051.00	\$5.00	\$9,270.00	\$11.00	\$20,394.00
00320	Clear & Grubbing	1	LS	\$100,000.00	\$100,000.00	\$38,000.00	\$38,000.00	\$15,000.00	\$15,000.00	\$30,000.00	\$30,000.00	\$44,000.00	\$44,000.00	\$30,000.00	\$30,000.00
00310	Demolition	1	LS	\$50,000.00	\$50,000.00	\$17,000.00	\$17,000.00	\$15,000.00	\$15,000.00	\$15,620.00	\$15,620.00	\$80,000.00	\$80,000.00	\$35,000.00	\$35,000.00
00330	General Excavation & Grading	1	LS	\$50,000.00	\$50,000.00	\$60,000.00	\$60,000.00	\$50,000.00	\$50,000.00	\$103,900.00	\$103,900.00	\$130,000.00	\$130,000.00	\$155,000.00	\$155,000.00
00390	Storm Outfall with riprap, Class 50	9	CY	\$250.00	\$2,250.00	\$170.00	\$1,530.00	\$85.00	\$765.00	\$179.00	\$1,611.00	\$300.00	\$2,700.00	\$200.00	\$1,800.00
00445	Storm Sewer Pipe, 12 PVC, 3034, Class B Backfill	507	FT	\$125.00	\$63,375.00	\$95.00	\$48,165.00	\$100.00	\$50,700.00	\$119.00	\$60,333.00	\$260.00	\$131,820.00	\$181.00	\$91,767.00
00445	Storm Sewer Pipe, 12 PVC, C-900, Class B Backfill	47	ft	\$175.00	\$8,225.00	\$140.00	\$6,580.00	\$190.00	\$8,930.00	\$164.00	\$7,708.00	\$280.00	\$13,160.00	\$250.00	\$11,750.00
00445	Connect New 12" Storm to Existing Catch Basin	1	EA	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00	\$1,790.00	\$1,790.00	\$1,000.00	\$1,000.00	\$1,200.00	\$1,200.00
00470	Catch Basin, CG-3	5	EA	\$5,000.00	\$25,000.00	\$3,200.00	\$16,000.00	\$2,100.00	\$10,500.00	\$5,755.00	\$28,775.00	\$3,500.00	\$17,500.00	\$4,800.00	\$24,000.00
00470	Catch Basin, G-1	1	EA	\$4,000.00	\$4,000.00	\$3,500.00	\$3,500.00	\$2,400.00	\$2,400.00	\$5,640.00	\$5,640.00	\$3,500.00	\$3,500.00	\$4,500.00	\$4,500.00
00470	Catch Basin, G-2	1	EA	\$4,000.00	\$4,000.00	\$3,600.00	\$3,600.00	\$2,600.00	\$2,600.00	\$6,790.00	\$6,790.00	\$3,500.00	\$3,500.00	\$4,500.00	\$4,500.00
00470	Replace Existing Catch Basin with new G-1 Catch Basin	2	EA	\$3,000.00	\$6,000.00	\$5,000.00	\$10,000.00	\$2,100.00	\$4,200.00	\$7,480.00	\$14,960.00	\$4,000.00	\$8,000.00	\$5,000.00	\$10,000.00
00470	Replace Existing Catch Basin with new CG-3 Catch Basin	1	EA	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$2,000.00	\$2,000.00	\$7,230.00	\$7,230.00	\$1,500.00	\$1,500.00	\$5,500.00	\$5,500.00
00470	Construct Catch Basin(G-2) over Existing 12" HDPE Pipe	1	EA	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$2,600.00	\$2,600.00	\$9,010.00	\$9,010.00	\$4,500.00	\$4,500.00	\$9,000.00	\$9,000.00
00470	Connect 12-Inch Storm to Existing 36" Storm	1	LS	\$2,000.00	\$2,000.00	\$3,300.00	\$3,300.00	\$1,700.00	\$1,700.00	\$2,230.00	\$2,230.00	\$2,000.00	\$2,000.00	\$4,000.00	\$4,000.00
00490	Minor MH Adjustment	11	EA	\$1,500.00	\$16,500.00	\$1,500.00	\$16,500.00	\$1,300.00	\$14,300.00	\$1,770.00	\$19,470.00	\$900.00	\$9,900.00	\$701.00	\$7,711.00
00490	Adjust Valve	12	EA	\$500.00	\$6,000.00	\$150.00	\$1,800.00	\$200.00	\$2,400.00	\$955.00	\$11,460.00	\$400.00	\$4,800.00	\$600.00	\$7,200.00
00620	Cold Plane Removal	3941	SF	\$5.00	\$19,705.00	\$2.60	\$10,246.60	\$7.00	\$27,587.00	\$3.75	\$14,778.75	\$3.00	\$11,823.00	\$8.00	\$31,528.00
00641	Aggregate Base Rock 3/4"-0	409	CY	\$120.00	\$49,080.00	\$130.00	\$53,170.00	\$120.00	\$49,080.00	\$200.00	\$81,800.00	\$80.00	\$32,720.00	\$235.00	\$96,115.00
00641	Rock Shoulder	62	CY	\$150.00	\$9,300.00	\$80.00	\$4,960.00	\$220.00	\$13,640.00	\$245.00	\$15,190.00	\$80.00	\$4,960.00	\$233.00	\$14,446.00
00759	Standard Concrete Curb, 6" Reveal	2207	FT	\$60.00	\$132,420.00	\$45.00	\$99,315.00	\$50.00	\$110,350.00	\$25.80	\$56,940.60	\$30.00	\$66,210.00	\$51.00	\$112,557.00
	Standard Concrete Curb & Gutter	21	FT	\$80.00	\$1,680.00	\$140.00	\$2,940.00	\$160.00	\$3,360.00	\$58.00	\$1,218.00	\$45.00	\$945.00	\$122.00	\$2,562.00
00759	Back of Sidewalk Curb with Thicken Edge	497	FT	\$120.00	\$59,640.00	\$180.00	\$89,460.00	\$63.00	\$31,311.00	\$269.00	\$133,693.00	\$110.00	\$54,670.00	\$285.00	\$141,645.00
00759	Back of Sidewalk Curb, Cut Wall	142	FT	\$250.00	\$35,500.00	\$460.00	\$65,320.00	\$215.00	\$30,530.00	\$744.00	\$105,648.00	\$400.00	\$56,800.00	\$785.00	\$111,470.00

00759	Back of Sidewalk Curb with Thicken Edge - Fill	159	FT	\$120.00	\$19,080.00	\$180.00	\$28,620.00	\$215.00	\$34,185.00	\$608.00	\$96,672.00	\$400.00	\$63,600.00	\$1,000.00	\$159,000.00
00759	Concrete Sidewalk & Ramps, 4" Thick	9264	SF	\$12.00	\$111,168.00	\$11.00	\$101,904.00	\$24.00	\$222,336.00	\$14.50	\$134,328.00	\$12.00	\$111,168.00	\$15.00	\$138,960.00
00759	Concrete Sidewalk, Driveway - 6" Thick	1430	SF	\$15.00	\$21,450.00	\$29.00	\$41,470.00	\$28.00	\$40,040.00	\$18.00	\$25,740.00	\$16.00	\$22,880.00	\$23.00	\$32,890.00
00759	Truncated Dome	13	EA	\$500.00	\$6,500.00	\$850.00	\$11,050.00	\$900.00	\$11,700.00	\$905.00	\$11,765.00	\$1,000.00	\$13,000.00	\$1,200.00	\$15,600.00
00744	Level 2, 1/2" Dense ACP, 4" depth	114	Ton	\$240.00	\$27,360.00	\$160.00	\$18,240.00	\$250.00	\$28,500.00	\$192.00	\$21,888.00	\$180.00	\$20,520.00	\$331.00	\$37,734.00
00744	Overlay Min 2" - Level 2, 1/2" Dense ACP	535	Ton	\$240.00	\$128,400.00	\$160.00	\$85,600.00	\$180.00	\$96,300.00	\$234.00	\$125,190.00	\$180.00	\$96,300.00	\$200.00	\$107,000.00
00744	Cold Plane Removal & Asphalt Transition	568	SF	\$10.00	\$5,680.00	\$8.00	\$4,544.00	\$38.00	\$21,584.00	\$14.00	\$7,952.00	\$6.00	\$3,408.00	\$10.00	\$5,680.00
02323	Paving Geotextile	2104	SF	\$10.00	\$21,040.00	\$1.50	\$3,156.00	\$0.50	\$1,052.00	\$0.90	\$1,893.60	\$4.00	\$8,416.00	\$1.00	\$2,104.00
00744	Asphalt Transition Driveway	1334	SF	\$10.00	\$13,340.00	\$2.00	\$2,668.00	\$2.00	\$2,668.00	\$4.70	\$6,269.80	\$8.00	\$10,672.00	\$15.00	\$20,010.00
00744	New 2" Asphalt Driveway	745	SF	\$20.00	\$14,900.00	\$6.00	\$4,470.00	\$2.00	\$1,490.00	\$5.60	\$4,172.00	\$8.00	\$5,960.00	\$12.00	\$8,940.00
00744	Level 2, 1/2" Dense ACP, 4" depth - Parking & Path	106	Ton	\$210.00	\$22,260.00	\$160.00	\$16,960.00	\$258.00	\$27,348.00	\$192.00	\$20,352.00	\$180.00	\$19,080.00	\$310.00	\$32,860.00
00744	New 4" Asphalt Road with Base	428	SF	\$20.00	\$8,560.00	\$11.00	\$4,708.00	\$26.00	\$11,128.00	\$9.30	\$3,980.40	\$8.00	\$3,424.00	\$73.00	\$31,244.00
00744	New 4" Asphalt Road no additional base	592	SF	\$20.00	\$11,840.00	\$5.00	\$2,960.00	\$7.00	\$4,144.00	\$7.50	\$4,440.00	\$8.00	\$4,736.00	\$33.00	\$19,536.00
00744	2" Asphalt Sidewalk	104	SF	\$20.00	\$2,080.00	\$9.00	\$936.00	\$28.00	\$2,912.00	\$7.50	\$780.00	\$8.00	\$832.00	\$40.00	\$4,160.00
01160	Remove Existing Fire Hydrant, Install MJ Plug	2	EA	\$1,000.00	\$2,000.00	\$1,500.00	\$3,000.00	\$370.00	\$740.00	\$3,320.00	\$6,640.00	\$1,500.00	\$3,000.00	\$4,000.00	\$8,000.00
01160	Install new Fire Hydrant, 6" PVC C 900, Kennedy Hydrant, valve & Misc @ 0+93	1	LS	\$10,000.00	\$10,000.00	\$13,000.00	\$13,000.00	\$8,000.00	\$8,000.00	\$17,860.00	\$17,860.00	\$10,000.00	\$10,000.00	\$15,000.00	\$15,000.00
01160	Install new Fire Hydrant, 6" PVC C 900, Kennedy Hydrant, valve & Misc @ 4+55	1	LS	\$10,000.00	\$10,000.00	\$13,000.00	\$13,000.00	\$8,000.00	\$8,000.00	\$17,380.00	\$17,380.00	\$10,000.00	\$10,000.00	\$20,000.00	\$20,000.00
01170	Replace Existing Water Meter in Sidewalk	4	EA	\$750.00	\$3,000.00	\$1,200.00	\$4,800.00	\$2,500.00	\$10,000.00	\$580.00	\$2,320.00	\$2,000.00	\$8,000.00	\$4,800.00	\$19,200.00
00860	Longitudinal Paint Stripe, Double Yellow 4" Centerline Stripe, QPL00860	473	FT	\$3.00	\$1,419.00	\$2.60	\$1,229.80	\$2.50	\$1,182.50	\$2.90	\$1,371.70	\$2.00	\$946.00	\$6.00	\$2,838.00
00860	Longitudinal Paint Stripe, Single Yellow 4" Centerline Stripe - QPL00860	662	FT	\$2.00	\$1,324.00	\$1.70	\$1,125.40	\$1.70	\$1,125.40	\$1.90	\$1,257.80	\$2.00	\$1,324.00	\$3.00	\$1,986.00
00860	Longitudinal Paint Stripe (12" White) QPL00860	473	FT	\$2.00	\$946.00	\$2.80	\$1,324.40	\$2.80	\$1,324.40	\$3.15	\$1,489.95	\$6.00	\$2,838.00	\$3.00	\$1,419.00
00860	Longitudinal Paint Stripe- Single White 4" Parking	112	FT	\$4.00	\$448.00	\$6.20	\$694.40	\$6.00	\$672.00	\$7.00	\$784.00	\$12.00	\$1,344.00	\$8.00	\$896.00
00865	Thermplastic, Extruded, Stop Bar	7	EA	\$1,000.00	\$7,000.00	\$280.00	\$1,960.00	\$275.00	\$1,925.00	\$315.00	\$2,205.00	\$500.00	\$3,500.00	\$300.00	\$2,100.00
00905	Relocate Sign	15	EA	\$250.00	\$3,750.00	\$1,350.00	\$20,250.00	\$1,400.00	\$21,000.00	\$590.00	\$8,850.00	\$300.00	\$4,500.00	\$1,000.00	\$15,000.00
	Install One-Way Sign	2	EA	\$250.00	\$500.00	\$1,210.00	\$2,420.00	\$1,200.00	\$2,400.00	\$935.00	\$1,870.00	\$1,000.00	\$2,000.00	\$1,500.00	\$3,000.00

01070	Move Mailbox	1	EA	\$500.00	\$500.00	\$450.00	\$450.00	\$850.00	\$850.00	\$810.00	\$810.00	\$500.00	\$500.00	\$2,000.00	\$2,000.00
01070	Move Mailboxes & Install support for 3 Mailboxes	1	LS	\$1,000.00	\$1,000.00	\$900.00	\$900.00	\$2,800.00	\$2,800.00	\$2,000.00	\$2,000.00	\$1,000.00	\$1,000.00	\$2,000.00	\$2,000.00
00867	Pavement Legend, Type AB - Arrow	6	EA	\$250.00	\$1,500.00	\$395.00	\$2,370.00	\$400.00	\$2,400.00	\$445.00	\$2,670.00	\$400.00	\$2,400.00	\$350.00	\$2,100.00
00867	Pavement Legend, Type AB - Bicycle Stencil	2	EA	\$150.00	\$300.00	\$375.00	\$750.00	\$380.00	\$760.00	\$420.00	\$840.00	\$500.00	\$1,000.00	\$350.00	\$700.00
	Crosswalk	199	FT	\$20.00	\$3,980.00	\$25.00	\$4,975.00	\$25.00	\$4,975.00	\$29.00	\$5,771.00	\$20.00	\$3,980.00	\$30.00	\$5,970.00
	Install Metal Hardrail Fence with 2 Rails & Toe Rail	40	FT	\$75.00	\$3,000.00	\$235.00	\$9,400.00	\$190.00	\$7,600.00	\$109.00	\$4,360.00	\$240.00	\$9,600.00	\$295.00	\$11,800.00
	Install No Crosswalk Sign	5	EA	\$250.00	\$1,250.00	\$1,320.00	\$6,600.00	\$1,300.00	\$6,500.00	\$1,000.00	\$5,000.00	\$600.00	\$3,000.00	\$200.00	\$1,000.00
10040	Top Soil	63	CY	\$20.00	\$1,260.00	\$105.00	\$6,615.00	\$100.00	\$6,300.00	\$84.00	\$5,292.00	\$105.00	\$6,615.00	\$154.00	\$9,702.00
01170	Water Sampling Station with Concrete Slab and connection to Existing water line	1	LS	\$7,500.00	\$7,500.00	\$6,900.00	\$6,900.00	\$5,000.00	\$5,000.00	\$4,460.00	\$4,460.00	\$4,500.00	\$4,500.00	\$15,000.00	\$15,000.00
00815	Bollards (Non-Removable)	3	EA	\$1,500.00	\$4,500.00	\$1,200.00	\$3,600.00	\$1,600.00	\$4,800.00	\$1,000.00	\$3,000.00	\$1,800.00	\$5,400.00	\$2,500.00	\$7,500.00
01040	Hydro-Seeding	3436	SF	\$3.00	\$10,308.00	\$0.60	\$2,061.60	\$0.50	\$1,718.00	\$0.60	\$2,061.60	\$1.00	\$3,436.00	\$4.00	\$13,744.00
	Bike Green Paint	120	SF	\$10.00	\$1,200.00	\$13.00	\$1,560.00	\$13.00	\$1,560.00	\$14.25	\$1,710.00	\$20.00	\$2,400.00	\$12.00	\$1,440.00
	Construction Surveying	1	LS	\$50,000.00	\$50,000.00	\$25,000.00	\$25,000.00	\$32,000.00	\$32,000.00	\$36,100.00	\$36,100.00	\$32,000.00	\$32,000.00	\$25,000.00	\$25,000.00
Water Quality Pond															
	Construct Water Quality Pon (Grading, Riprap, Rock Check Dam, Outfall Assemble, Misc)	1	LS	\$20,000.00	\$20,000.00	\$7,000.00	\$7,000.00	\$25,000.00	\$25,000.00	\$3,740.00	\$3,740.00	\$25,000.00	\$25,000.00	\$15,000.00	\$15,000.00
	Install new Concret Polymer Water Meter	1	EA	\$1,200.00	\$1,200.00	\$1,800.00	\$1,800.00	\$2,000.00	\$2,000.00	\$750.00	\$750.00	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00
	Replace Water Service with 3/4" Blue HDPE Water Pipe, Connect to Water Meter & Building)	1	LS	\$8,000.00	\$8,000.00	\$2,500.00	\$2,500.00	\$3,200.00	\$3,200.00	\$1,980.00	\$1,980.00	\$3,600.00	\$3,600.00	\$8,000.00	\$8,000.00
	Outfall Storm Pipe, PVC 3034	20	FT	\$40.00	\$800.00	\$190.00	\$3,800.00	\$125.00	\$2,500.00	\$96.00	\$1,920.00	\$240.00	\$4,800.00	\$300.00	\$6,000.00
	Sawbreak Sedge	25	EA	\$200.00	\$5,000.00	\$65.00	\$1,625.00	\$200.00	\$5,000.00	\$230.00	\$5,750.00	\$200.00	\$5,000.00	\$200.00	\$5,000.00
	Spreading Rush	44	EA	\$200.00	\$8,800.00	\$65.00	\$2,860.00	\$200.00	\$8,800.00	\$230.00	\$10,120.00	\$200.00	\$8,800.00	\$200.00	\$8,800.00
	Douglas Iris	9	EA	\$200.00	\$1,800.00	\$65.00	\$585.00	\$200.00	\$1,800.00	\$230.00	\$2,070.00	\$200.00	\$1,800.00	\$200.00	\$1,800.00
	Camas Lily	22	EA	\$200.00	\$4,400.00	\$65.00	\$1,430.00	\$200.00	\$4,400.00	\$230.00	\$5,060.00	\$200.00	\$4,400.00	\$200.00	\$4,400.00
	WQ Seed Mix	1	LS	\$5,000.00	\$5,000.00	\$1,300.00	\$1,300.00	\$1,400.00	\$1,400.00	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00	\$1,600.00	\$1,600.00
TOTAL BID ITEMS					\$1,442,000.00		\$1,294,854.20		\$1,414,230.00		\$1,432,853.00		\$1,522,057.00		\$2,285,508.00
	Optional Bid Item														
	Additional Bike Green Paint (Harbor to Hwy 101)	3070	SF	\$10.00	\$30,700.00	\$11.00	\$33,770.00	\$11.00	\$33,770.00	\$12.10	\$37,147.00	\$11.00	\$33,770.00	\$14.00	\$42,980.00
TOTAL BID ITEMS WITH OPTIONAL BID ITEM					\$1,472,700.00		\$1,328,624.20		\$1,448,000.00		\$1,470,000.00		\$1,555,827.00		\$2,328,488.00

Council Communication

Head to Bay Trail Repair Award

Meeting Date:	September 23, 2024	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Daphnee Legarza	Estimated Time:	10 minutes

Question:

Should the City Council award the construction contract to K&E Excavating Inc. for the Head to Bay Trail Repair?

Staff Recommendation:

Staff recommends that City Council approve the construction contract to K&E Excavating Inc. in the amount of \$109,600.00.

Authority:

LCMC 2.05.070 (Procurement of goods and services shall be awarded as provided in the Public Contracting Code, ORS Chapter 279B, the Model Rules). This project follows the rule for bids awarded by intermediate procurement (\$10,000.00 - \$150,000.00) in accordance with LCMC 2.05.070[B]

Background

Cracking and heaving of the Head to Bay Trail along NE West Devils Lake Road, from NE 28th St. to just beyond NE Holmes Road, was noted in 2022. City crews attempted demolish & repair select areas in the spring of 2023, but were unable to continue due to the scale and difficulty of the work.

The concrete failures have worsened since this initial work and now require immediate attention for continued public use and safety.

Bids Results

Public Works Department solicited bids for intermediate procurement for the project on July 3, 2024. One bid was received back on the work.

Bidder	Bid Amount
K&E Excavating	\$109,600.00
Page Concrete Construction	No Response
C&L Concrete	Declined
C Clark Construction	No Response

The lowest responsive and responsible bidder was K&E Excavating in the amount of \$109,600.00.

Financial Impact

This project was not funded in the FY24-25 budget, Finance recommends funding this work from the capital contingency in the street capital fund. The following table shows the estimated cost to complete the project in FY 2024-25. The construction has a completion date of December 1, 2025.

Item	Estimated Cost to Complete
Bureau of Labor and Industries	\$ 250.00
Construction Bid	\$ 109,600.00
Art (1/2 of one percent of the construction bid)	\$ 548.00
Construction Contingency	\$ 10,960.00
Total	\$ 121,358.00

Recommendation

Staff recommends the construction contract be awarded to K&E Excavating. in the amount of \$109,600.00 with a construction contingency of \$10,960.00 (10 percent of bid amount).

Motions:

Move to approve the bid award for the West Devils Lake Road Path Repair project in the amount of \$109,600.00 with a construction contingency of \$10,960.00 (10 percent of bid amount) for a total award amount of \$120,560.00; utilizing

Council Communication

Holmes Rd. Pump Station Sewer Main Replacement Award

Meeting Date: September 23, 2024 Primary Staff Contact: Stephanie Reid
 Department: Public Works E-Mail: SReid@lincolncity.org
 Secondary Dept: Secondary Contacts:
 Approval: Daphnee Legarza Estimated Time: 10 minutes

Question:

Should the City Council award the construction contract to K&E Excavating Inc. for the Holmes Sewer Replacement project?

Staff Recommendation:

Staff recommends that City Council approve the construction contract to K&E Excavating Inc. in the amount of \$319,550.00.

Authority:

LCMC 2.05.060 (Procurement of goods and services shall be awarded as provided in the Public Contracting Code, ORS Chapter 279B, the Model Rules). This project follows the rule for bids awarded by competitive bid.

Background

On April 22, 2024, council approved an award to West Coast CIPP Supply to remove areas where ground water is infiltrating into the sewer system. This work included lining 460 feet sewer pipeline. A section 93 feet long was found to be off-set to the degree the pipe cannot be lined and it will need to be replaced.

This project would remove and replace this offset pipe eliminating infiltration into the sewer system and further pipe fracturing.

Bids Results

Public Works Department advertised the project for bid on August 5th and 7th, 2024 and opened bids for the project on August 29, 2024. One responsible bid was received.

Bidder	Bid Amount
K&E Excavating	\$319,550.00

The lowest responsive and responsible bidder was K&E Excavating in the amount of \$319,550.00.

Financial Impact

This project estimate was \$300,000.00 and funded in the Supplemental Budget presented and approved September 9, 2024. The remaining \$51,505.00 needed will be funded from Sewer Capital contingency/Fund Balance.

The following table shows the estimated cost to construct and complete the project in FY 2024-25. The construction has a completion date of December 32, 2024

Item	Estimated Cost to Complete
Bureau of Labor and Industries	\$ 319.55
Construction Bid	\$319,550.00
Art (1/2 of one percent of the construction bid)	\$ 1,598.75
Construction Contingency	\$31,955.00
Total	\$351,505.00

Recommendation

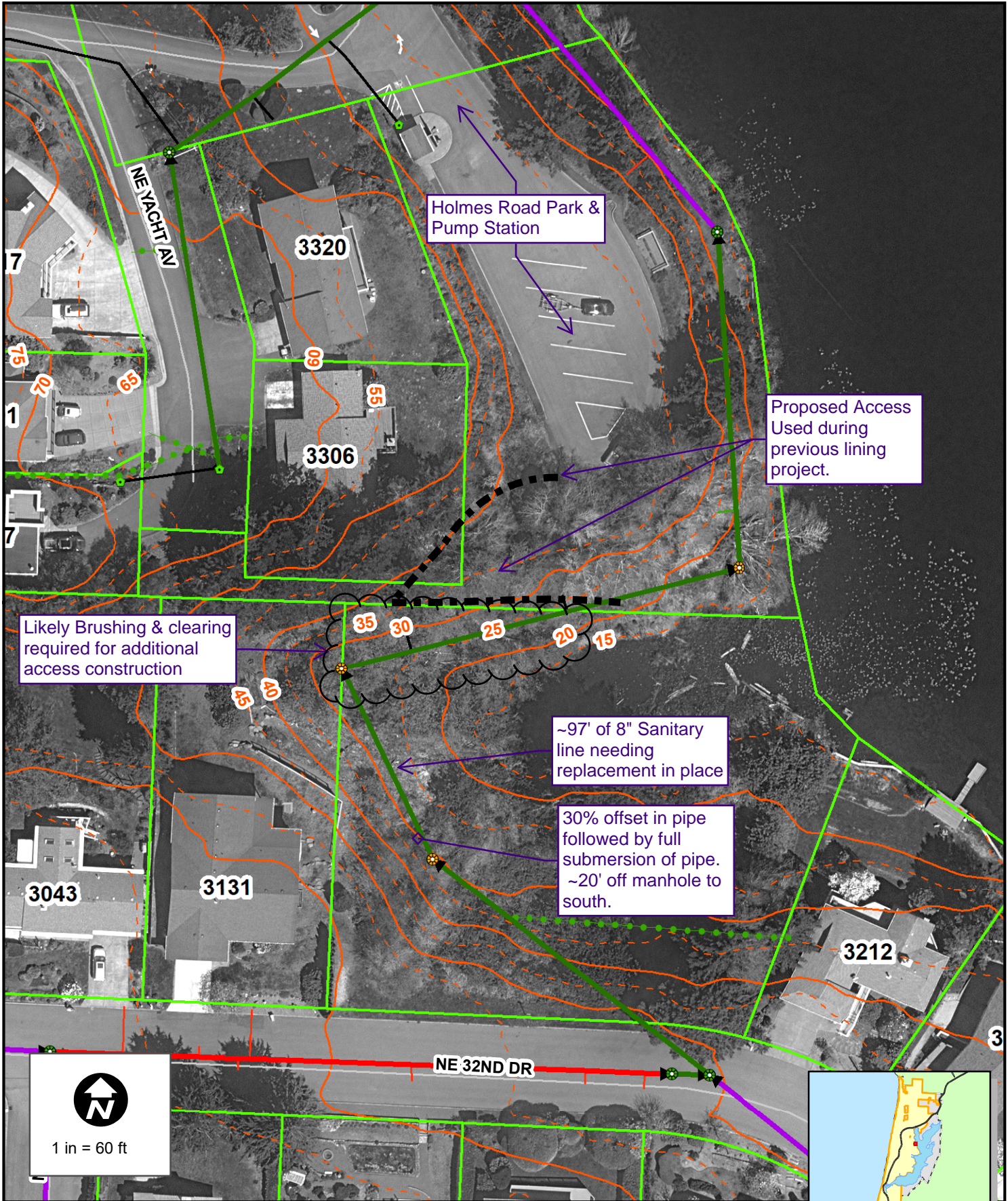
Staff recommends the construction contract be awarded to K&E Excavating. in the amount of \$319,550.00 with a construction contingency of \$31,955.00 (10 percent of bid amount) to a total award of \$351,505.00.

Motions:

Move to approve the bid award for the Holmes Road Sewer Project in the amount of \$319,550.00 with a construction contingency of \$31,955.00 (10 percent of bid amount) to a total award of \$351,505.00.

Attachments:

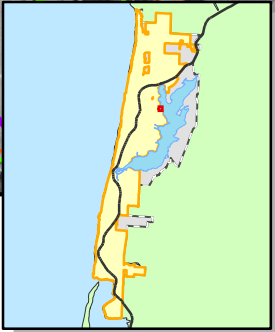
Holmes Road Emergency Work (PDF)
 Bid Tab 08292024 (PDF)



Vicinity Map

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Date: 6/5/2024



Holmes Sewer Replacement			8/29/2024		Premier Property Development INCOMPLETE BID PACKAGE		K&E Excavating	
Item No.	Section	Bid Item	QTY	Unit	Unit Price	Total Computed	Unit Price	Total Computed
1	00210	Mobilization	1	LS	\$9,220.00	\$9,220.00	\$29,000.00	\$29,000.00
2	00280	Erosion Control	1	LS	\$10,000.00	\$10,000.00	\$12,000.00	\$12,000.00
3	00320	Clear & Grubbing – Access Road	1	LS	\$12,000.00	\$12,000.00	\$36,000.00	\$36,000.00
4	00445	Install Sanitary Sewer Pipe, 8" PVC 3034, Class A Backfill	97	FT	\$600.00	\$58,200.00	\$2,100.00	\$203,700.00
5	00445	Properly Dispose of Existing 8" AC Pipe	97	FT	\$140.00	\$13,580.00	\$50.00	\$4,850.00
6	00445	Connect Sewer Pipe to Existing Manholes	2	EA	\$2,000.00	\$4,000.00	\$6,500.00	\$13,000.00
7	01040	Hydro Seed of Disturbed Area	1	LS	\$4,000.00	\$4,000.00	\$21,000.00	\$21,000.00
		Total Sewer Replacement				\$111,000.00		\$319,550.00

Council Communication

IGA D River- Oregon Parks & Recreation Department

Meeting Date:	September 23, 2024	Primary Staff Contact:	David James Robinson
Department:	City Attorney	E-Mail:	drobinson@lincolncity.org
Secondary Dept:		Secondary Contacts:	David Robinson
Approval:	Daphnee Legarza	Estimated Time:	5 mins.

Question:

Should the City Council approve the attached Intergovernmental Agreement concerning the improvement and operation of the D River Park?

Staff Recommendation:

Staff recommends Council approve the Intergovernmental Agreement. The City Attorney, city staff, and City Manager have negotiated changes with OPRD and the Oregon Dept. of Justice to create the final version before council.

Authority:

ORS 190.110 permits units of state and local government to enter into intergovernmental agreements to cooperate, for any lawful purpose.

ORS 390.121(3) and ORS 390.117(5) authorizes the State of Oregon Parks and Recreation Director to sell, lease, exchange or otherwise dispose of, or permit use of, real property.

Background:

The State of Oregon, by and through its Parks and Recreation Department, presently owns and operates the D River State Recreational Site, a +/- 4-acre state park located in the center of Lincoln City; the state park is composed of property that lies partially within the Ocean Shore State Recreation Area (as defined in ORS 390.605 to ORS 390.770) as well as upland property.

The City is prepared to make a substantial investment to improve the D River Park facility as well as increase outdoor recreation activities at the Park location; said commitment is contingent on the State of Oregon entering into a long-term agreement

with the City. The OPRD retains ownership of the real property, and except as specified herein, all buildings and physical improvements found thereon.

The 2021 Legislature approved funding for construction of a welcome center, upgrading restrooms, landscaping, and improving beach access at D River State Wayside in Lincoln City, through SB 5534, section 41. This funding has been provided as a grant to the City of Lincoln City in the amount of \$2,500,000, to be financed by the issuance of State of Oregon Lottery Revenue Bonds which are expected to be issued in spring 2023.

This IGA is the first legal document that will allow work to begin. The IGA will eventually be replaced by a 99-year lease.

Council Options:

1. Approve the IGA
2. Postpone discussion
3. Do not approve the IGA.

Potential Motions:

Council:

1. Motion to Approve the Proposed Intergovernmental Agreement for the Improvement and Operation of D River Park Between the State of Oregon, Oregon Parks and Recreation Department and the City of Lincoln City, Oregon

Attachments:

IGA- OPRD (PDF)

INTERGOVERNMENTAL AGREEMENT TO ESTABLISH GROUND LEASE FOR THE IMPROVEMENT AND OPERATION OF D RIVER PARK

OPRD Agreement No. D River 5188

This Agreement is between the State of Oregon acting by and through its Oregon Parks and Recreation Department ("**OPRD**") or ("**Owner**") and the City of Lincoln City, an Oregon municipal corporation, acting by and through its governing body, the City Council ("**City**"), each a "**Party**" and, together, the "**Parties**".

SECTION 1: AUTHORITY

This Agreement is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes, and specifically authorized by ORS 190.110.

SECTION 2: BACKGROUND AND PURPOSE

- A. OPRD owns and operates the D River State Recreational Site, a +/- 4 acre state park located in the center of Lincoln City which is composed of property that lies partially within the Ocean Shore State Recreation Area (as defined in ORS 390.605 to ORS 390.770) (the "**Ocean Shore**") as well as upland property (the "**D River Park**" or "**Park**"). The area subject to this Agreement is that +/- 2.5 acre portion of D River Park described and shown in "**Exhibit A**", D River Park Depiction, attached hereto and made a part hereof by this reference (the "**Agreement Area**");
- B. Per ORS 390.605 to 390.770, OPRD cannot alienate the Ocean Shore and must retain ownership of D River Park, including the Agreement Area.
- C. D River Park was acquired and improved with federal funds awarded by the National Park Service ("**NPS**") from the Federal Land and Water Conservation Fund ("**LWCF**"). LWCF is currently locally administered by OPRD's Grant Unit on behalf of NPS;
- D. D River Park is a significant recreational resource to the citizens of Oregon; however, it is in need of substantial improvement to better facilitate public outdoor recreation and tourism. The Parties intend to facilitate the necessary improvements and foster improved public outdoor recreation and tourism through this Agreement;
- E. City pursued funding from the 2021 Oregon Legislature for constructing a welcome center, upgrading restrooms, landscaping, and improving beach access (collectively, the "**Improvements**") at D River Park (the "**D River Park Improvement Project**" or "**Project**"),

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through SB 5534, section 41. This funding was approved and will be provided by the Oregon Department of Administrative Services ("**DAS**") as a grant to City in the amount of \$2,500,000 to be financed by the issuance of State of Oregon Lottery Revenue Bonds which were issued in spring 2023 (the "**Grant Funds**");

- F. City imposes and collects Transient Room Taxes ("**TRT**") pursuant to Oregon Revised Statutes, the City Charter and City Municipal Code ("**LCMC**") Chapter 3.04;
- G. Expenditures of TRT funds are restricted, but authorized expenditures include, among other things, construction and funding of Tourism-Related Facilities which is defined under Oregon law to expressly include a welcome center as well as other real property with a useful life of ten (10) or more years and with a substantial purpose of supporting tourism or accommodating tourist activities;
- H. City currently has available TRT funds to spend on Tourism-Related Facilities, which may include a welcome center and other associated improvements and program activities;
- I. City desires to utilize both the TRT funds and Grant Funds to construct the Improvements, and commits to the full funding of the Project.
- J. Additionally, City further desires to cooperate with OPRD to seek additional funding from NPS, to repair or replace that portion of the retaining wall on the north side of the Agreement Area and adjacent to the D River, if necessary, as identified in Exhibit A (the "**Retaining Wall**"), and construct other improvements at the Agreement Area as part of the D River Park Improvement Project).
- K. The Parties intend to accomplish the Project through a ground lease substantially in the form attached hereto as "Exhibit F", and made a part hereof by this reference (the "**Ground Lease**") pursuant to which City will construct the Improvements, and assume operation and maintenance of the Agreement Area, using the Park for outdoor recreation and tourism, and increasing outdoor recreation activities at the Park ;
- L. The Ground Lease will not affect the portion of D River Park outside of the Agreement Area, which OPRD will continue to operate and maintain.
- M. Before the Parties enter into the Ground Lease to construct the Improvements and initiate City's operation and management of the Agreement Area, the Parties acknowledge they must first obtain the approvals and complete the conditions precedent as described in "**Exhibit B**", Statement of Work, (the "**Work**") attached hereto and incorporated herein by this reference.
- N. Through the Ground Lease, the Parties expect to increase the quantity and quality of public outdoor recreation facilities and resources which are available to the people of the State of Oregon by: (a) working individually and cooperatively toward improving and increasing

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public access to outdoor recreation at D River Park; (b) improving the Agreement Area's design, facilities, operation and maintenance; and (c) promoting and increasing Park outdoor recreation programs and opportunities including qualified recreation concessions that are compliant with LWCF and the DAS grant agreement.

SECTION 3: EFFECTIVE DATE AND DURATION

This Agreement is effective upon execution by both Parties and unless terminated pursuant to Section 16 of this Agreement, will terminate upon execution of the Ground Lease.

SECTION 4: AUTHORIZED REPRESENTATIVES**4.1** OPRD's Authorized Representative is:

Preson Phillips, District Manager (or successor)
OPRD Central Coast District
4905 Otter Crest Loop
Depoe Bay, OR 97341
541-270-4232
Preson.Phillips@opr.oregon.gov

IGA – D River Park**4.2** City's Authorized Representative is:

Daphnee Legarza
 City Manager
 801 SW Highway 101
 Lincoln City, Oregon 97367
 5419961200
dlegarza@lincolncity.org

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.**SECTION 5: RESPONSIBILITIES OF THE PARTIES FOR THE WORK**

5.1 Statement of Work. The Parties shall work collaboratively and expeditiously to accomplish the Work set forth in Exhibit B.

5.2 Payment for the Work. City shall be solely responsible for all costs and expenses arising from or related to the Work, unless otherwise specified in Exhibit B, and City will pay all such costs and expenses when due, regardless of whether this Agreement is terminated pursuant to Section 16.

SECTION 6: REPRESENTATIONS AND WARRANTIES**6.1** City represents and warrants to OPRD that:

6.1.1 City is an Oregon municipal corporation, duly organized and validly existing. City has the power and authority to enter into and perform this Agreement and the Ground Lease;

6.1.2 The making and performance by City of this Agreement (a) have been duly authorized by all necessary action of City council, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of City's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which City is party or by which City may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by City of this Agreement, other than those that have already been obtained;

6.1.3 This Agreement has been duly executed and delivered by City and constitutes a legal, valid and binding obligation of City enforceable in accordance with its terms;

6.1.4 City and/or its agents, as applicable, have, or will obtain through public contracts, the skill and knowledge possessed by well-informed members of the industry, trade or profession most

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closely involved in providing the design for the Project and otherwise performing the Work and providing services under this Agreement, and City will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the standards prevalent in the related industry, trade or profession; and

6.1.5 City and/or its agents and consultants, as applicable, shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

6.2 OPRD represents and warrants to City that:

6.2.1 OPRD has the power and authority to enter into and perform this Agreement and the Ground Lease;

6.2.2 The making and performance by OPRD of this Agreement (a) have been duly authorized by all necessary action of OPRD, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which OPRD is party or by which OPRD may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by OPRD of this Agreement, other than those that have already been obtained;

6.2.3 This Agreement has been duly executed and delivered by OPRD and constitutes a legal, valid and binding obligation of OPRD enforceable in accordance with its terms; and

6.2.4 To the extent that OPRD performs Work or provides services to City, OPRD and/or its agents, as applicable, has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the Work or services under this Agreement, and OPRD will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the standards prevalent in the related industry, trade or profession.

The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided.

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SECTION 7: CITY'S REPRESENTATIONS AND COVENANTS REGARDING THE TAX-EXEMPT STATUS OF THE BONDS

7.1 The following capitalized terms have the meanings assigned below only for use in this Section 7:

"Bonds" means the State of Oregon Lottery Revenue Bonds 2023 Series A issued pursuant to Senate Bill 5534, codified at 2021 Oregon Laws chapter 682, section 41, a portion of the sale proceeds of which are funding the Grant.

"Code" means the Internal Revenue Code of 1986, as amended, including any implementing regulations and any administrative or judicial interpretations.

"DAS" means the Oregon Department of Administrative Services.

"Grant" means that certain State of Oregon Lottery Revenue Bonds Grant Agreement for the Project entered into between DAS and City on April 10, 2023.

"Private Person" means any person or entity other than a state or local governmental unit or an individual not acting in a trade or business. Accordingly, a Private Person would include the federal government, for-profit organizations, non-profit organizations, and individuals who are acting in a trade or business capacity.

"Private Use" means, subject to certain exceptions, the use of a portion or all of the Project by a Private Person if such use is other than as a member of the general public. Private Use can include ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management contract, service or incentive payment contract, output contract, naming rights contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use by employees of the City solely in their capacity as employees ordinarily will not be considered Private Use.

"Project" means the construction of a welcome center, along with upgrades to the restrooms and landscaping, and improvements to beach access at D River State Wayside in Lincoln City.

7.2 City acknowledges that the Bonds have been or are expected to be issued with the interest paid on the Bonds excludable from gross income for federal income tax purposes and that the uses of the Grant proceeds and the Project by City during the term of the Bonds may impact the tax-exempt status of the Bonds. City agrees to comply with all applicable provisions of the Code necessary to protect the exclusion of interest on the Bonds from federal income taxation.

7.3 City shall not, without prior written consent of DAS, permit more than five percent (5%) of the Project to be used in a Private Use by a Private Person if such Private Use could result in the State

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of Oregon receiving direct or indirect payments or revenues (excluding generally applicable taxes) from the portion of the Project to be privately used.

SECTION 8: DISPUTE RESOLUTION

The Parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition to other processes to resolve disputes arising under the Agreement, either Party may notify the other that it wishes to engage in a more guided dispute resolution process. Upon such notification, the Parties shall engage in non-binding arbitration to resolve the dispute. If the Parties do not reach agreement as a result of the non-binding discussion, the Parties may agree to consider further appropriate dispute resolution processes, including binding arbitration. The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies at law or in equity.

SECTION 9: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of the State of Oregon for Marion County. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this Section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.

SECTION 10: OWNERSHIP OF WORK PRODUCT

10.1 As used in this Section 10 and elsewhere in this Agreement, the following terms have the meanings set forth below:

10.1.1 "City Intellectual Property" means any intellectual property owned by City and developed independently from the work under this Agreement. City Intellectual Property includes any derivative works and compilations of any City Intellectual Property that are owned by City.

10.1.2 "Third Party Intellectual Property" means any intellectual property owned by parties other than City or OPRD. Third Party Intellectual Property includes any derivative works and

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compilations of any Third Party Intellectual Property.

- 10.1.3** **“Work Product”** means all tangible and digital material that City is required to deliver to Agency under this Agreement.
- 10.1.4** **“Work Product Intellectual Property”** means any intellectual property in the Work Product.
- 10.2** All Work Product Intellectual Property created by City under this Agreement shall be the property of City. City hereby grants to OPRD an irrevocable, non-exclusive, perpetual, non-commercial, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display, for governmental purposes or as otherwise contemplated in this Agreement, the Work Product Intellectual Property created by City under this Agreement, and to authorize others to do the same on Agency’s behalf.
- 10.3** If Work Product is protected by City Intellectual Property, and to the extent necessary to allow OPRD to use the Work Product for governmental purposes or as otherwise contemplated in this Agreement, City grants to OPRD to a royalty-free, non-exclusive, non-commercial and irrevocable license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display such City Intellectual Property and to authorize others to do the same on OPRD’s behalf.
- 10.4** If Work Product contains materials protected by Third Party Intellectual Property, and to the extent necessary to allow OPRD to use the Work Product for governmental purposes or as otherwise contemplated in this Agreement (the **“Desired Purposes”**), City shall either:
- 10.4.1** Secure on OPRD’s behalf a royalty-free, nonexclusive, non-commercial and irrevocable license to use, reproduce, distribute copies of, perform and display such Third Party Intellectual Property and to authorize others to do the same on OPRD’s behalf; or
- 10.4.2** Remove such materials from the Work Product and re-deliver the Work Product without any materials protected by Third Party Intellectual Property that has not been appropriately licensed;
- 10.5** If state or federal law requires that City grant to the United States a license to any Work Product Intellectual property, or if state or federal law requires that OPRD or the United States own the Work Product Intellectual Property, then City shall execute such further documents and instruments as OPRD may reasonably request in order to make any such grant or assign ownership in the intellectual property to the United States or OPRD.

SECTION 11: CONTRIBUTION

- 11.1** 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 (a **“Third-Party Claim”**) against a Party (the **“Notified Party”**) with respect to which the other Party (the **“Other Party”**) may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third-Party Claim and deliver to the Other Party,

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along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third-Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense, and settlement of the Third-Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section with respect to the Third-Party Claim.

- 11.2** With respect to a Third-Party Claim for which OPRD is jointly liable with City (or would be if joined in the Third-Party Claim), OPRD 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 City in such proportion as is appropriate to reflect the relative fault of OPRD on the one hand and of City on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of OPRD on the one hand and of City 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. OPRD's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- 11.3** With respect to a Third-Party Claim for which the City is jointly liable with OPRD (or would be if joined in the Third-Party Claim), City 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 OPRD in such proportion as is appropriate to reflect the relative fault of City on the one hand and of OPRD on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of City on the one hand and of OPRD 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. City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 12: INDEMNIFICATION BY CONSULTANTS

CITY SHALL TAKE ALL REASONABLE STEPS TO CAUSE ITS CONSULTANTS PERFORMING WORK OR PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE NOT UNITS OF LOCAL GOVERNMENT AS DEFINED IN ORS 190.003, IF ANY, TO INDEMNIFY, DEFEND, SAVE AND HOLD HARMLESS THE CITY AND THE STATE OF OREGON AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, LIABILITIES, DAMAGES, LOSSES, OR EXPENSES (INCLUDING ATTORNEYS' FEES) ARISING FROM A TORT (AS NOW OR HEREAFTER

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DEFINED IN ORS 30.260) CAUSED, OR ALLEGED TO BE CAUSED, IN WHOLE OR IN PART, BY THE ACTS OR OMISSIONS OF SUCH CONSULTANTS OR ANY OF THE OFFICERS, AGENTS OR EMPLOYEES THEREOF ("CLAIMS"). IT IS THE SPECIFIC INTENTION OF THE PARTIES THAT THE INDEMNITEES SHALL, IN ALL INSTANCES, EXCEPT FOR CLAIMS ARISING SOLELY FROM THE NEGLIGENT OR WILLFUL ACTS OR OMISSIONS OF THE INDEMNITEES, BE INDEMNIFIED BY THE CONSULTANTS PURSUANT TO THIS SECTION 12 FROM AND AGAINST ANY AND ALL CLAIMS.

SECTION 13: CITY DEFAULT

City will be in default under this Agreement upon the occurrence of any of the following events:

- 13.1** City fails to perform, observe or discharge any of its covenants, agreements, or material obligations under this Agreement within sixty (60) days of receiving written notice thereof from OPRD;
- 13.2** Any representation, warranty or statement made by City in this Agreement or in any documents or reports provided hereunder and relied upon by City is untrue in any material respect when made;
- 13.3** City: (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property; (b) admits in writing its inability, or is generally unable, to pay its debts as they become due; (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent; (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect); (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts; (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code; or (h) takes any action for the purpose of effecting any of the foregoing; or
- 13.4** A proceeding or case is commenced, without the application or consent of City, in any court of competent jurisdiction, seeking: (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of City; (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of City or of all or any substantial part of its assets; or (c) similar relief in respect to City under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against City is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 14: OPRD DEFAULT

OPRD will be in default under this Agreement upon the occurrence of any of the following events:

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- 14.1** OPRD fails to perform, observe or discharge any of its covenants, agreements, or material obligations under this Agreement within sixty (60) days of receiving written notice thereof from City; or
- 14.2** Any representation, warranty or statement made by OPRD in this Agreement or in any documents or reports provided hereunder and relied upon by City is untrue in any material respect when made.

SECTION 15: REMEDIES

In the event a Party is in default under Section 13 or 14 of this Agreement, as applicable, the Party that is then not in default shall be entitled to terminate this Agreement under Section 16, and/or seek all rights and remedies available to it under the Agreement or by law. Provided, however, all remedies, whether by under the Agreement or at law or equity, shall be subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution. No remedy provided for is exclusive of any other available remedy. All remedies are cumulative and in addition to every other remedy available under the Agreement, at law, in equity, or by statute.

SECTION 16: TERMINATION

- 16.1** This Agreement may be terminated at any time by mutual written consent of the Parties.
- 16.2** OPRD may terminate this Agreement as follows:
 - 16.2.1** Upon one hundred eighty (180) days advance written notice to City;
 - 16.2.2** Immediately upon written notice to City, if the Project does not obtain necessary approvals or satisfy conditions precedent or if OPRD fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in OPRD's reasonable administrative discretion, to perform its obligations under this Agreement;
 - 16.2.3** Immediately upon written notice to City, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that City's or OPRD's performance under this Agreement is prohibited or OPRD is prohibited from paying for such performance from the planned funding source;
 - 16.2.4** Immediately upon written notice to City, if City is in default under this Agreement and such

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default remains uncured sixty (60) days after written notice thereof to City; or

- 16.2.5** As otherwise expressly provided in this Agreement.
- 16.3** City may terminate this Agreement as follows:
- 16.3.1** Upon one hundred eighty (180) days advance written notice to OPRD;
- 16.3.2** Immediately upon written notice to OPRD, if the Project does not obtain necessary approvals or satisfy conditions precedent or if City fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in City's reasonable administrative discretion, to perform its obligations under this Agreement;
- 16.3.3** Immediately upon written notice to OPRD, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that City's performance under this Agreement is prohibited, or City is prohibited from paying for such performance from the planned funding source;
- 16.3.4** Immediately upon written notice to OPRD, if OPRD is in default under this Agreement and such default remains uncured sixty (60) days after written notice thereof to OPRD; or
- 16.3.5** As otherwise expressly provided in this Agreement.
- 16.4** Upon receiving a notice of termination of this Agreement, City will immediately cease all activities under this Agreement, unless OPRD expressly directs otherwise in such notice. Upon termination, and upon OPRD's reasonable request, City will surrender all documents, research or objects or other tangible things reasonably needed to complete the Work that was to have been performed by City under this Agreement, such documents, research, objects, or other tangible things not to include any third party software licenses.
- 16.5** *Notwithstanding anything in this Agreement to the contrary, this Agreement may not be terminated without first receiving written authorization for such termination from the Oregon Department of Administrative Services.*

SECTION 17: INSURANCE

- 17.1** City shall require its first tier consultants that are not units of local government as defined in ORS 190.003, if any, to obtain insurance as set forth in **Exhibit C**, attached hereto and incorporated herein by this reference. Provided, however, by mutual agreement, the Parties may

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set alternative insurance levels for such consultants and memorialize same in an addendum to the Agreement.

- 17.2** City may apply to OPRD in writing for a waiver of certain of the insurance requirements set forth in Exhibit C.

SECTION 18: NONAPPROPRIATION

OPRD's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon OPRD receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to meet its obligations hereunder. City's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon City receiving funding, appropriations, or other expenditure authority sufficient to allow City, in the exercise of its reasonable administrative discretion, to meet its obligations hereunder. Nothing in this Agreement may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of OPRD or the City.

SECTION 19: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement signed by both of the Parties. To avoid ambiguity, the Parties may change their Authorized Representative(s) without amending the Agreement by providing the other Party with written notice of such change.

SECTION 20: NOTICE

All notices to be given under this Agreement must be provided in writing by facsimile, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number. To be effective, any email notice must be confirmed by telephone with the receiving Party's Authorized Representative, and shall not be deemed given until such confirmation is completed. Notwithstanding this Section 20, the Parties may agree to provide day-to-day notices such as delivery, acceptance or rejection of services or deliverables by email as may be mutually agreed in Exhibit B.

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SECTION 21: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 6, 7, 8, 9, 13, 14, 15, 18, 32 and 33 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 22: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 23: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 24: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local laws.

SECTION 25: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that City is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

SECTION 26: INTENDED BENEFICIARIES

OPRD and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

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SECTION 27: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, pandemic, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Each Party may terminate this Agreement upon written notice to the other party after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 28: ASSIGNMENT AND SUCCESSORS IN INTEREST

City may not assign or transfer its interest in this Agreement without the prior written consent of OPRD and any attempt by City to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. OPRD's consent to City's assignment or transfer of its interest in this Agreement will not relieve City of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 29: [RESERVED]

SECTION 30: TIME IS OF THE ESSENCE

Time is of the essence in each Party's performance of its obligations under this Agreement.

SECTION 31: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement will bind a Party unless signed by an authorized person representing the consenting or waiving Party. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 32: RECORDS MAINTENANCE AND ACCESS

City shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of City, whether in paper, electronic

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or other form, that are pertinent to this Agreement in such a manner as to clearly document City's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of City, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." City acknowledges and agrees that OPRD and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. City shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, City shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 33: CONFIDENTIALITY AND NONDISCLOSURE

- 33.1** City acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under this Agreement, be exposed to or acquire information that is confidential to OPRD. Any and all information of any form obtained or provided to City or its officers, directors, employees and agents concerning the Work described in Exhibit B or otherwise in the performance of this Agreement and marked as a confidential transferred record under ORS 192.355 (10) is confidential information of OPRD ("**Confidential Information**"). Any reports, summaries, or other documents or items (including software) that result from City's use of Confidential Information must be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information does not include information that:
- 33.1.1** Is or becomes other than by disclosure by City publicly known or is contained in a publicly available document, except to the extent that applicable law continues to restrict or prohibit disclosure;
 - 33.1.2** Is furnished by OPRD to others without restrictions similar to those imposed on City under this Agreement;
 - 33.1.3** Is rightfully in City's possession without the obligation of nondisclosure prior to the time of its disclosure by OPRD under this Agreement;
 - 33.1.4** Does not concern the Work described in Exhibit B, and is obtained from a source other than OPRD without the obligation of confidentiality;
 - 33.1.5** Is disclosed with the written consent of OPRD; or
 - 33.1.6** Is independently developed by City's officers, directors, employees and agents who can be

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shown to have had no access to the Confidential Information.

- 33.2** City shall hold all Confidential Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties; shall not use Confidential Information for any purposes whatsoever other than as contemplated by this Agreement or reasonably related thereto; and shall advise its officers, directors, employees and agents that receive or have access to Confidential Information of their obligations to keep Confidential Information confidential. These confidentiality obligations do not restrict disclosure of Confidential Information if City can show that any one of the following conditions exists:
- 33.2.1** The disclosure was required to respond to a subpoena or court order duly issued in a judicial or legislative process and City notified OPRD of the subpoena or court order at least five (5) days prior to the disclosure, unless such notice would not reasonably be given; or
- 33.2.2** The disclosure was required to respond to a public records request made under the Oregon Public Records Law, ORS 192.311 to 192.478 (the "**Public Records Law**"). If City receives from a third party any request under the Public Records Law for Confidential Information, City shall promptly notify OPRD of the request and give OPRD seven (7) business days to specify any applicable exemptions from disclosure under the Public Records Law. City will make a good faith effort to consider any exemptions provided by OPRD; however, City is not required to assist OPRD in opposing disclosure of the requested information and OPRD is exclusively responsible for defending OPRD's position concerning the confidentiality of the requested information.
- 33.3** City shall use its best efforts to assist OPRD in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, City shall advise OPRD immediately in the event it learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement.
- 33.4** As requested by OPRD, City shall return to OPRD, or destroy, all Confidential Information, except that City may retain one archival copy of the Confidential Information as and to the extent required by applicable records retention laws. Nothing in this Agreement is intended to make City a custodian of any record or any information, documents or materials provided by OPRD to City.

SECTION 34: HEADINGS

The headings and captions to Sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

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SECTION 35: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (D River Park Depiction), Exhibit B (Statement of Work), Exhibit C (Consultant Insurance Requirements), Exhibit D (LWCF Documents); Exhibit E (Entry Permit), and Exhibit F (Form of Ground Lease).

SECTION 36: ORDER OF PRECEDENCE

No term stated on any schedule, exhibit, attachment, or other document incorporated into the Agreement will take precedence over a conflicting term in the Agreement unless the term references the conflicting term in the Agreement and clearly recites the Parties' intent that it take precedence.

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SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its Oregon Parks and Recreation Department

City of Lincoln City, Oregon

By: _____
Lisa Sumption, Director

By: _____
Susan Wahlke, Mayor

Date: _____


Date: _____

By: _____
Daphnee Legarza, City Manager

Date: _____

Approved for Legal Sufficiency in accordance with ORS 291.047

Approved as to form:



Jeff Wheeler, Senior Assistant Attorney General
Oregon Department of Justice

David Robinson, City Attorney

Date: 9-4-24

Date: _____

EXHIBIT A

D RIVER PARK DEPICTION

D River State Recreation Site

Oregon Parks and Recreation Dept.
725 Summer St. NE, Suite C
Salem OR. 97301



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



EXHIBIT B

STATEMENT OF WORK

Project Description

OPRD and City recognize that the public would be better served by the creation of additional recreational and outdoor opportunities at the D River Park, but that OPRD lacks the resources and funding at this time to provide and fund those opportunities. City has identified funding sources to develop a park area and the capacity to manage it long-term, and through this Agreement, OPRD and City will work together to facilitate development of the Agreement Area. OPRD will cooperate in obtaining all necessary approvals and upon completion of the Work contemplated hereunder and satisfaction of the conditions precedent contained within this Agreement, will provide City with a long-term Ground Lease of the Agreement Area. City commits to fund the construction of the Project utilizing a design-build delivery method and will provide long-term management of the Agreement Area, subject to the conditions and requirements of this Agreement and the resulting Ground Lease.

All of City's uses of the Agreement Area must be consistent with LWCF funding requirements. OPRD will continue to control the Ocean Shore, and City will remain subject to OPRD permitting/approval in order to expand events out to the Ocean Shore. The Parties will follow the phased approach outlined within this Statement of Work to achieve the Project goals.

The Project will include the following components:

- (a) Welcome Center Construction and Management. The proposed building will principally house the restroom facilities (replacing the existing antiquated facilities) and provide an uncluttered, open indoor area for viewing the ocean through large windows with provision for informational displays of Lincoln City area points of interest, including maps, brochures, digital displays and print materials concerning indoor and outdoor public and private recreational opportunities, tours and charters, contests and promotions, as well as lodging, retail and restaurant options for the traveling public. Other decorative, educational and informational displays and amenities (e.g. Beach Safety information) will be located in the center including both permanent and temporary displays of City rules and regulations, interpretative panels on the coastal environment, Heritage and Artifact displays, and public art.

In addition to providing a space to find refuge in inclement weather to gather information and view the ocean, the Center will provide other amenities for visitors to the D River Park including available Wi-Fi, foot washing, water bottle filling stations, and possible indoor commercial activity in the form of OPRD-approved concessions (focusing on beach supportive items for visitors not prepared for Oregon Coast conditions).

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The building may include a small meeting room, and if so, such space may be made available, with NPS approval, for various purposes (beachcombing clinic, outdoor recreation classes).

Exterior areas of the Welcome Center will feature tables and benches, possible covered shelters as well as cabinets to store beach wheelchairs, and mobimats to facilitate beach access for people of all mobility levels. Ocean Shore permitting may be necessary for access improvements or improvements to retaining or sea walls.

City will manage the Welcome Center as described in Exhibit C to the Ground Lease (Exhibit E of the IGA).

A. **Public Parking Improvements.** Improvement and construction of a new parking lot is included in the Project.

B. Special events using the parking lot will be permitted subject to LWCF compliance review and approval by NPS and compliance with LCMC permit requirements and conditions for City-sponsored events like the City of Lincoln City Kite Festival for use consistent with outdoor recreation. Additionally, portions of the Agreement Area might be used for cultural (Siletz Tribe) displays, crafts, and food cart / truck vendors to enhance the outdoor event or experience. (In the instance when parking may be reduced for such City-sponsored event uses, parking is supplemented with shuttle service from nearby parking lots). Other examples include parking for races (running on the beach) sponsored by the city and Exploriences free learning events (<https://www.oregoncoast.org/events/exploriences/>).

(b) **Food Cart/Food Truck Concession Areas.** The City may also propose food cart or food truck concession areas in the park to support outdoor recreation. Concessions will be subject to LWCF compliance review and approval by LWCF State Liaison Officer and/or NPS as required.

(c) **Retaining Wall.** The Parties may repair or replace that portion of the Retaining Wall, on the north side of the Agreement Area and adjacent to the D River as necessary, based on assessment and recommendation of a professional engineer. The effort to repair or replace the Retaining Wall may include application for a new grant through National Park Service's Land and Water Conservation Fund. Work on the Retaining Wall may be subject to an Ocean Shore Alteration Permit.

Phase I: Project Proposal and Project Approvals

- A. **Information Sharing.** The documents and resources listed below will be provided by OPRD to the City:
- a. Copy of applicable property deeds and tax assessor records
 - b. GIS mapping of property showing boundaries and any mapped utilities or assets (Note: This information may not be exhaustive)
 - c. All available infrastructure plans
 - d. Facility asset inventory
 - e. Facility Investment and Park Improvement Projects of the last 5-10 years

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- f. LWCF Federal Financial Assistance Manual, Volume 71
 - g. All LWCF Park Project Agreements and amendments
 - h. Cultural and Archaeology inventory [Confidential Transferred Record ORS 192.355(10)]
 - i. Natural resource inventory
 - j. Historical asset inventory
 - k. Visitor/park usage information (past 5 years)
 - l. Estimate of general operating expenses (personnel, utilities, operating)
- B. Project Proposal Package. City will develop and obtain OPRD's approval of its proposed project proposal which will consist of a: (i) OPRD-approved preliminary site plan (including building size and location) consistent with the Project description and the identified Project parameters including all proposed uses (the "**Preliminary Site Plan**"), (ii) feasibility analysis (the "**Feasibility Analysis**"), and (iii) preliminary cost estimate (the "**Preliminary Cost Estimate**"), collectively, the "**Project Proposal Package**".
- C. Feasibility Analysis. City will perform a Feasibility Analysis of the OPRD-approved Preliminary Site Plan including a site assessment and investigation. City agrees to provide OPRD with a true and complete copy of all environmental studies, tests, and reports that City obtains in connection with all inspections it performs under this Agreement. If any person is required to make any report to any governmental agency as the result of any environmental inspection, the report will be submitted solely by OPRD. OPRD shall cause a boundary survey of D River Park defining the Agreement Area to be performed and the cost of that survey will be equally split between the Parties.

City will identify any and all necessary approvals and requirements applicable to the Project. City will present the Feasibility Analysis to OPRD. If the results of the Feasibility Analysis show changes need to be made to the Project Proposal Package, City will undertake those revisions and resubmit the Project Proposal Package for OPRD approval.

- a. *Right of Entry*. OPRD granted a Right of Entry Permit (No. DRiver20220715) to City on January 27, 2023 for City to enter D River Park and perform certain site testing, survey and professional/technical reviews (the "**Entry Permit**"). The Entry Permit is attached to the IGA as "**Exhibit E**," and remains in full force and effect, except to the extent it conflicts with this Agreement, in which event this Agreement supplements and controls the Entry Permit. The Entry Permit is hereby amended to include a right of access for all purposes associated with the Work identified in this Exhibit B.
- b. *Environmental Assessments*. Subject to the consent requirements in (c) below, City may obtain environmental inspections of D River Park and the improvements located thereon.
- c. *OPRD's Consent*. When performing inspections, City will conform to all notice and approval requirements set forth in the Entry Permit. In no event will City conduct any ground disturbing activities or any environmental assessment that would require soils analysis, groundwater testing, or other studies commonly associated

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with a Phase II Environmental Site Assessment without the prior written consent of OPRD in each instance, which consent will not be unreasonably withheld or conditioned.

- D. Preliminary Cost Estimate. Upon a showing that the Project is feasible at the site, City will provide OPRD with a Preliminary Cost Estimate. The Preliminary Cost Estimate shall include all phases of the Project from design through construction and include ongoing operation and maintenance costs. The purpose of the Preliminary Cost Estimate is to provide information to OPRD regarding City's necessary funding commitments. If the results of the Preliminary Cost Estimate show that the City may not be able to obtain sufficient funding for the Project, City and OPRD will meet to discuss how to proceed.
- E. Approval of the Project Proposal Package. Upon OPRD's approval of the Project Proposal Package, OPRD shall provide written confirmation of such approval to City's Authorized Representative, as designated in Section 4 of this Agreement.

Phase II: Project Approvals and Conditions Precedent.

Project Approvals. Using the OPRD-approved Project Proposal Package City will proceed to obtain the approvals and meet the conditions precedent set forth in this Section. The Parties acknowledge that each of these approvals and conditions precedent are necessary to proceed with the Project. In the event one or more are not obtained or satisfied as described herein, the termination provisions of Section 16 become applicable.

- A. LWCF Approvals. Use of D River Park is subject to certain restrictions including but not limited to its management for perpetual public outdoor recreation in accordance with 54 U.S.C. § 200305(f)(3)) of the LWCF Act and 36 CFR 59.3. The Parties must obtain all necessary approvals for the Project from LWCF State Liaison Officer and/or NPS in accordance with the LWCF program.
- a. *Compliance Review*. City and OPRD submitted a Compliance and Stewardship Form to NPS regarding the proposed visitor center, attached as Exhibit D. This proposal was accepted as submitted and found to be in compliance with the LWCF obligation on the property.
 - b. *Co-sponsorship*. NPS representation has stated that both OPRD and City will need to be listed as sponsors for the LWCF obligation at D River Park if City is to manage a portion of the site for recreation via the Ground Lease. The Parties are joint project sponsors of D River Park and will be bound by the terms of Project Agreements and Amendments related to LWCF Grant #41-00060 and those portions of Grant #41-01331 relevant to D River Park. The grant amendment adding City as cosponsor of the LWCF grant obligation at D River Park is included in Exhibit D.

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City and OPRD agree that one of their principal objectives is to avoid a conversion of use of the LWCF-assisted areas; however, if there is need for modification of the Project from what was submitted and approved by NPS under the Compliance and Stewardship Form included as part of Exhibit D, City and OPRD may elect to follow the Conversion of Use Protocols described in (c) below. If either Party does not agree to follow the Conversion of Use Protocols described below, this Agreement will terminate pursuant to Section 16 of the Agreement.

- c. *Conversion of Use Protocols* (if agreed to by both Parties). If the LWCF State Liaison Officer and/or NPS determines that the Project will result in a Conversion, City and OPRD will consult with the LWCF State Liaison Officer or their representative to determine if there are modifications to the Project that could be made to avoid a Conversion. If the Parties agree to make those modifications, City will update the Concept Development Package, Feasibility Study, and Cost Estimate to include those modifications.

If the Parties determine that the Project cannot be completed without creating a Conversion, City and OPRD will consult with the LWCF State Liaison Officer or their representative to agree on the size of the LWCF-assisted area to be converted, prepare and process a formal request to NPS to resolve a conversion of use by obligation of replacement property to be provided by City, and execute amendments necessary to the LWCF Project Agreements and Amendments related to LWCF Grant #41-00060 and those portions of Grant #41-01331 relevant to D River Park. City and OPRD will work expeditiously toward submittal to NPS of the proposal for whole or partial Conversion, including preparation of all necessary documents and steps outlined post-grant completion and stewardship guidance in 54 U.S.C. § 200301 et seq., 36 C.F.R. Part 59, 2 C.F.R. § 200.316, LWCF Project Agreement and Amendments, and the LWCF Financial Assistance Manual. The Parties will amend this Agreement to align with the current LWCF obligation and to include the requirements for the replacement property. To this end, the Parties further agree as follows:

- City is responsible for providing an NPS-accepted replacement property in the case of a Conversion at D River Park. Any proposed replacement property must meet the eligibility requirements identified in the LWCF Financial Assistance Manual, will be of equal or greater recreational utility and location than D River Park and is subject to approval by the LWCF State Liaison Officer and NPS.
- City will prepare a legal description of the replacement property, and process any needed partition, land division or property line adjustment to legally create the replacement parcel.

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- OPRD will provide an appraisal to Yellow Book (Uniform Standards for Federal Land Acquisition) standards of the replacement property and the D River Park property to assist in the application process.
 - City will provide a narrative description of the replacement property to be evaluated by NPS. (Per the LWCF Federal Financial Assistance Manual Volume 71, "Wetland areas and interests therein shall be considered to be of reasonably equivalent usefulness as compared to the recreational usefulness of the property proposed for conversion if they have been identified in the wetlands provisions of the SCORP in accordance with 54 U.S.C. § 200305(f)(3) of the LWCF Act and Conversion requirements (36 C.F.R. § 59.3).")
 - OPRD will diligently prepare, submit, and process to completion, the Conversion application(s) and concurrent amendment(s), as needed, to the Project Agreement and diligently pursue the applications until a final decision by NPS is obtained.
 - City and OPRD will equally share the transaction costs of the Conversion process, other than those items identified above. This includes title insurance and closing costs.
- B. Other Requirements. All Project requirements and approvals identified in Phase I(B) (Feasibility Analysis) must be obtained or otherwise included in the Ground Lease requirements.
- C. Project Budget and Funding Commitment. Based on the results of the Preliminary Cost Estimate, City shall provide OPRD with a Project budget including identified funding sources. City will provide OPRD with a funding commitment for Project construction and ongoing operations and maintenance.

Phase III: Solicitation of a Design-Builder

Upon receipt of all necessary approvals and satisfaction of the conditions precedent as set forth in Phase II, City will proceed to solicit the services of a qualified Design-Builder to complete the design and construction of the Project.

The resulting contract will be a progressive design-build agreement (the "**Progressive Design/Build Contract**") with the following 3 phases:

- Phase 1 – Conceptual Package Phase. Completion of a concept plan that will include the 30% design with a concept-level cost estimate.
- Phase 2 – Design Development Phase. Following amendment to include Phase 2, Design-Builder will complete 80% design and specifications and provide an associated not to exceed construction cost (the "**Design Development Package**"). If Owner does not approve the Design Development Package, the Owner will have the option to cancel the Project.

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- Phase 3 – Construction Phase. Following amendment to include Phase 3, Design-Builder will complete the construction drawings based on comments received during Phase 2, obtain all necessary permits, and complete the construction of the Project.

Before the Design-Builder may proceed to a successive phase, an amendment to the Progressive Design/Build Contract will be executed authorizing the phase of work and the associated cost. Owner will also participate in the design process as stakeholder and provide input throughout the design process and must approve the design for Phase 1, Phase 2 and Phase 3; notwithstanding Owner's participation, City will be responsible for all costs of the Progressive Design/Build Contract, including design phase costs.

City will prepare an RFP that contains all necessary Project information, including a sample contract accurately reflecting the phases set forth in this subsection. City will provide the RFP and sample contract to OPRD for review and feedback, and shall incorporate any such feedback and receive OPRD's approval prior to advertisement. The solicitation must be in compliance with all applicable laws and requirements.

Following advertisement, the proposals received will be evaluated by a selection team that will include a member from OPRD (the "**Selection Team**"). Interviews may be held if the Selection Team determines that interviews will be helpful to fully evaluate the Design-Builder candidates. The Design-Builder with the highest score from the Selection Team will be recommended for the award of the Project. In no event shall City enter into a Progressive Design/Build Contract that OPRD disapproves.

Phase IV: Lease Finalization

Upon OPRD'S approval of the Design Development Package, the Parties will execute the Ground Lease, the form of which is found at Exhibit F, then proceed to Phase 3 (Construction Phase) by executing the associated amendment to the Progressive Design/Build Contract. OPRD will remain responsible for operating and maintaining the Agreement Area prior to the Parties entering into the Ground Lease; however, City shall assist in such operation and maintenance as deemed necessary by the Parties for City to obtain familiarity with anticipated operation and maintenance costs.

The form of Ground Lease will be updated and revised as necessary. Such updates and revisions may include, but are not limited to the following:

- A. Approved Plans and Specifications
- B. Any requirements for the approval of the Oregon Department of Administrative Services
- C. Construction Requirements applicable to City and Design-Builder
 - a. Grant requirements

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- b. State requirements
 - i. ORS 276.071 Applicability of certain statutes to public improvements under lease purchase agreements. ORS 276.073 to 276.090, 279A.005 to 279A.030, 279A.050 to 279A.075, 279A.100, 279A.105, 279A.110, 279A.120, 279A.125, 653.268 and 653.269 and ORS chapter 279C, except ORS 279C.600 to 279C.625 apply to all public improvements that are being constructed, reconstructed or renovated for use by a state agency under a lease-purchase agreement or under any other agreement whereby ultimate state ownership is contemplated or expected.
 - ii. DAS building standards, as applicable
- c. Funding source requirements
 - i. LWCF
 - 1. LWCF Exhibit D requirements.
 - 2. Inclusion of Conversion of Use Protocols (if applicable)
 - ii. Other funding sources (if any)
- D. Use Requirements (include as approved by LWCF process)
 - a. The objective of the Parties is to manage D River Park in accordance with the LWCF Act. To do so, both Parties will adhere to the program manual and post-completion stewardship standards, including avoiding a Conversion
 - i. In the event OPRD-approved uses of the property triggers a conversion, include conversion protocol
 - ii. In the event unapproved use triggers conversion, City must cease use
- E. Other requirements identified through Phases 1-3
- F. Termination Process should the City or Design-Builder fail to conform to the requirements of the Progressive Design/Build Contract as set forth in OPRD-approved amendment 3 and included in the Ground Lease.

EXHIBIT C

CONSULTANT INSURANCE REQUIREMENTS

City shall require its first tier consultant(s) that are not units of local government as defined in ORS 190.003, if any, (the “**Consultants**”) to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, “TAIL” COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the Consultants perform under contracts between City and the Consultants arising from or relating to this Agreement (the “**Subcontracts**”), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to OPRD. City shall not authorize Consultants to begin work under the Subcontracts until the insurance is in full force. Thereafter, City shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. City shall incorporate appropriate provisions in the Subcontracts permitting it to enforce Consultant compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of “reasonable steps” include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall City permit a Consultant to work under a Subcontract when the City is aware that the Consultant is not in compliance with the insurance requirements. As used in this Exhibit, a “first tier” Consultant is a Consultant with which City directly enters into a contract. It does not include a subconsultant with which the Consultant enters into a contract.

If Consultant maintains broader coverage and/or higher limits than the minimums shown in this Insurance Exhibit, Agency requires and shall be entitled to the broader coverage and or higher limit maintained by the Consultant.

INSURANCE TYPES AND AMOUNTS

WORKERS’ COMPENSATION & EMPLOYERS’ LIABILITY

All employers, including Consultant, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Consultant shall require and ensure that each of its subconsultants complies with these requirements. If Consultant is a subject employer, as defined in ORS 656.023, Consultant shall also obtain employers' liability insurance coverage with limits not less than \$1,000,000 each accident. If Consultant is an employer subject to any other state's workers' compensation law, Contactor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance

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coverage with limits not less than \$1,000,000 and shall require and ensure that each of its out-of-state SubConsultants complies with these requirements.

As applicable, Consultant shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen's and Harbor Workers' Compensation Act.

COMMERCIAL GENERAL LIABILITY:

Required **Not required**

Consultant shall provide Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to OPRD. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project, or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.

AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

Consultant shall provide Automobile Liability Insurance covering Consultant's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY:

Required **Not required**

Consultant shall provide Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under the Subcontract by the Consultant and Consultant's subconsultants, agents, officers or employees in an amount not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Consultant shall provide Tail Coverage as stated below.

IGA – D River Park**EXCESS/UMBRELLA INSURANCE:**

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance. When used, all of the primary and umbrella or excess policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The umbrella or excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Consultant's primary and excess liability policies are exhausted.

If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.

ADDITIONAL COVERAGE REQUIREMENTS:

Consultant's insurance shall be primary and non-contributory with any other insurance. Consultant shall pay for all deductibles, self-insured retention and self-insurance, if any.

ADDITIONAL INSURED:

The Commercial General Liability insurance and Automobile liability insurance required under the Subcontract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Consultant's activities to be performed under a Subcontract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Regarding Additional Insured status under the General Liability policy, the state requires Additional Insured status with respect to liability arising out of ongoing operations and completed operations. The Additional Insured endorsement with respect to liability arising out of Consultant's ongoing operations must be on or at least as broad as ISO Form CG 20 10 and the Additional Insured endorsement with respect to completed operations must be on or at least as broad as ISO form CG 20 37.

WAIVER OF SUBROGATION:

Consultant shall waive rights of subrogation which Consultant or any insurer of Consultant may acquire against the City or State of Oregon by virtue of the payment of any loss. Consultant will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the Consultant or the Consultant's insurer(s).

TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Consultant shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous

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claims made coverage is on or before the effective date of this Subcontract, for a minimum of 24 months following the later of (i) Consultant's completion and City's acceptance of all goods delivered or services performed under a Subcontract, or, (ii) The expiration of all warranty periods provided under a Subcontract.

CONTINUOUS CLAIMS MADE COVERAGE:

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Consultant shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Consultant's completion and City's acceptance of all Services required under the Contract, or
- (ii) City or Consultant's termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

City shall obtain from the Consultant a Certificate(s) of Insurance for all required insurance before delivering any goods or performing any services required under a Subcontract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance OPRD has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Agreement.

NOTICE OF CHANGE OR CANCELLATION:

The Consultant or its insurer must provide at least 30 days' written notice to City before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Consultant agrees to periodic review of insurance requirements by OPRD under this Agreement and to provide updated requirements as mutually agreed upon by Consultant and City.

STATE ACCEPTANCE:

All insurance providers are subject to OPRD acceptance. If requested by OPRD, Consultant shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to OPRD's representatives responsible for verification of the insurance coverages required under this Exhibit C.

EXHIBIT D

LWCF DOCUMENTS

(Add)



CS Form Post
Completion_D River

(Add)



41-00060.2 1331.5
D-RiverStateRecreati

IGA – D River Park

EXHIBIT E
ENTRY PERMIT



D River Right of
Entry 1.27.23.pdf

IGA – D River Park

EXHIBIT F

FORM OF GROUND LEASE

[Upon OPRD's approval of the design development documents, the Parties will proceed to finalize the Ground Lease, the form of which is below. The form of Ground Lease will be updated and revised as necessary. Such updates and revisions may include, but are not limited to the finalization of Exhibits A – G.]

[TO BE INSERTED]

Council Communication

IGA - Oregon Cascades West Council of Governments for Grant Services

Meeting Date:	September 23, 2024	Primary Staff Contact:	Daphnee Legarza
Department:	City Council	E-Mail:	DLegarza@lincolncity.org
Secondary Dept:	Administration	Secondary Contacts:	Daphnee Legarza
Approval:	Daphnee Legarza	Estimated Time:	10 min.

Question:

Should the City Council approve the attached Intergovernmental Agreement with Oregon Cascades West Council of Governments for grant services.

Staff Recommendation:

Staff recommends Council approve the Intergovernmental Agreement.

Authority:

ORS Chapter 190

Background:

City staff has been diligently pursuing regional, state and federal grants to assist in monetary augmentation for projects that do not have adequate funding. The Oregon Cascades West Council of Governments (OCWCOG) has filled their Grant Writer and Administrator position and has offered to provide grant prospecting and writing services to Lincoln City. This IGA would allow department heads to work with the OCWCOG Grant Writer and Coordinator to support future grant applications, as needed. Also, OCWCOG has agreed to bill the City at a 50% reduced rate for grant prospecting and grant writing services until the end of 2024.

Council Options:

1. Approve the IGA
2. Postpone discussion
3. Do not approve the IGA.

Potential Motions:

Council:

1. Motion to approve Intergovernmental Agreement.
2. Motion to not approve Intergovernmental Agreement.

Attachments:

OCWCOG (PDF)

INTERGOVERNMENTAL AGREEMENT
Between
City of Lincoln City
And
Oregon Cascades West Council of Governments
For
Grant Services

This Agreement is made and entered into upon execution by and between City of Lincoln City, a municipal corporation of the State of Oregon, hereinafter known as CITY, and Oregon Cascades West Council of Governments, hereinafter known as OCWCOG, Oregon 190.010 intergovernmental agencies.

Recitals

- A. The STATE permits units of local government agencies to enter into agreements for the performance of required duties or the exercise of permitted powers.
- B. CITY has the need of Grant Services.
- C. OCWCOG has staff with the proper credentials, licensing, and experience to provide such services.

THEREFORE, the parties to this intergovernmental agreement agree to the following terms and conditions:

Agreement

SECTION 1. SCOPE OF SERVICES

This agreement shall be for the purpose of providing grant-writing services to the CITY on an as-needed basis to address the demand for grant writing, grant administration, code and similar efforts. The activities and priorities that shall guide this grant work are described in the scope of work included as Exhibit A.

SECTION 2. CITY RESPONSIBILITY

- A. CITY will provide access to records and planning documents relevant to work requested.
- B. CITY shall prioritize and communicate grant activities to OCWCOG; provide direction as tasks are completed for any follow-up activities.
- C. CITY shall pay OCWCOG within thirty (30) days after receiving OCWCOG's quarterly invoice.

SECTION 3. OCWCOG RESPONSIBILITY

- A. OCWCOG will respond to CITY requests of grant services in a timely manner.

- B. OCWCOG will assist the City Manager in identifying areas of need.
- C. OCWCOG shall track time spent on grant tasks and bill corresponding tasks with a brief description of the work accomplished.

SECTION 4. PROVISIONS

- A. Contract Period: This agreement shall be effective on August 1, 2024 and shall terminate on June 30, 2025, unless this agreement is hereafter modified in writing.
- B. Payment: OCWCOG will submit a quarterly invoice at the OCWCOG hourly rate as shown in ATTACHMENT A. Rates will be assessed and may be updated annually upon adoption of the OCWCOG Fiscal Year Budget. Compensation shall be paid for work completed at the loaded hourly rates.

Authorization by the CITY for additional work will be communicated in writing. Requests for services will be made to: Justin Peterson, Community and Economic Development Planner.

- C. Termination: This agreement may be terminated by either party. Suspension in whole or in part of this agreement by either party will require thirty (30) days written notice to the other party. In the event of termination, CITY shall compensate OCWCOG for all services provided through the date of termination.
- D. Assignability: This contract is for the exclusive benefits of the parties hereto. It shall not be assigned, transferred, or pledged by either party without the prior written consent of all the remaining parties.
- E. Status of Contractor: The City and OCWCOG agree that OCWCOG is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. The City shall not be obligated to pay OCWCOG, and OCWCOG shall not be entitled to, any benefits accorded to City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax, social security, or any other tax, for contributing to the state industrial insurance program or otherwise assuming the duties of an employer with respect to OCWCOG.
- F. Discrimination: The parties agree to comply with all applicable federal, state, and local laws, rules, and regulations on nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, disability, sexual orientation, gender identity or source of income.
- G. Indemnification: To the extent possible under the limits of the Oregon Tort Claims Act for local governments, CITY and OCWCOG shall hold each other harmless, indemnify and defend each other's officers, agents and employees from any and all liability, actions, claims, losses, damages or other costs that may be asserted by any person or entity arising

from, during, or in connection with the performance of the work described in this agreement, except liability arising out of the sole negligence of either party or its employees. Such indemnification shall also cover claims brought against either party under state or federal workers compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

- H. Public Contracts: All parties shall comply with all federal, state and local laws, ordinances and regulations applicable to the work under this agreement, including, without limitation, the applicable provisions of ORS chapters 279A, B and C, particularly 279B.220-279B.235, as amended.
- I. Personal Identifying Information: OCWCOG agrees to safeguard personal identifying information in compliance with Oregon Revised Statutes ORS 646A.600, the Oregon Consumer Theft Protection Act and the Fair and Accurate Credit Transaction Act Provisions of the Federal Fair Credit Reporting Act. In the event of any inadvertent disclosure or release of information protected by any of these provisions, OCWCOG shall immediately notify CITY and shall hold harmless, defend, and indemnify CITY for any costs related to notification, mitigation or remediation required by the disclosure by CITY.
- J. Waiver: Waiver of any breach of any provision of this agreement by either party shall not operate as a waiver of any subsequent breach of this same or any other provision of this agreement.
- K. Dispute Resolution: Unless otherwise provided in this Agreement, all claims, counterclaims, disputes and other matters in questions between CITY and OCWCOG arising out of, or relating to this Agreement or the breach thereof will be first mediated by the parties through a certified mediator selected by the OCWCOG. If the parties cannot agree on mediation, any litigation related to this agreement in any way shall be filed in the Circuit Court in and for Linn County Oregon.
- L. Workers Compensation: All employers, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require and ensure that each of its subcontractors complies with these requirements.
- M. Severability: If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- M. Amendments: Any amendment to this agreement shall be in writing and signed by authorized representatives of both parties. There are no understanding, agreements, or representations, oral or written, regarding this agreement except as specified or referenced herein.

Signed:



Ryan Vogt
Executive Director
Oregon Cascades West Council of Govts
1400 Queen Ave SE Ste. 201
Albany, Or 97322

Daphnee Legarza
City Manager
City of Lincoln City
801 SW Highway 101
Lincoln City, OR 97367

Date: Aug 13, 2024

Date: _____

Exhibit A Scope of Work

OCWCOG will provide professional grant writing services to undertake portions of work described herein as prioritized and directed by the CITY which may include the following duties, responsibilities, tasks and programs:

Task I: Grant Writing and Administration

Grant Prospecting and Grant Writing (Tasks 1.1 and 1.2) may be billed at a reduced rate as mutually agreed upon by all parties. Tasks will be billed in accordance with the hourly rate listed in Attachment A. Grant Administration (Task 1.3) will be billed at the full rate and offset by administrative funding and/or activity delivery funding as allowable under the awarded grant(s).

Proposal and awarded grant service requests are issued through a work order format and mutually agreed upon by the client and OCWCOG. OCWCOG will estimate the number of hours and provide a not to exceed amount for requested services.

Grant writing and administration services will be based on availability of OCWCOG staff and a first come first serve model will be used. To successfully accomplish this work, City must provide OCWCOG with requested information and materials in a timely manner.

Task 1.1: Grant Prospecting – Prospect for private, state, and federal grant opportunities aligned with local priority projects as directed by the city. City staff will provide a list of project priorities and OCWCOG staff will review potential grant opportunities. OCWCOG will align prospecting activities with the defined areas of need expressed by the City to identify relevant opportunities for projects of interest. The grant prospecting estimate is 10 hours of staff time to review potential grant opportunities for the city. (As requested)

Task 1.2: Grant Writing – OCWCOG will prepare grant applications. This includes 1) Narrative preparation and writing; 2) research and data collection; 3) coordination of partners, as appropriate; 4) budget preparation and coordination with City's fiscal staff; 5) securing letters of support and supplemental documents; 6) Finalize and submit grant applications; 7) other roles and responsibilities requested by the city. (As requested)

Task 1.3: Grant Administration – OCWCOG will administer grant applications. This includes 1) project management; 2) meeting coordination and facilitation; 3) serve as a dedicated point of contact; 4) communication with grantor, stakeholders, and partners; 5) preparation and submission of any required reports; 6) procurement of contracted services, supplies, materials, and capital equipment; 7) fiscal and contract services (e.g., accounts payable, receivables, and intergovernmental agreements); 8) any required grantor follow-up data collection requirements; and 8) any other necessary duties necessary to fulfill grant and contractual obligations. (As requested)

ATTACHMENT A

HOURLY RATES

OCWCOG's hourly rates:

Position	Loaded Hourly Rate
CED Director	\$165
Transportation/Land Use Manager	\$135
Land Use Supervisor/Operations Supervisor	\$125
GIS Analyst/Grant Writer/Land Use Planner	\$120
Assistant Planner	\$100
Administrative Assistant	\$90

The CITY understands that these rates may be changed by OCWCOG during the terms of this agreement. OCWCOG and the CITY may agree to amend this agreement to incorporate new rates. The CITY reserves the right to terminate this agreement if a satisfactory rate adjustment cannot be agreed upon.