



**CITY COUNCIL AND LOCAL CONTRACT REVIEW BOARD AGENDA
Monday, August 17, 2015 - 6:00 P.M.
Council Chambers**

The meetings of the Newport City Council and the Local Contract Review Board will be held on Monday, August 17, 2015, at 6:00 P.M. The meetings will be held in the Council Chambers of the Newport City Hall, located at 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

The meetings location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The 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.

**CITY COUNCIL MEETING AGENDA
Monday, August 17, 2015
Council Chambers**

Anyone wishing to speak at a Public Hearing or on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the City Council Chambers. Anyone commenting on a subject not on the agenda will be called upon during the Public Comment section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

- I. Pledge of Allegiance**
- II. Call to Order and Roll Call**
- III. Public Comment**
This is an opportunity for members of the audience to bring to the Council's attention any item not listed on the agenda. Comments will be limited to three (3) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others

IV. Proclamations, Presentations, and Special Recognitions

Any formal proclamations or recognitions by the Mayor and Council can be placed in this section. Brief presentations to the City Council of five minutes or less are also included in this part of the agenda.

- A. Presentation of Life Saving Medals to Several Police Officers
- B. Oath of Office for Fire Captain Tom Jackson

V. Consent Calendar

The consent calendar consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately on request.

- A. Approval of City Council Minutes from City Council Regular Meeting of August 3, 2015 and Work Session Meeting of August 4, 2015 (Hawker)
- B. Approval of a Favorable Recommendation to the Oregon Liquor Control Commission (OLCC) to Grant a Full On-Premise Sales Liquor License for a New Outlet to Sail Inn Cafe, LLC for Sail Inn Café LLC located at 134 SW Bay Blvd.

VI. Public Hearing

This is an opportunity for members of the audience to provide testimony/comments on the specific issue being considered by the City Council. Comments will be limited to three (3) minutes per person.

- A. Public Hearing and Possible Adoption of Ordinance No. 2083 Regarding the Early Sale of Recreational Marijuana by Medical Marijuana Dispensaries

VII. Communications

Any agenda items requested by Mayor, City Council Members, City Attorney, or any presentations by boards or commissions, other government agencies, and general public will be placed on this part of the agenda.

- A. From Destination Newport Committee - Tourism Marketing Grant Recommendation for the Buccaneer Rampage
- B. From Destination Newport Committee - Tourism Marketing Grant Recommendation for the Oyster Cloyster

VIII. City Manager Report

All matters requiring approval of the City Council originating from the City Manager and departments will be included in this section. This section will also include any status reports for the City Council's information.

- A. Approval of Federal Aviation Administration Grant for the Municipal Airport Master Plan
- B. Update and Report on the Bicycle Pump Track location near the Wilder Subdivision
- C. Consideration of a Process for Awarding the Remainder of the Tourism Facilities Grant Funds

- D. Status Report on Upcoming Town Hall Meeting at Pacific Communities Health District Foundation Health Education Center
-

IX. LOCAL CONTRACT REVIEW BOARD
Monday, August 17, 2015

- A. Call to Order
 - B. Approval of Task Order No. 9 with Civil West Engineering Services for Water System Improvements on Hwy 101 and Golf Course Drive
 - C. Approval of Amendment No. 1 to Task Order No. 14 with Brown and Caldwell Engineering for Construction Phase Services on the Big Creek Lift Station Project
 - D. Adjournment
-

X. Report from Mayor and Council

This section of the agenda is where the Mayor and Council can report any activities or discuss issues of concern.

XI. Public Comment

This is an additional opportunity for members of the audience to provide public comment. Comments will be limited to five (5) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

XII. Adjournment

August 3, 2015
6:00 P.M.
Newport, Oregon

The City Council of the City of Newport met on the above date in the Council Chambers of the Newport City Hall. On roll call, Allen, Sawyer, Engler, Busby, Saelens, Swanson, and Roumagoux were present.

Staff present was City Manager Nebel, City Recorder Hawker, City Attorney Rich, Community Development Director Tokos, Public Works Director Gross, Police Chief Miranda, and Parks and Recreation Director Protiva.

PLEDGE OF ALLEGIANCE

Council, staff, and the audience participated in the Pledge of Allegiance.

PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS

Proclamation Recognizing the 50th Anniversary of the Hatfield Marine Science Center. Hawker introduced the agenda item. Roumagoux read a proclamation recognizing the Hatfield Marine Science Center on its 50th anniversary. Maryann Bozza, from the HMSC, accepted the proclamation and invited everyone to attend the 50th anniversary celebrations.

Proclamation Honoring and Recognizing the Life of Carol Rehfuss and Her Commitment and Service to the City of Newport. Hawker introduced the agenda item. Roumagoux read a proclamation recognizing the life of Carol Rehfuss and her commitment and service to the city. Mike Eastman, representing the First Presbyterian Church of Newport, accepted the proclamation on behalf of the Rehfuss family.

Allen noted that when Carol and John Rehfuss moved to California, former Mayor McConnell presented a nice proclamation. He added that one thing that that was not mentioned was John Rehfuss' service on the city's Planning Commission and City Council.

CONSENT CALENDAR

The consent calendar consisted of the following:

- A. Approval of City Council minutes from the work session and regular meeting of July 20, 2015;
- B. Acceptance of the resignation of Dennis Reno from the Regional Airport Review Task Force, and confirmation of the Mayoral appointment of Mark Fisher to the Regional Airport Review Task Force. Sawyer thanked Reno for all his work at the Airport over the years, and noted that Mark Fisher will be a valuable asset.

MOTION was made by Engler, seconded by Busby, to approve the consent calendar with the changes to the minutes as noted by Allen. The motion carried unanimously in a voice vote.

COMMUNICATIONS

From Councilor Allen - Reestablishing the Funding for the Non-Profit Funding Review Task Force. Hawker introduced the agenda item. Nebel reported that at budget time, Councilor Allen had suggested that upcoming budgets include funding for non-profit organizations as had been done several years ago. He noted that the packet contains a copy of the guidelines that were previously used by the city.

Allen reported that he brought this up during the last Budget Committee process. He noted that former Mayor McConnell had wanted to reestablish the process in 2011, and that the program was funded at the \$10,000 level. He stated that the money comes from state shared revenues derived from liquor and tobacco taxes. He noted that when he was first on the City Council, that Council spent considerable time allocating money to various social service agencies. He stated that the decision to allocate monies to social service agencies is a policy choice that he would rather see occur at the Council level rather than the Budget Committee level. He added that based on a recent article in the "News-Guard," the City of Lincoln City allocated \$50,000 this past year.

Saelens noted that the existing resolution might not be used going forward.

Sawyer stated that this needs to be reestablished as a regular budget item, so that this discussion does not have to occur annually.

Allen stated that what he would like a decision on this evening is whether the Council wants to implement this program as a policy on an annual basis. He added that the Budget Committee could determine the allocation depending what is available in the budget.

Roumagoux asked that this discussion be continued at tomorrow's work session.

Saelens noted that if the program is reestablished, he would not want to limit funding to non-profits. Sawyer stated that the monetary amounts are small, but that it does supplement non-profit funding.

Allen reviewed the types of organizations that were funded in the last round of funding which occurred in 2012. He noted that some of the recipients, over the years of the program, were: Lincoln County Children's Advocacy; Samaritan House; Progressive Options; Casa of Lincoln County; RSVP; Centro de Ayuda; Lincoln County Dispute Resolution; My Sister's Place; Senior Companion Program; Olalla Children's Center; YMCA, and other organizations.

Saelens noted that if the program is called a "non-profit" fund, that is what it would be, but, if it is really targeted at social services, it should be referred to in that manner.

Busby stated that he does not support this program. He noted that the primary purpose of the city is to provide public safety and infrastructure, adding that until the city is caught up with public safety and infrastructure, it should not fund this program.

Allen stated that the program would complement services that the city currently provides. He suggested that Council look at whether the program either complements, or provides, services that the city cannot provide.

It was the consensus of Council to discuss this issue at tomorrow's work session.

CITY MANAGER REPORT

Discussion and Possible Scheduling of a Public Hearing on the Regulation of Recreational Marijuana in the City. Hawker introduced the agenda item. Nebel reported that in November 2014, Oregon voters passed Measure 91. He stated that this law provides for personal growing, possession of limited amounts of non-medical marijuana, and directs the OLCC to administer a licensing system for the production, processing, wholesale, and retail sale of non-medical marijuana. He added that since that time, the legislature has approved four separate bills that provide guidance to local governments as to what actions can be taken in regard to the regulation of recreational marijuana. He stated that the combination of effects for the legislation that has been approved, along with the voter-approved initiative, have the following impact:

On July 1, 2015, personal possession of limited amounts of recreational marijuana is allowed for people 21 years of age and older.

On October 1, 2015, sales of recreational marijuana from medical marijuana dispensaries can begin, unless the city adopts an ordinance prohibiting early sales prior to that time.

By January 4, 2016, the OLCC must approve or deny commercial license applications as soon as practical after this date.

November 8, 2016, is the next statewide general election where measures on the prohibition of marijuana activities on local taxes will be voted on by the local voters.

December 31, 2016, early sales of recreational marijuana from medical marijuana dispensaries end.

Nebel reported that SB 460, which has just been signed into law by the Governor, allows medical marijuana dispensaries to sell recreational marijuana to a person who is 21 years of age or older. He stated that the bill also allows cities to adopt an ordinance prohibiting the early sale of recreational marijuana from a medical marijuana dispensary within its jurisdiction without voter approval. He noted that the ordinance has to be adopted and effective by October 1, 2015. He added that this would mean the City Council would need to adopt an ordinance, prohibiting the early sale of recreational marijuana from medical marijuana dispensaries, by the end of this month. He noted that if the ordinance includes an emergency clause, Council could make a decision in September.

Nebel reported that the next major decision that Council will need to make regarding recreational marijuana is whether to prohibit any of the six types of marijuana activities regulated under House Bill 3400A, which include: medical marijuana processing, medical marijuana dispensaries, commercial marijuana processors, commercial marijuana growers, commercial marijuana wholesalers, or commercial marijuana retailers. He stated that if the Council wishes to pursue

banning any of these six activities, the City Council will have to adopt an ordinance indicating which of the six marijuana activities are prohibited in the city. He stated that this would prevent the Oregon Health Authority (if prohibiting medical marijuana activities), and/or the OLCC (if prohibiting medical marijuana activities) from registering and licensing the prohibited activities until the local voters could vote in November 2016, and either affirm the ban or allow for the activities prohibited by the ordinance. He added that since Newport is in Lincoln County, which approved the use of recreational marijuana on November 13, 2014, in a state-wide election, the city's ban on any of the components of recreational marijuana would remain in effect until a city voter referendum is held in November of 2016, with the voters determining whether the ban will be permanent.

Nebel reported that if the city does not prohibit marijuana activities through a local ban, it can adopt an ordinance imposing a 3% tax on the sales made by those with commercial retail licenses. He stated that this provision apparently trumps the local ordinances that were approved by many Oregon cities, including Newport, leading up to the November 14 election. He added that to collect the 3% sales tax, the issue requires voter approval at the next November 2016 general election. He noted that the City Council would need to meet the appropriate time schedule in order to have this issue on the November 2016 ballot. He stated that the city can regulate certain aspects regarding the location of the four types of commercial licenses, creating a buffer of no more than 1,000 feet between retail licenses, the manner of operation of the four types of commercial licenses, and other issues allowed by law. He added that it would appear to be important that the City Council have any regulations in effect prior to the end of this calendar year to properly regulate various aspects of recreational marijuana, unless the City Council enacts an outright ban.

Nebel reported that he attended a Rotary meeting at which Rob Bovett spoke. He noted that Bovett reported that there is a real push for some provisions to make the early purchase of recreational marijuana available to discourage the purchase of illegal marijuana. He stated that he had asked Bovett whether a ban can be withdrawn after the regulatory processes are in place. He added that Bovett indicated that he is not aware of anything that would prohibit the City Council from reconsidering or revoking that decision prior to the election.

Rich stated that the issue of a ban is complicated, and a distinction would have to be made between the early start of the program, i.e., selling recreational marijuana at a medical marijuana establishment. He added that Council can impose an outright ban that would not impact the tax issue at all. He noted that if Council wants to refer a measure as to whether to allow recreational marijuana sales at all, that measure would go to a vote in November of 2016. He added that if a moratorium was placed on recreational marijuana sales until the OLCC has rules in place, the measure could be removed from the ballot at any time before the ballots are printed. He added that 16 counties in eastern Oregon have already banned recreational marijuana dispensaries.

Allen noted that Rich is talking about an outright ban, and that Nebel is talking about banning certain components. Nebel stated that even banning one aspect of the six categories stops revenue to the city.

Nebel reported that at a subsequent meeting, the City Council should discuss and provide direction as to whether it wants to ban medical establishments selling recreational marijuana, and whether Council wants to ban any of the six marijuana activities outlined in HB 3400A. He stated that if Council does not wish to impose a ban, the city needs to deal with the associated zoning issues. He stated that if Council wishes to pursue a ban on these activities, there will not be the same urgency to develop time, place, and manner restrictions that are allowed under the new laws. He added that if it is the Council's desire to allow any of the six types of marijuana activities outlined in this bill, then the City Council should direct the Planning Commission to initiate a review of regulations that Council may want to implement regarding the regulations of processing, producing, wholesaling, and retailing of marijuana in the city.

Busby stated that the people who do not want this are throwing as many roadblocks as possible. He added that the people have spoken, and the city has a moral obligation to follow the will of the voters. He noted that the vote was not to legalize individual components. He stated that the Council's job is to follow the desire of the voters to the extent possible. He noted that if Council wishes to impose specific restrictions, such as proximity to schools, it should be consistent with what is in place for alcohol sales. He stated that he agrees that a ban of the sale of recreational marijuana will drive buyers to the black market.

Allen asked what Council thought about banning medical marijuana establishments from selling recreational marijuana until the state develops the rules.

Rich noted that if medical marijuana dispensaries are allowed to sell recreational marijuana, the only products that could be sold are ¼ ounce of marijuana leaves; flowers; buds; four marijuana plants not flowering; or marijuana seed.

Saelens agreed with Busby's comments regarding the people having voted. He stated that he did not vote for the measure as the regulations had not been developed. He noted that there is a reason that the medical and recreational marijuana stores are separate.

Allen stated that he agrees with holding a hearing on the sale of recreational marijuana at medical marijuana dispensaries. He added that this is still a barren landscape with marijuana regulations, and there are not a lot of regulations to control these sales. He noted that the voters were not thinking about whether a medical marijuana dispensary could sell recreational marijuana. He stated that he would like to keep the two separate, but that perhaps a public hearing would change his mind.

Sawyer stated that the voters have spoken. He added that there will be lots of regulations in the future like when alcohol was legalized in the 30's. He noted that he would have preferred to have seen a better law to start with, but does not think the city needs to ban recreational marijuana.

Allen stated that he supports sending the tax issue to voters for enforcement.

Nebel reported that the packet contains a summary of the 2015 marijuana legislation from the League of Oregon Cities. He stated that it also includes a copy of a sample ordinance that would ban early sales of commercial marijuana from medical marijuana dispensaries in the city.

MOTION was made by Allen, seconded by Engler, to schedule a public hearing on a possible ordinance prohibiting the sale of recreational marijuana by medical

marijuana dispensaries pursuant to Oregon Senate Bill 460 for the Council meeting scheduled on Monday, August 17 at 6:00 P.M. at City Hall. The motion carried in a voice vote with Busby voting no, and stating that he does not think the city needs to do anything.

Rich stated that the issue of where to put the money has yet to be addressed. He noted that the banks will not take it, and people are flying money to off-shore banks.

Nebel stated that it is important that, after the public hearing, the City Council make a decision so that the current medical marijuana dispensaries know whether they will be allowed to make early sales of recreational marijuana and plan appropriately.

Update on Emergency Sewer Repair for the Sanitary Sewer at SW 5th and Woods Streets. Hawker introduced the agenda item. Nebel reported that city crews have been working to open a sanitary sewer line in SW 5th Street just south of SW Woods Street without success. He stated that the sewer line goes down a very steep embankment making it impossible to televise. He added that due to the terrain at this location, he authorized an emergency contract, to directionally drill a new HDEP sewer line down the hill into the existing manhole at the bottom of the hill, with Central Coast Excavating. He added that the preliminary cost is \$25,000 to \$35,000, and that Central Coast Excavating is the only local contractor with pipe fusing training on HDEP pipe. He noted that no action is necessary since funds are appropriated, and the purchase requirements are under the threshold requiring Council approval.

Discussion Regarding Pool Bids. Hawker introduced the agenda item. Nebel reported that on Wednesday, July 29, five bids were received for the construction of the Newport Aquatics Center with those bids being as follows:

	<u>Confirmed Bids</u>	<u>Deducted Alternatives</u>
1. Pavilion Construction	\$8,308,669	(\$116,000)
2. Corp. Inc.	\$8,315,563	(\$122,000)
3. 2KG	\$8,486,992	(\$138,000)
4. Wildish Building	\$8,523,686	(\$134,000)
5. Gording Builders	\$8,653,146	(\$127,000)

Nebel reported that the current budget for this project is as follows:

<u>Shortfall</u>	
Aquatic Center Bond	\$8,200,000
Wastewater Fund	\$140,000
SDC - Parks Fund	\$100,000
Room Tax	<u>\$150,000</u>
TOTAL	\$8,590,000

Nebel reported that the expenses for this project as bid are as follows:

Pavilion Construction (Contractor) \$8,308,669

(Less) Deductive Alternates	(\$116,000)	
Robertson Sherwood (Architect)	\$886,330	
Civil West (Engineer)	\$95,322	
FEI (Geotechnical)	\$23,408	
Special Inspections	\$40,000	
Building Permit Fees	\$50,000	
1% for the Arts	\$76,000	
SUBTOTAL	\$9,363,729	(\$773,729)
Recommended Contingency (5%)	\$415,433	
TOTAL	\$9,779,162	(\$1,189,162)

Nebel reported that over the next two weeks, staff will be reviewing a number of options related to the project. He stated that in addition to exercising the deductive alternates, staff has initiated discussions with the low bidder regarding options for value engineering. He explained that there will be certain areas of the project that can be built with different materials while maintaining the functionality of the project. He stated that it will be important to assure that materials used will be resilient enough to live on the Oregon coast. He noted that the preliminary indication is that there are significant reductions that could be realized through this process.

Nebel reported that staff will also be looking at a number of revenue options including: a review of current funding resources; options for short term borrowing for additional funds to be supported from existing revenue streams; borrowing from internal funds and identifying a source to repay these funds; shifting currently budgeted projects from appropriate sources for the project (i.e. General Fund, Recreation Fund, or the Room Tax Fund); and private contributions.

Nebel reported that staff has also discussed the possibility of modifying the project and then rebidding it. He stated that the general consensus among staff is that a lot of time was spent to design a project that would meet the needs of the community as outlined during the bond election. He added that a lot of effort was made to reduce costs during the design process, and without eliminations of key components of the project, there would be limited benefit in redesigning the project. He noted that a second thought that was discussed is relocating the facility off of the City Hall campus. He stated that this site was selected after a thorough review of alternate sites, and the efficiencies gained by operating the pool as an extension of the recreation facility would be lost. He noted that while construction may be less expensive, rebidding the project and the impact on the long term operational costs make this alternative undesirable.

Nebel reported that there are a few of the issues that staff has started to evaluate. He noted that the city has 60 days from the bid opening to make a decision on the award. He stated that this will allow time to evaluate these options and any other options the Council may want staff to look at as it relates to these bids.

Nebel reported that it may make sense to delay this item until the first meeting in September. He added that one of the problems, from a cost standpoint, is that plumbing and mechanical costs have risen 20% in the last year.

Busby asked what the bounds are, that the city is operating under, in terms of modifying what was advertised to the voters. He asked how much could be changed. Rich stated that if modification is such that it would create a substantial risk of other bidders being put at a disadvantage, then it would be problematic. He

noted, for example, if the siding material was changed, and could result in savings, there would be no effect from a legal standpoint in terms of modifying the bid. He stated that he has talked with Murzynsky about defeasance of the bond, and in the worst case, the city could look at refunding the bond, or holding the proceeds and paying off the bond as it becomes due. He added that the assessment could be rolled back if nothing is built. Busby noted that he is more concerned about modification of the project. Saelens stated that every group involved in the planning process was aware that by adding a few bells and whistles, some of them might need to be trimmed back without jeopardizing the basic product. He noted that the basic question is whether the numbers can get us back to what was promised.

Gross reported that staff is not looking at reducing the footprint. He reviewed the contract regarding value engineering, noting that a potential elimination is the current channel, and possibly the hot tub, but that reductions are primarily being sought through substitutions of materials. He stated that at the end of day, there will have to be alternative funding strategies too.

Allen stated that from a voter perspective, this project is harking back to the water treatment plant project in which the cost was underestimated, and the voters voted for another amount. He noted that the city had to go into budget to complete this project, and are in the same place on another project for different reasons. He asked why the cost was underestimated and what happened that the staff was unaware of. He stated that the city has to let voters know why this is happening, since it also happened with the water treatment plant. He added that the city must have a truthful and accurate message.

Gross stated that he is not a big fan of bonds because bonds are sold before the preliminary engineering is done. He noted that no one had any idea of all the issues, and reiterated that one of the challenges of a bond is that you only do so much of the work ahead of time. He added that the city utilized a GMGC process with the water treatment plant. He stated that the bond sale was based on the master plan, and the water treatment plant was different than the one proposed in the master plan. He stated, in regard to the pool bond, he does not believe enough site impacts were estimated, as the focus was on the building itself. He added that nothing was estimated for the parking lot, solar, or percent for the arts, and these, coupled with a changed market, contributed to the higher bids.

Saelens noted that staff has to have more time to determine what it is looking at. He added that he is confident that will happen.

Sawyer stated that he had received calls from people saying not to build the pool. He asked whether the original group of pool promoters have had any conversations regarding additional funding from groups or individuals that might want to donate. Protiva stated that most discussions with the swim team have focused on furnishings. He noted that several community members have been approached over the years, but nothing has materialized in terms of contributions. Sawyer stated that he is disappointed about the removal of the outside entrance. Protiva reported that the exit is not being removed, but the cover is being eliminated, although it could be added in the future.

Swanson suggested hiring a fundraiser.

Allen agreed that this matter needs more evaluation. He stated that when the city presents a bond issue, it does not want to make it so high that it does not pass, but

that he has a sense that we could have made this a higher bond measure that would have been more realistic. He noted that, at this point, the city is now stuck with what it has.

Engler asked whether Tia Cavender has been approached, and Gross reported that this effort is two years too late. He stated that it is necessary to make an interim decision. He added that grants for this type of facility do not exist.

Nebel stated that the real problem with a fundraising effort is that a decision on these bids must occur within 60 days. He added that if something is eliminated, it is perfect for a future fundraiser.

Authorization of a Temporary License Agreement with Lincoln County for a Meteorological Tower at the Decommissioned Landfill Property. Saelens stated that he has a conflict of interest and will not be voting, as he is an employee of Lincoln County and is the Lincoln County staff for this project. He added that Steve Hodge was supposed to attend to present this issue, but is not in attendance, so he will make the presentation, and respond to questions, on behalf of Lincoln County. He left the Council dais and sat in the witness chair.

Nebel reported that Lincoln County has requested a license from the city to install a 198-foot tall meteorological tower on a two-acre portion of city-owned property near the decommissioned landfill. He stated that the license would be effective through September 30, 2017, and the county would be responsible for installation, maintenance, decommissioning, and returning the property to its original condition prior to the date the license expires. He noted that the purpose of the tower is to collect meteorological data to determine whether the area is a good candidate for future wind energy projects.

Saelens reported that this matter arose at the joint meeting of the City Council and County Commissioners in January, at which time both groups thought that this was a great idea conceptually. He added that further information was needed for formal approval.

Saelens stated that in February, he thought that a number of issues associated with the tower could be handled internally, but that complications began to unfold. He noted that these included the requirement for a building permit; a lease; access to the site; and the need for an updated engineering stamp. He added that the last piece is building renewable energy sources, and potentially a network to reroute sources of power where it is most needed.

Busby asked about funding, and Saelens reported that half the funding will come from the Energy Trust of Oregon, and the other half from Lincoln County.

MOTION was made by Engler, seconded by Busby, to find that the execution of this license agreement, authorizing the installation of a temporary meteorological tower on landfill property, is not contrary to the public interests, and authorize the City Manager to execute the license as presented. The motion carried in a voice vote, with Saelens having recused himself and not voting. Saelens recognized Tokos' work on this project.

Nebel reminded the City Council of its work session tomorrow starting at noon.

Nebel reported that the city will be hosting a reception recognizing the 225th anniversary of the U.S. Coast Guard, and the release of the Coast Guard forever

stamp. He noted that it would be held at 4 P.M. tomorrow in the City Council Chambers.

LOCAL CONTRACT REVIEW BOARD

The City Council, acting as the Local Contract Review Board, convened at 7:55 P.M.

Notice of Intent to Award a Contract for the SW Abalone and Brant Streets Improvement Project. Hawker introduced the agenda item. Nebel reported that on July 22, three bids were opened for the reconstruction of SW Abalone Street, 30th Street, extension of SW 30th Street from Abalone to SW Brant, and the redevelopment of SW Brant Street and SW 27th Street. He stated that improvements include curb and gutter, water line replacements, paving of all the streets in the project area, sidewalk and multi-use path in this location that was developed by the South Beach Urban Renewal Agency.

Nebel reported that \$2,474,000 has been appropriated for this project with funding from the Urban Renewal Agency, OMSI, and other sources. He stated that with the project coming in significantly under the engineer's estimate, there is sufficient funding to cover the construction expenses, as well as the engineering to supervise the construction activities. He noted changes to the fiscal effects portion of his report that was contained in the packet.

MOTION was made by Swanson, seconded by Sawyer, to issue a Notice of Intent to Award the SW Abalone and SW 30th Streets Roadway Improvements Project to C and M Excavating and Utilities, LLC of Sherwood, Oregon, in the amount of \$1,489,814 being the low bid and meeting specifications, and contingent upon no protest, authorize the award and direct the City Manager to execute the contract after seven days on behalf of the City of Newport. The motion carried unanimously in a voice vote.

Notice of Intent to Award a Contract for the SE Ferry Slip Road Improvement Project. Hawker introduced the agenda item. Nebel reported that on July 22, four bids were received for improvements on Ferry Slip Road from SE Ash Street to SE 32nd Street, which includes widening the road, installing curb and gutter on both sides of the road, paving the road, installation of street lights, and the installation of a multi-use path on the west side from SE Ash Street to SE Marine Science Drive. He stated that the low bid was from KSH Construction Company, located in Keizer, Oregon.

Nebel reported that \$1,438,000 was budgeted in the 2015/2016 Fiscal Year for this project. He stated that this is a sufficient amount for the construction and engineering expenses to complete this work. He added that the engineer's estimate for this work was \$1,960,315, and that this is a South Beach Urban Renewal Project. He noted changes to the fiscal effects portion of his report that was contained in the packet.

MOTION was made by Engler, seconded by Busby, that the City of Newport issue a notice of intent to award the Ferry Slip Road Improvement Project to KSH Construction Company, Keizer, Oregon, in the amount of \$868,868, being the low

bid and meeting specifications, and contingent upon no protest, authorize the award and direct the City Manager to execute the contract after seven days on behalf of the City of Newport. The motion carried unanimously in a voice vote.

Notice of Intent to Award a Contract for the Safe Haven Hill Tsunami Evacuation Improvement Project. Hawker introduced the agenda item. Nebel reported that on July 22, four bids were received for the installation of sidewalks, and multi-use paths to improve accessibility to Safe Haven Hill for purposes of tsunami evacuation. He stated that the improvements include sidewalks and multi-use paths on SW Abalone Street and at the end of SW 28th Street, extension of a 12-foot access road to the top of Safe Haven Hill, stairs on the south side of the hill, a three-foot wide trail on the north side of the hill, and emergency lighting. He added that 75% of the funds for this project are coming from a FEMA grant, with 25% coming from the South Beach Urban Renewal District. He noted that \$599,847 has been appropriated for this project, and with construction costs of \$492,294, there is sufficient funding for construction and engineering services to complete this project.

Allen asked whether there are issues that require Urban Renewal Agency input, and Nebel noted that the URA has already approved this project.

MOTION was made by Sawyer, seconded by Saelens, that the City of Newport issue a Notice of Intent to award the Safe Haven Hill Tsunami Evacuation Improvement Project contract to KSH Construction Company, Keizer, Oregon, in the amount of \$424,364 being the low bid and meeting specifications, and contingent upon no protest, authorize the award and direct the City Manager to execute the contract after seven days on behalf of the City of Newport. The motion carried unanimously in a voice vote. Roumagoux thanked former City Councilor Richard Beemer for his work on this project.

Authorization of Task Orders with Chase Park Grants. Hawker introduced the agenda item. Nebel reported that the city has had an ongoing contract with Chase Park Grants for support and advocacy for pursuing various grants for the city. He stated that as part of the regular contract, Chase Park Grants works with the city to gain an understanding of various city projects; scans state, federal and private sources to try to identify and target particular grant funds that could assist with the financing of projects; and builds collaborative relationships between the various funding agencies and the city.

Nebel reported that once specific targets are identified, the City Council is requested to authorize specific projects with Chase Park Grants. He stated that these specific task orders have been identified as part of the capital improvement projects included in the 2015/2016 budget specifically for this purpose.

Nebel reported that he, Rich, and Gross met with Tia Cavender to review the specific task orders for the upcoming fiscal year. He recommended that four task orders be pursued at this time. He noted that the fifth task order that has been appropriated in the budget relates to the planning and design of the Big Creek Remediation Project. He recommended holding on this task order until the City Council has completed its review of the dam feasibility study.

Nebel reviewed the task orders:

Task Order 3.01 - Wastewater projects will be to provide direct assistance in

obtaining CWSRF loan funds for point source projects in the Nye Beach area, Sam Moore Park water quality improvements, a design of fish passage system with a targeted amount of \$2.5 million, not to exceed expenses for these services of \$36,650.

Task Order 3.02 - Stormwater projects include the non-point source project related to the Sam Moore Sewer improvements, which would assist the city in obtaining \$2.9 million dollars in 1% funds for this project, with a cost to Chase Park Grants not to exceed \$38,850.

Task Order 3.03 - Facility projects would include grant administration for the \$1.5 million dollar grant for the Fire Station Seismic Stabilization Project for a cost not to exceed \$7,400.

Task Order 3.05 - Water quality projects for the Sam Moore Creek Water Quality Improvement Project to seek grants in the amount of \$1.1 million dollars for the combined water quality park improvement projects at Sam Moore Creek with a cost not to exceed \$129,550.

MOTION was made by Swanson, seconded by Engler, to approve Task Order 3.01 for Technical Grant Assistance for Wastewater/Sanitary Sewer Infrastructure with Chase Park Grants, LLC in the amount of \$36,650 and authorize the City Manager to execute the Task Order on behalf of the City of Newport. The motion carried unanimously in a voice vote.

MOTION was made by Swanson, seconded by Engler, to approve Task Order 3.02 for Technical Grant Assistance for Storm Sewer Infrastructure with Chase Park Grants, LLC in the amount of \$38,850 and authorize the City Manager to execute the Task Order on behalf of the City of Newport. The motion carried unanimously in a voice vote.

MOTION was made by Swanson, seconded by Engler, to approve Task Order 3.03 for Technical Grant Assistance for Public Facilities with Chase Park Grants, LLC in the amount of \$7,400 and authorize the City Manager to execute the Task Order on behalf of the City of Newport. The motion carried unanimously in a voice vote.

MOTION was made by Swanson, seconded by Engler, to approve Task Order 3.05 for Technical Grant Assistance for Water Quality Projects with Chase Park Grants, LLC in the amount of \$129,550 and authorize the City Manager to execute the Task Order on behalf of the City of Newport. The motion carried unanimously in a voice vote.

Allen noted that the last task order is for \$130,000, and asked whether this is only for the amount of time anticipated trying to secure grant, and how confident is the city that the grants will be obtained. Gross explained that the \$185 hourly rate includes all staff and overhead, and that it is not entirely certain that the \$1.1 million in grants would be secured even though the city would still be paying \$130,000 for the effort. The motion carried in a voice vote with Allen voting no due to the cost of the task and the uncertainty that the grants would be secured.

RETURN TO CITY COUNCIL MEETING

The City Council returned it its regular meeting at 8:15 P.M.

REPORT FROM MAYOR AND COUNCIL

Roumagoux reported that on July 22, she attended Ernest Bloch's birthday celebration. She added that the group is trying to develop a source to buy the Bloch home in Agate Beach.

Roumagoux reported that on July 24 she played a cameo performance in the play, "Come Blow Your Horn," at the PAC.

Roumagoux reported that the Regional Airport Review Task Force met on July 24. She noted that she anticipates measureable outcomes when the Task Force completes its work.

Roumagoux reported that she attended the Oregon Mayor's Association Conference, in Cottage Grove, from July 30 - August 1. She noted that this is the best OMA Conference she has ever attended, and will share information from the Conference at the work session tomorrow.

Sawyer reminded Council that he had been excused from the next meeting.

Sawyer reported that he attended a meeting regarding the future of the Fairgrounds. He noted that the Seafood and Wine Festival will not be held at the Fairgrounds, and that Lincoln County is looking for funding sources for work at this facility.

Sawyer reported that he attended a recent COG transportation meeting. He noted that issues discussed included: work at the Port of Toledo, including the new boat lift, and the projected number of new jobs that will be generated due to this work in Toledo; a presentation regarding the Port of Newport, including potential shipping opportunities, update on the Teevin Brothers log exporting plans, new ice plant on the Bayfront, the sale of the Undersea Gardens, and the departure of the cherry plant. Busby noted that at the recent Port meeting, it was announced that the sale of the cherry plant had not materialized, and that the plant will stay in Newport. Sawyer reported that there was also an update on the Highway 20 project at this meeting, and that project is still on track to be completed in the fall of 2016.

Saelens reported that the VAC Steering Committee took a break in August.

Swanson reported that the 60+ Advisory Committee is working on goals and wayfinding within the building. She added that there are now two large screens that tell of upcoming activities.

Swanson reported that she attended a recent Sister City group meeting. She noted that there are lots of plans for the celebration of the 50th year exchange.

Swanson reported that she attended a recent meeting of the Lincoln Public Safety Committee, at which there was a discussion regarding what the individual departments do.

Busby reported on a recent Port of Newport meeting. In addition to the news that the cherry plant will remain in Newport, it was announced that Ken Brown will be replaced on the Urban Renewal Advisory Committee by Patricia Patrick-Joling.

Busby noted that the Regional Airport Review Task Force had met, and asked whether this group could handle the work that is required for the airport master plan. Nebel noted that the FAA has a strict formula for the master planning process, and that this group does not represent all the required elements.

Busby reported that the Habitat for Humanity bill had been approved by the Senate, and that there would be no property taxes on Habitat for Humanity homes for seven

years. Allen noted that the bill had passed by the end of June, but was just signed by the Governor in July.

Engler reported that the Community Visioning Work Group had met twice, and that both meetings were very productive. She added that she and Carla Perry had attended a League of Oregon Cities training on visioning which was very good.

Engler reported that the July meeting of the Library Board meeting was cancelled.

Engler reported that she attended the Urban Renewal Advisory Committee open house last week.

Allen reported that he had attended a Port of Newport meeting on June 23 at which there was a discussion regarding the U.S. Coast Guard FRCs.

Allen reported that he had met with Andrew Bornstein on July 20 to tour the fish processing plant.

Allen reported that he had attended the COMES Advisory Board meeting on July 23. He noted that Gil Sylvia and Bob Cowen were in attendance. He stated that Cowen had provided an update on the Marine Studies Initiative, adding that the focus is on 500 additional students and 25 faculty by 2025. He also noted that the Marine Studies Initiative Strategic Plan should be posted on the HMSC website along with the mission statement and vision.

Allen reported that he was unable to attend the Retirement Trustees meeting, but that Saelens had attended in his stead.

Allen stated that the comment he had made about the amount of the bond measure for the pool, and that perhaps it could have been greater than 8.2 million was based on what he heard this evening from Gross and Protiva. He added that it was not based on anything other than their comments.

Allen stated that he had questions regarding the properties that Habitat for Humanity acquired in Lincoln City as Lincoln City was used as an example of what Newport could do. He noted that Council was told that Lincoln City had donated five lots in 2002, and the lots were valued at approximately \$20,000 each. He stated that Council was also told that the actual value of the lots was twice as much as the donation. He added that he checked with Lincoln County and found that the real market value of the lots in 2002 was \$20,000 per lot. He noted that according to county records, at the time the Lincoln City properties were sold, the value of those lots was less than \$20,000 per lot. He stated that there may be a discrepancy in the information that was shared over the course of several meetings.

Saelens reported that he had attended the Retirement Board of Trustees meeting. He stated that the meeting went well, and an in-depth packet was distributed. Nebel noted that the Trust will be reinstating its annual meetings with employees in October. He added that in preparation for that, an employee handbook will be prepared to explain the benefits.

PUBLIC COMMENT

Marletta Noe suggested building the best possible swimming pool possible with the approved bond money. She recommended keeping the admission affordable for the average person. She stated that she does not want money taken out of any other budget to fund the construction of the pool.

ADJOURNMENT

Having no further business, the meeting adjourned at 8:47 P.M.

Margaret M. Hawker, City Recorder

Sandra N. Roumagoux, Mayor

August 4, 2015
Noon
Newport, Oregon

The City Council of the City of Newport met in a work session on the above date in Conference Room A of the Newport City Hall. On roll call, Allen, Sawyer, Swanson, Engler, Busby, Saelens, and Roumagoux were present.

Staff present was City Manager Nebel, City Recorder Hawker, City Attorney Rich, Library Director Smith, and Police Chief Miranda.

Also in attendance, later in the meeting, were representatives from the Newport Farmer's Market and Newport Pawn Shop.

UPDATE TO THE CITY COUNCIL ON THE CITY MANAGER'S QUARTERLY EVALUATION

Roumagoux reported that she and Busby had met with Nebel as a part of the City Manager evaluation process. She noted that they had talked with Nebel about how things were going, and it was suggested that City Council spend time prioritizing its goals to provide further direction to the City Manager.

Roumagoux reported that during the recent Oregon Mayor's Association Conference, there was a breakout session to discuss city manager evaluation processes. She noted that the facilitator, Sharon Harris, from CIS, facilitated the session, but used the City of Newport process as the model for the session. Roumagoux added that Harris had made two small edits to the process. She stated that she told Harris how the process was developed and what the City Council liked. Harris suggested using letters for ratings, rather than numbers. Council discussed this potential recommended change. Roumagoux reported that she and Busby, as Council President, will meet at the end of the month to look at the evaluation. A discussion ensued regarding the "needing development" category and whether it should carry points. Busby recommended staying away from summary totals. Allen reported that on the written evaluation form, he generally makes brief comments and likes to expand on those comments verbally in executive session.

Nebel reviewed the following list of goals and the estimated times for completion, including:

On-going Special Projects	
Activity	Completion Date
Visioning Work Group	September 2015
Airport Regional Review Task Force	December 2015
Airport RFP	November 2015
*Urban Renewal Agency Northside	November 2015
*Development and Implementation of Various HR Issues	December 2016
*Aquatic Center	September 2016

*Please note on these items I am playing a supporting role versus a leading role.

Nebel reported that in addition to the specific topics outlined on the agenda, there are a number of special projects that he is or will be directly involved with. He added that he wished to discuss these specific items with the Council to gain a better understanding of the priority that the Council has regarding these tasks. He stated that while he would like to do everything at one time, it is not possible.

Nebel stated that there are a number of significant issues that he believes should be priorities as internal organizational projects during the next 18 month period that will take my direct involvement, including:

Future Special Projects	
Activity	Completion Date
Utility Rate Study (Budgeted in current Fiscal Year)	
Review of the city's water and sewer policies	
Review of the city's purchasing policy	
Review of the rules and functions of advisory committees	
Conducting a review of the organizational structure for Public Works	
Coordinating efforts for visioning process, if approved by City Council	

Nebel stated that this work session is a good time to discuss other specific issues that are of interest to the City Council and add them to the list. He reported that during his tenure with the city, a number of issues have been addressed, including: the operational review for the City Council; restructuring of the Finance Department; restructuring of the budget process; review of the municipal airport; implementation of a number of HR initiatives; hiring of an HR person, Finance Director, and Fire Chief; as well as generally familiarizing myself with this organization in the first 18 months. He added that these special efforts are in addition to the routine processes that require his time on a day-to-day basis.

Nebel reiterated that these priorities, while all important, cannot be handled at once. He noted that the first three items on the above list should be completed by the end of the calendar year. A brief discussion ensued regarding the utility rate study. Nebel noted the study will examine equity and how rates are loaded on individual users. Saelens suggested benefits to users that conserve. Nebel also noted that the "rainy day" fund for low-income users will be looked at.

CREATION OF A YOUTH ADVISORY COMMITTEE WITH NEWPORT HIGH SCHOOL

Roumagoux addressed the issue of creation of a Youth Advisory Committee with Newport High School. She noted that there is an existing resolution that created a YAC, and Hawker reported that the group had not developed. Roumagoux produced information regarding Beaverton's "Mayor's Youth Advisory Board." She noted that Kate Taylor, from Beaverton, would assist the city if this is the direction Council wishes to go. It was

suggested that committee members could include students at the OCCC as well as the high school. Allen noted that retired high school teacher, Al Fitzpatrick, required his students to attend Council meetings.

Roumagoux also reported that she had information from the City of Dallas' "Citizen's Academy." Staff was asked to gather the history and further information, related to the creation of a Youth Advisory Committee, for a report to the City Council in September or October.

DISCUSSION ON THE HOMELESS PROBLEM IN NEWPORT AND LINCOLN COUNTY

Busby noted that the public perception regarding the homeless issue includes housing and crime. Miranda reviewed a list of homeless "camps," noting that the camps are checked monthly, and the residents asked to move. Smith noted that there are homeless individuals living in the ditch behind the Library. Sawyer asked Miranda whether the list includes all "camps." Miranda reported that he has been reviewing potential ordinances that would deal with issues such as solicitation of funds. Busby asked whether people were required to have a business license in order to solicit funds on street corners. Sawyer suggested developing a card that contained a list of resources in the city. Busby asked approximately how many homeless individuals live in the city, and Miranda reported that the number is approximately 75 - 100.

Allen stated that he has no issue with people on corners asking for money, and that he is not supportive of city action toward respectful people asking for money on corners. He added that this issue gets back to the mental health issue, and why the homeless individuals are there, and whether anything can be done to address mental health.

Smith stated that there are many issues with the homeless population at the Library. He added that his staff calls the police at least once weekly, often more, regarding people with mental health issues at the Library.

Busby asked whether the city should apply more pressure on the campsites. Saelens suggested focusing on panhandling and the mentally ill. Miranda noted that exclusion notices can be issued only on city property, but that trespass notices may be issued for private property. Engler asked whether there is something that other libraries might do that would help in Newport. Smith noted that some libraries have mental health practitioner offices in libraries. He added that his staff is exhausted from this issue. Sawyer reported that the Church of the Nazarene is offering showers, etc. for homeless children to clean up before school. Allen stated that there are different sets of problems. Nebel suggested that it might be beneficial to convene a group to discuss the issue, which would include Lincoln County and Lincoln City.

Miranda noted that a letter had been written to the hospital asking that a detox facility be designed into the new hospital. Rich reported that sobering centers were recently approved by the legislature, and that these are different from detox centers.

Allen stated that direction is needed on the Library facility, and that something needs to be done to make the Library safe. Smith reiterated that when staff feels threatened, it calls the police. Swanson asked whether the Library could be a part of regular police patrols. Roumagoux noted that this problem is not unique to Newport, and was brought up at the Oregon Mayor's Association Conference. She noted that one cities is constructing a yurt city to deal with homelessness.

Nebel noted that staff can participate in the patrolling and cleaning up of homeless camps. He also recommended policy development and specific training in this area. A discussion ensued regarding the part that the Lincoln County Public Safety Committee could play in this issue since it is already a county-wide organization. Nebel recommended starting with a letter to this group from the city.

DISCUSSION ON THE POTENTIAL INVOLVEMENT OF THE CITY IN THE LOYALTY DAYS PARADE

Swan suggested that the city have a float in the Loyalty Days parade. Engler suggested a visioning float as a part of the city's visioning process. Roumagoux recommended that it should be kept simple. Swanson suggested that the City Employee Committee could help plan a float that would include, minimally, a truck and candy.

CITY BEAUTIFICATION EFFORTS - NEXT STEPS

Nebel reported that this issue came from the City Council's last goal setting session. He asked what Council is looking for regarding a beautification strategy for the city. Busby suggested improving the image of the city without spending a lot of money. He asked what the city could do to sponsor positive actions to make the city look better when driving through town. Sawyer suggested low maintenance vegetation in city right-of-way. Engler suggested a staff gardening position, or the hiring of someone who has a horticulture background. She reiterated that this needs to be a paid staff position. She also suggested updating the Parks Master Plan. She recommended funding a seasonal parks maintenance worker with a job description that includes a beautification component. Allen suggested a proactive effort focusing on Highway 101 north of Highway 20 or south on Highway 101 to the bridge, or east out of town. Engler reported that when the intersection of Highways 101 and 20 was reconfigured, the Shell gasoline station did not replace its landscaping. She added that the trees at Walgreens appear to be dead. She suggested reviewing existing ordinances, and if there are ordinances, related to this issue, that are unenforceable, they should be amended to make them enforceable. Sawyer suggested placing trash receptacles in strategic places in the community. The discussion was summarized to include follow-up regarding code issues, trash cans, maintenance staff with landscaping knowledge, and coordination with Thompson's Sanitary Service.

FARMER'S MARKET - DISCUSSION ON THE LOCATION AND COMMENT FROM FARMER'S MARKET STAFF AND SURROUNDING BUSINESS OWNERS

Several representatives from the Farmer's Market were in attendance, in addition to Jacob Bishop, owner of the pawn shop. Introductions were made.

Nebel reported that the city believed that the existing parking lot, and the lawn on the south side of City Hall, would be under construction for a new pool parking lot, and worked with the Farmer's Market to find a new location. He noted that the location across the street seemed to work best. He stated that several of the adjacent business owners had complained regarding various aspects of the new Market location. He noted that over the weeks various steps were taken to try to address the complaints. He reported that one of the complaints related to the inability to access the pawn shop parking lot from the back of the building. He noted that the city had created signs to place on Highway 101, in front of the pawn shop, noting that those parking spaces were for pawn shop customers only. He stated that the Antique Mall was concerned about Market patrons using the Mall parking lot. Nebel noted that the Market is now paying an attendant to control parking in the Mall parking lot.

Katie McNeil, representing the Farmer's Market, distributed information regarding the success of the Market. She noted that the new location was well-received by Market patrons, but not neighboring businesses. She reported statistics from a dot survey that was taken last Saturday, noting that there had been 2,568 shoppers that day, of which 991 had participated in the survey. She stated that the average customer spends \$35, and more than \$60,000 changed hands in one day. She stated that the Market would like to work with the neighboring business. She reported that the Antique Mall had held a flea market and that the flea market vendors seemed happy. She reviewed the LEMONADE project fundraiser for the SNAP program; noted that this Market is ranked 89 of the top 100 farmer's markets in the country; and is the second oldest farmer's market in the state. McNeil reported that Highway 101 frontage is very important to the Market.

Bishop, owner of the pawn shop, stated that he is happy with the Farmer's Market at this location, but that ingress and egress from his back parking lot is impossible. He reported that he hired someone to man parking in front of his shop, but that he cannot continue this. He suggested that with the relocation of five vendors, his back parking lot would be accessible to his customers. He stated that he has lost \$8,000 monthly in sales since the Market began.

Allen asked whether Peggy Sabanskas, owner of the Antique Mall, had other issues. McNeil reported that the Market has hired someone to stand at the entrance to the Mall parking lot to let people know that it is not a Market parking lot.

It was suggested that the barricades be moved, and a road closed sign be placed to allow access to the pawn shop parking lot. Sawyer suggested that the Market charge each vendor a fee to subsidize the parking lot attendant. Nebel suggested meeting with Lincoln County regarding the possibility of some of the vendors being relocated to the county's parking lot. He stated that he would visit the Market on Saturday, and asked whether any Councilor's wished to make that visit with him - Swanson, Engler, and Allen agreed to participate. Miranda agreed to work on signage and follow-up with Gross.

DISCUSSION REGARDING THE REINSTATEMENT OF NON-PROFIT FUNDING

It was decided, at the City Council meeting of August 3, 2015, to discuss the reinstatement of the non-profit funding program at the work session of August 4, 2015. Due to time constraints at this meeting, it was agreed to hold this discussion at a later date.

ADJOURNMENT

Having no further business, the meeting adjourned at 3:29 P.M., as the U.S. Coast Guard Honor Guard arrived to practice the presentation of Colors for the celebration of the 225th Anniversary of the U.S. Coast Guard, and the release of the U.S. Coast Guard Forever Stamp by the U.S. Postal Service.



Agenda #:V.B
Meeting Date: August 17, 2015

Agenda Item:

Approval of Recommendation to the Oregon Liquor Control Commission (OLCC) to Sail Inn Café, LLC for a Full On-Premise Sales Liquor License for a New Outlet to Sail Inn Café, LLC located at 134 SW Bay Blvd.

Background:

Sail Inn Cafe, LLC is requesting a new Full On-Premise Sales liquor license from the Oregon Liquor Control Commission (OLCC) for 164 SW Bay Blvd. ORS 471.166 requires an applicant to obtain a recommendation from the local governing body in the city where the business is located. The City Council may make a "Favorable Recommendation", or an "Unfavorable Recommendation" to the OLCC. The Newport Police have reviewed the request and recommends favorable action by the City Council on the following application. Please note that the request, if granted, will reinstate a license that was surrendered about two years ago when a clerk sold alcohol to a minor as part of an underage decoy program. There have been no police calls during the past year.

Recommendation:

I recommend that the City Council make a favorable recommendation on the issuance of a Full On-Premise Sales liquor license for a new outlet to Sail Inn Cafe, LLC to be located at 134 SW Bay Blvd.

Fiscal Effects:

None by making this recommendation. The city does receive a fee for processing liquor licenses.

Alternatives:

Issue an unfavorable recommendation to the OLCC or as suggested by the City Council.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Spencer R. Nebel".

Spencer R. Nebel
City Manager



Agenda Item #
Meeting Date

August 17, 2015

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title OLCC License Approval

Prepared By: Newport Police Dept Head Approval: Chief Mark J. Miranda  City Mgr Approval: _____

Issue Before the Council:

Shall the City Council recommend approval of the liquor license application for Sail Inn Cafe.

Staff Recommendation:

The Police Department recommends favorable action by the City Council

Proposed Motion:

Handled as a consent calendar item

Key Facts and Information Summary:

Sail Inn Café, 134 SW Bay Blvd, has made application to the Oregon Liquor Control Commission for a "Full On-Premises Sales" license as a new outlet. Such a license allows for the applicant to sell 'by the drink' wine, malt beverages, cider and distilled liquor. These beverages must be consumed on the premises. Partially consumed bottles of wine that had been served with a meal may also be taken from the premises.

A background check of the applicant revealed no disqualifying information. The Sail Inn Café is located on the Bayfront just east of Hatfield Drive. It is also a lodging establishment. There have been no police calls to the location within the last year. OLCC inspectors did conduct an Underage Decoy action at the Sail Inn about two years ago. The Sail Inn failed as the clerk at the time did sell alcohol to a minor. Soon after, the Sail Inn surrendered their OLCC license. This application is to reinstate their license.

ORS 471.166 requires an applicant to obtain a recommendation from the local governing body in the city where the business is located. The City Council may make a "Favorable Recommendation" or an "Unfavorable Recommendation" to OLCC. The Commission will then decide if granting a license is appropriate.

Other Alternatives Considered:

Not applicable.

City Council Goals:

Public Safety related.

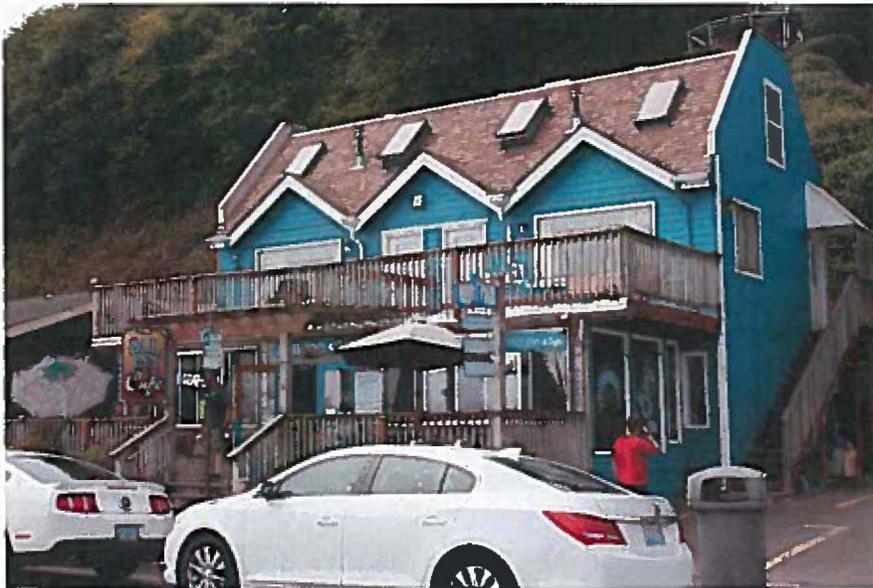
Attachment List:

License Application

Staff Report from June 28, 2010

Fiscal Notes:

There is no fiscal impact on the City other than time to process the application





OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
 - Commercial Establishment
 - Caterer
 - Passenger Carrier
 - Other Public Location
 - Private Club
- Limited On-Premises Sales (\$202.60/yr)
- Off-Premises Sales (\$100/yr)
 - with Fuel Pumps
- Brewery Public House (\$252.60)
- Winery (\$250/yr)
- Other:

ACTIONS

- Change Ownership
- New Outlet
- Greater Privilege
- Additional Privilege
- Other

RECEIVED
JUL 30 2015
NEWPORT POLICE

90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- Limited Partnership
- Corporation
- Limited Liability Company
- Individuals

CITY AND COUNTY USE ONLY

Date application received: 7/28/15

The City Council or County Commission:

NEWPORT
(name of city or county)

recommends that this license be:

- Granted
- Denied

By: _____ (signature) _____ (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: Jah

Date: 7-24-15

90-day authority: Yes No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Sail Inn CAFE LLC ③ _____
② _____ ④ _____

2. Trade Name (dba): Sail Inn Cafe LLC

3. Business Location: 134 SW Bay Blvd Newport Lincoln OR 97365
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 1377 Moonshine Park Rd, Logsdon, OR 97357
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 541-574-8880
(phone) 541 574 8880 (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: Sail Inn Cafe LLC

9. Will you have a manager? Yes No Name: Khakhanang Hickey
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Lincoln County
(name of city or county)

11. Contact person for this application: Khakhanang Hickey 541 574 8880
(name) (phone number(s))
1377 Moonshine Park Rd Logsdon OR 97357
(address) (fax number) (e-mail address)
chin24@gmail.com

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① [Signature] Date 7/23/15 ③ _____ Date _____

② _____ Date _____ ④ _____ Date _____



CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda#:VI.A.
MeetingDate: 8/17/15

Agenda Item:

Public Hearing and Possible Adoption of Ordinance No. 2083 Regarding the Prohibiting of the Sale of Recreational Marijuana by Medical Marijuana Dispensaries

Background:

At the August 3, 2015, City Council meeting, the Council scheduled a public hearing on an ordinance that would prohibiting the early sales of recreational marijuana by Medical Marijuana Dispensaries in accordance with SB460.

In November 2014, voters passed Measure 91 into law. This law provides for personal growing, possession of limited amounts of non-medical marijuana and directs the Oregon Liquor Control Commission (OLCC) to administer a licensing system for the production, processing, wholesale, and retail sale of non-medical marijuana. Since that time, the State legislature has approved four separate bills that provide guidance to local units of government as to what actions local governments can take in regards to the regulation of recreational marijuana. The combination of State laws recently approved by the State Legislature, along with the voter approved initiative, have the following impacts:

- On July 1, 2015, personal possession of limited amounts of commercial marijuana is allowed for those 21 and older.
- On October 1, 2015, sales of commercial marijuana from medical marijuana dispensaries can begin unless the City enacts an ordinance prohibiting early sales prior to that time.
- By January 4, 2016, the OLCC must approve or deny commercial license applications as soon as practical after this date.
- November 8, 2016, is the next Statewide General election where measures on the prohibition of marijuana activities in local taxes will be voted upon by the local voters.
- December 31, 2016, early sales of commercial marijuana from medical marijuana dispensaries end.

Regulatory Options

Senate Bill 460, which was recently signed into law by the Governor allows medical marijuana dispensaries to sell recreational marijuana to a person who is 21 years of age or older. Senate Bill 460 also allows cities to adopt an ordinance prohibiting the early sale of commercial marijuana from a medical marijuana dispensary within its jurisdiction without voter approval. The ordinance has to be adopted and be effective by October 1, 2015. That would mean the City Council would need to approve an ordinance prohibiting

the early sale of commercial marijuana from medical marijuana dispensaries by the end of this month without emergency effect. Emergency effect can be given to the ordinance by the Council on this issue allowing a decision in September.

The next major decision that the City Council will need to make regarding recreational marijuana is whether to prohibit any of the six types of marijuana activities regulated under House Bill 3400A, which include: medical marijuana processing, medical marijuana dispensaries, commercial marijuana processors, commercial marijuana growers, commercial marijuana wholesalers, or commercial marijuana retailers. If the City Council wishes to pursue banning any of these six activities, the City Council will have to adopt an ordinance indicating which of the six marijuana activities are prohibited within the City of Newport. Since Newport is located in Lincoln County, which approved the use of recreational marijuana on the November 13, 2014, in a State wide election, the City's ban on any of the components of recreational marijuana would remain in effect until a City voter referendum is held in November of 2016, with the voters determining whether the ban will be permanent. In order to effectively prohibit any of these six activities from occurring within the City, the City Council would need to approve an ordinance with the effective date occurring prior to the end of 2015. This would prevent the Oregon Health Authority (if prohibiting medical marijuana activities), and/or the Oregon Liquor Control Commission (if prohibiting medical marijuana activities) from registering and licensing the prohibited activities until the local voters would vote in November 2016 and either affirm the ban or allow for the activities prohibited by the City ordinance.

Finally, the City can regulate certain aspects regarding the location of the four types of commercial licenses, can create a buffer of no more than a 1,000 feet between retail licenses, regulate the manner of operation of the four types of commercial licenses, and other issues as allowed by law. It would appear to be important that the City Council have any regulations in effect prior to the end of this calendar year in order to properly regulate various aspects of recreational marijuana within the community, unless the City Council enacts an outright ban as outlined earlier.

Taxation

If the City does not prohibit marijuana activities through a local ban, the City can adopt an ordinance imposing a 3% tax on the sales made by those with commercial retail licenses. This provision apparently trumps the local ordinances that were approved by many cities in the State of Oregon leading up to the November 14th election, including the City of Newport's ordinance. In order to collect the 3% tax on the sales, the issue requires voter approval at the next Statewide General election (November 2016). The City Council would need to meet the appropriate election time schedules in order to have this issue on the November 2016 ballot for consideration by the voters of the City of Newport.

Please note that if the City Council prohibits any of the six types of marijuana activities described above, then it appears that the city could not implement the sales tax and would not be entitled to receive a portion of the taxes collected at the State level in accordance with the recently passed State law.

City Options

In reviewing this issue with City Attorney, Steve Rich, and Community Development Director, Derrick Tokos, the City Council has several strategies they can pursue in regards to the implementation of House Bill 3400, House Bill 2041, Senate Bill 460 and Senate Bill 844, as it relates commercial marijuana activities within the State of Oregon. With this legislation being enacted into law in the past few weeks, local units of government and the State of Oregon have a number of potential paths to follow in implementing these laws within local units of government. Perhaps the biggest challenge relating to local regulation relates to the fact that the rules on the sale of recreational marijuana at medical marijuana facilities have not yet been issued by the Oregon Health Authority, and the rules for the growing, production, distribution, and sales of recreational marijuana have not been issued by the Oregon Liquor Control Commission and are not anticipated until the end of the calendar year at the earliest.

The options that the City Council could pursue range from an outright ban on any or all of the following activities relating to marijuana, including medical marijuana processors, medical marijuana dispensaries, commercial marijuana processors, commercial marijuana producers, commercial marijuana wholesalers, or commercial marijuana retailers. On the other hand, the City Council would have the option of not enacting any prohibition on any of these items, and not implementing any time or place regulations as allowed by State law. In this particular case, the City Council would not have to take any actions at all and allow any State regulations to govern marijuana production, sales, etc. in the City of Newport.

Another option is allowing some or all of the marijuana activities outlined in House Bill 3400A and implement appropriate and reasonable regulations on such things as hours of operations or any of the aspects of marijuana production or sales, zoning locations for the four (4) types of commercial licenses, as well as medical marijuana growth sites and implementing buffers up to a 1,000 feet between retail licenses.

Unless it is the Council's intent to allow all forms of processing, growing, wholesaling, and retailing of medical marijuana within the City of Newport, without any additional local regulations as State law would allow, then it is my recommendation that the Council consider approving the ban on the sale of recreational marijuana by medical dispensaries to give an opportunity for staff to review the rules which have yet to be adopted for the sale of recreational marijuana at medical marijuana facilities, and to initiate review of any regulatory efforts that the Planning Commission may suggest the City Council consider as it relates to all forms of activities relating to the legalization of sales, production, wholesaling and growing of medical marijuana within the City of Newport. Please note that the City Council would be able to revisit this prohibition once the various rules to be adopted by the Oregon Health Authority are implemented, and upon hearing from the City's Planning Commission on any specific recommendations that the Council may want to consider for dealing with any local regulations that are allowed by State law.

Following the public hearing, the City Council should discuss and provide direction as to whether the Council wants to allow all marijuana activities to proceed or wants to consider a ban any of the six marijuana activities outlined in House Bill 3400A. If the Council wishes to pursue a ban on these activities then there will not be the same urgency to develop time, place, and manner restrictions that are allowed under these new laws. On the other hand, if it is the Council's desire to allow any of the six types of marijuana activities outline in this bill, then the City Council should direct the Planning Commission to initiate a review of regulations that the City Council may want to implement regarding the regulations of processing, producing, wholesaling and retailing of marijuana within the City of Newport.

A copy of an ordinance prohibiting Medical Marijuana Dispensaries from selling recreational marijuana and a summary of the 2015 marijuana legislation from the League of Oregon Cities and is attached.

Recommended Action:

I recommend the Mayor conduct a public hearing on an ordinance that would limit medical marijuana dispensaries to selling only to registered medical card holders under the Oregon Medical Marijuana Act, as provided by Senate Bill 460 of 2015.

I further recommend after considering any comments made at the public hearing, that the City Council consider approving the following ordinance:

I move that Ordinance No. 2083, regarding the prohibiting of the sale of recreational marijuana by medical marijuana dispensaries, be read by title only and place for final passage.

The Mayor will then ask for a voice vote on whether to read the ordinance by title only and place for final passage.

If the motion is approved, the City Recorder will read the title of the ordinance.

A roll call vote on the final passage of the ordinance will then be requested by the Mayor, and taken by the City Recorder.

I further move that the City Council direct the Planning Commission to review regulatory options as outlined in House Bill 3400A (2015), which expressly provides that the City may impose reasonable regulations on various aspects relating to hours of operation, location and manner of operations for various aspects of marijuana production and sales within the City of Newport.

Fiscal Effects:

If the City prohibits the sale of marijuana, the City will not be eligible for revenue sharing as provided under the State Statutes.

Alternatives:

The City Council could take no action which would allow the implementation of recreational marijuana with dispensaries having the option to sell beginning October 1st, and not taking any actions to regulate other aspects of marijuana which would then rely on existing language in our zoning ordinance and codes, or take a combination of these actions as outlined within this report.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "S. Nebel".

Spencer R. Nebel
City Manager

CITY OF NEWPORT

ORDINANCE NO. 2083

AN ORDINANCE PROHIBITING THE SALE
FROM MEDICAL MARIJUANA DISPENSARIES
OF LIMITED MARIJUANA RETAIL PRODUCTS
PURSUANT TO OREGON SB 460
AND DECLARING AN EMERGENCY

WHEREAS, House Bill 3460 (2013) requires medical marijuana dispensaries to register with the Oregon Health authority and establishes rules for the State of Oregon's regulation of medical marijuana dispensaries; and

WHEREAS, Senate Bill 1531 (2014), placed additional restrictions on medical marijuana dispensaries and expressly permitted cities to impose a temporary moratorium on the operation of medical marijuana facilities, which the City elected to put in place until it had established appropriate local regulations; and

WHEREAS, Ballot Measure 91, which was approved by the voters of Oregon in November of 2014, allows individuals to grow limited amounts of marijuana on their property and to possess limited amounts of recreational marijuana for personal use beginning July 1, 2015.

WHEREAS, Ballot Measure 91 gives the Oregon Liquor Control Commission (OLCC) authority to tax, license and regulate recreational marijuana grown, sold, or processed for commercial purposes, and OLCC has indicated that they will begin accepting applications for growers, wholesalers, processors and retail outlets on January 4, 2016.

WHEREAS, Ballot Measure 91 has created a scenario where it is legal in the State of Oregon to use but not purchase marijuana for recreational use.

WHEREAS, recognizing that this scenario could lead to an increase in the illicit sale of marijuana, the Oregon legislature passed SB 460 (2015) to create a means by which recreational marijuana can be legally sold prior to the January 4, 2016 date that OLCC will begin accepting applications for this purpose.

WHEREAS, SB 460 permits medical marijuana dispensaries to sell "limited marijuana retail products" beginning October 1, 2015, to persons without a medical marijuana card who are 21 years of age or older; and

WHEREAS, SB 460 defines a "limited marijuana retail product" as marijuana seeds, dried marijuana leaves and dried marijuana flowers, and a marijuana plant that is not flowering; and

WHEREAS, SB 460 will permit medical marijuana dispensaries to sell limited marijuana retail products to non-card holders until recreational dispensaries are licensed and established under OLCC rules; and

WHEREAS, SB 460 requires the Oregon Health Authority to adopt rules for the sale of recreational marijuana at medical marijuana facilities to ensure the public health and safety; and that dispensaries comply with the provisions of the bill; and

WHEREAS, as of August 17, 2015 the Oregon Health Authority has not enacted rules implementing SB 460; and

WHEREAS, SB 460 expressly permits cities and counties to enact an ordinance prohibiting medical marijuana dispensaries from such sales; and

WHEREAS, the City Council finds that the public health, safety, and general welfare of its residents and visitors, necessitates and requires the adoption of this ordinance prohibiting the sale of marijuana for recreational purposes until such time as rules have been adopted by the Oregon Health Authority and/or the OLLC regulating the sale of such products; and

WHEREAS, adopting this ordinance prohibiting the sale of marijuana for recreational purposes will provide the City an opportunity to evaluate rules promulgated by the Oregon Health Authority and/or the OLCC so that it can make any necessary adjustments to its local regulations in order to ensure that there is a clear process in place for individuals interested in selling and purchasing marijuana for recreation purposes in accordance with State law.

The City Of Newport ordains as follows:

Section 1. Medical marijuana dispensaries, also known as medical marijuana facilities, may only sell limited marijuana retail products as that term is defined in Oregon SB 460 (2015) to persons who are registered cardholders under the Oregon Medical Marijuana Act. Medical marijuana dispensaries are otherwise prohibited from selling limited marijuana retail products to any other persons.

Section 2. Emergency. This ordinance, being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance takes effect immediately upon passage.

Adopted by the City Council of the City of Newport, Oregon on August 17, 2015.

Sandra N. Roumagoux, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:

Steven Rich, City Attorney

2015 Marijuana Legislation: What Local Governments Need to Know

Bills

- HB 3400: Omnibus bill that amended the Oregon Medical Marijuana Act and the Measure 91
- HB 2041: Revised the state tax structure for commercial marijuana
- SB 460: Authorized early sales of commercial marijuana by medical marijuana dispensaries
- SB 844: Miscellaneous provisions

Home Rule

Home rule is the power of a local government to set up its own system of governance and gives that local government the authority to adopt ordinances without having to obtain permission from the state. City governments in Oregon derive home rule authority through the voters' adoption of a home rule charter as provided for in the Oregon Constitution. A home rule charter operates like a state constitution in that it vests all government power in the governing body of a municipality, except as expressly stated in that charter, or preempted by state or federal law. Where the Legislature's intent to preempt local governments is not express and where the local and state law can operate concurrently, there is no preemption. As a result, generally a negative inference that can be drawn from a statute is insufficient to preempt a local government's home rule authority.

Although this document summarizes the provisions of HB 3400A, cities may be able to impose regulations in addition to those authorized under HB 3400A under their home rule authority.

Local Government Ban (effective June 30, 2015)

What Cities Can Ban (HB 3400A §§ 133(2), 134(1))

There are 7 types of marijuana activities regulated under HB 3400A. Cities can ban any of the following 6 marijuana activities:

- Medical marijuana processors (preparing edibles, skin and hair products, concentrates, and extracts)
- Medical marijuana dispensaries
- Commercial marijuana processors (preparing edibles, skin and hair products, concentrates, and extracts)
- Commercial marijuana producers (growers)
- Commercial marijuana wholesalers
- Commercial marijuana retailers

Cities cannot ban medical marijuana grow sites. However, the law places limits on the number of plants and the amount of marijuana that can be located at any one medical marijuana grow site (HB 3400A §§ 82, 82a):

- *General Rule:* 12 mature plants per grow site in residential zones; 48 mature plants per grow site in all other zones

- *Grandfathering*: If all growers at the site had registered with the state by January 1, 2015, the grow site is limited to the number of plants at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in residential zones and 96 mature plants per grow site in other zones
- *Usable marijuana*: A grower may possess the amount of usable marijuana harvested from the plants not to exceed 12 pounds per plant for outdoor grow sites and 6 pounds per plant for indoor grow sites.

How Cities Can Ban

Under HB 3400A, there are two avenues for cities to ban marijuana activities, but one of those avenues is available only to certain cities and only during a limited time period.

Option 1: Voter Referral (HB 3400A § 134)

All cities have the option of banning any of the marijuana activities listed above through the following voter referral process:

- The city council adopts an ordinance that prohibits any of the 6 marijuana activities listed above.
- The city council provides the text of the ordinance to the Oregon Health Authority (if prohibiting medical marijuana activities) and/or the Oregon Liquor Control Commission (if prohibiting commercial marijuana activities).
- The OHA and OLCC will stop registering and licensing the prohibited activities until the next statewide general election.
- The city council refers the ordinance to the voters at a statewide general election (November elections in even-numbered years).

Option 2: Ban Adopted by the City Council (HB 3400A § 133)

- A city council can adopt a ban on any of the 6 marijuana activities listed above by enacting an ordinance only if the following conditions are met:
 - The city is located in Baker, Crook, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, or Wheeler County;¹ AND
 - The city council adopts the ordinance by December 24, 2015 (180 days after the effective date of the legislation)
- The city council must provide the text of the ordinance to the Oregon Health Authority (if prohibiting medical marijuana activities) and/or the Oregon Liquor Control Commission (if prohibiting commercial marijuana activities).
- The OHA and OLCC will stop registering and licensing the prohibited activities.

Effect on Existing Medical Marijuana Processors & Dispensaries (HB 3400 §§ 133(6), (7), 134(6), (7), 135)

- Dispensaries registered with the state by the time the city adopts a prohibition ordinance, or that had applied to be registered by July 1, 2015, are not subject to the prohibition if they have successfully completed a city or county land use application process.

¹ HB 3400A allows a city council ban for cities located in counties that voted against Measure 91 by 55 percent or more.

- Medical marijuana processors registered with the state by the time the city adopts the prohibition ordinance are not subject to the prohibition if they have successfully completed a city or county land use application process.

Tax Implications (HB 3400A §§ 133(5), 134(5); HB 2041 §14(4))

- *Local Tax:* A city that adopts an ordinance prohibiting marijuana activities in its jurisdiction may not impose a local tax on marijuana. (HB 3400A §§ 133(5), 134(5))
- *State Tax:* A city that adopts an ordinance prohibiting marijuana activities is not eligible to receive state marijuana tax revenues from the 17 percent state tax imposed on commercial sales of marijuana. (HB 2041 § 14(4))
 - Collectively, cities will receive 10% of the state marijuana tax revenues, distributed as follows to cities that do not prohibit marijuana activities (HB 2041 § 14(2)):
 - Before July 1, 2017, distributed proportionately based on population
 - After July 1, 2017, distributed based on the number of licensees in the city, with 50 percent distributed based on the number of producer, processor, and wholesale licensees and 50 percent distributed based on the number of retail licensees

**Local Government Tax (HB 3400A § 34a)
(effective June 30, 2015)**

What Cities Can Tax

Under HB 3400A, cities may impose up to a 3 percent tax on sales made by those with commercial retail licenses.

How Cities Can Impose a Tax

Cities may adopt an ordinance imposing the tax, but it must be referred to the voters at the next statewide general election (meaning a November election in an even-numbered year). However, cities may not impose a local tax if they have prohibited marijuana activities through a local ban.

**Time, Place, and Manner Restrictions
(medical provisions operative March 1, 2016; commercial provisions operative January 1, 2016)²**

State Law Restrictions

- Medical and Commercial Marijuana Processors: Cannot locate in residential zones if processing marijuana extracts. (HB 3400 §§ 14(2)(c), 85(3)(a))
- Medical Marijuana Dispensaries and Commercial Retail Stores
 - Cannot locate in residential zones (HB 3400 §§ 16, 86)
 - Cannot locate within 1000 feet of certain public and private schools, unless the school is established after the marijuana facility (HB 3400 §§ 16, 17, 86, 86a)

² Although these provisions do not take effect immediately, some of these provisions are already part of existing state law. Cities should consult their city attorney when enacting time, place, and manner restrictions.

- Medical marijuana dispensaries cannot locate within 1000 feet of another dispensary (HB 3400A § 86)
- Medical marijuana dispensaries cannot locate at a grow site (HB 3400A § 86)
- **Compliance with Zoning Requirements (HB 3400A § 34(4))**: Before issuing any license, the OLCC must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days starts to run varies:
 - If the use is allowed as an outright permitted use, 21 days from receipt of the request
 - If the use is a conditional use, 21 days from the final local permit approval.

What Cities Can Regulate (HB 3400A §§ 33, 89)

Although the League believes that the Legislature has not foreclosed other regulatory options, HB 3400A expressly provides that cities may impose reasonable regulations on the following:

- The hours of operation of retail licensees and medical marijuana grow sites, processing sites, and dispensaries
- The location of all 4 types of commercial licensees, as well as medical marijuana grow sites, processing sites, and dispensaries, except that a city may not impose more than a 1,000 foot buffer between retail licensees
- The manner of operation of all 4 types of commercial licensees, as well as medical marijuana processors and dispensaries
- The public's access to the premises of all 4 types of commercial licenses, as well as medical marijuana grow sites, processing sites, and dispensaries

The law also provides that time, place, and manner regulations imposed on commercial licensees must be consistent with city and county comprehensive plans, zoning ordinances, and public health and safety laws, which would be true of any ordinance imposed by a city.

**Early Sales (SB 460)
(awaiting the Governor's signature – effective on passage)**

How Early Sales Work (SB 460 §§ 2, 3)

- Starting October 1, 2015, medical marijuana dispensaries may sell the following amounts of commercial marijuana to a person who is 21 or older:
 - 1/4 ounce of dried marijuana leaves and flowers per person per day
 - 4 marijuana plants that are not flowering
 - Marijuana seeds
- Starting January 4, 2016, sales of commercial marijuana from medical marijuana dispensaries will be subject to a 25 percent sales tax (HB 2041 § 21a)
- Commercial sales from medical marijuana dispensaries are allowed through December 31, 2016

How Cities Can Ban Early Sales (SB 460 § 2(3))

A city can adopt an ordinance prohibiting the early sale of commercial marijuana from medical marijuana dispensaries within its jurisdiction. No voter referral is required.

Timeline

June 30, 2015 – HB 3400A becomes effective. However, many provisions of the law do not go into effect immediately.

July 1, 2015 – Personal possession of limited amounts of commercial marijuana is allowed for those 21 or older.

October 1, 2015 – Sales of commercial marijuana from medical marijuana dispensaries begin, unless a city has enacted an ordinance prohibiting early sales pursuant to SB 460 § 2(3).

December 24, 2015 – City councils that are eligible to adopt a prohibition on marijuana activities without a voter referral must have adopted the prohibition by this date.

January 1, 2016 – Most amendments to Measure 91 go into effect. In addition, after this date, medical marijuana growers may apply for an OLCC license to grow commercial marijuana at the same site.

January 4, 2016 – The OLCC must approve or deny commercial license applications as soon as practicable after this date. (HB 3400A § 171). In addition, medical marijuana dispensaries engaging in early sales of commercial marijuana must begin collecting a 25 percent state tax on those sales.

March 1, 2016 – Most amendments to the OMMA go into effect.

November 8, 2016 – Next statewide general election. Cities may refer measures on prohibition of marijuana activities and measures on local taxes at this election.

December 31, 2016 – Early sales of commercial marijuana from medical marijuana dispensaries end.

ORDINANCE NO. _____

AN ORDINANCE PROHIBITING THE SALE OF LIMITED MARIJUANA RETAIL PRODUCT PURSUANT TO OREGON SENATE BILL 460 AND DECLARING AN EMERGENCY

Comment [DD1]: Optional.

WHEREAS, the Oregon Legislature passed and the governor signed SB 460, which permits medical marijuana dispensaries to sell "limited marijuana retail products" beginning October 1, 2015, to persons without a medical marijuana card who are at least 21 years old;

WHEREAS, SB 460 defines a "limited marijuana retail product" as marijuana seeds, dried marijuana leaves/dried marijuana flowers and a marijuana plant that is not flowering;

WHEREAS, SB 460 will permit medical marijuana dispensaries to sell limited marijuana retail products to non-card holders until recreational dispensaries are licensed and established; and

WHEREAS, SB 460 expressly permits cities and counties to enact an ordinance prohibiting medical marijuana dispensaries from doing so.

NOW, THEREFORE, the City/County of _____ ordains as follows:

Comment [DD2]: Users should review their charters to ensure the enactment language is consistent with charter requirements.

Section 1. Medical marijuana dispensaries (a/k/a medical marijuana "facilities") may only sell limited marijuana retail products as that term is defined in Oregon Senate Bill 460 (2015) to persons who are registered cardholders under the Oregon Medical Marijuana Act. Medical marijuana dispensaries are otherwise prohibited from selling limited marijuana retail products to any other persons.

Section 2. In order to preserve the health, safety and welfare of the City/County of _____, its residents and its visitors, the _____ City Council/Board of Commissioners for _____ declare an emergency to exist. Therefore, this ordinance is effective upon its passage.

Comment [DD3]: Only necessary if the ordinance is to be immediately effective. Users should review relevant charter language (if any) to ensure an emergency clause contains all that it needs to.

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda#VII.A:
MeetingDate: 8/17/15

Agenda Item:

From Destination Newport Committee - Award of Tourism Marketing Grant for the Buccaneer Rampage.

Background:

Annually the Council has been appropriating room tax funds for the promotion of events through Tourism Marketing Grants. \$20,000 was appropriated for this purpose in the current fiscal year. Grants are provided for up to a three year period, approved on an annual basis. The Destination Newport Committee is recommending that \$1,000 be appropriated for the 2015 Buccaneer Rampage event, which is sponsored by the City of Newport Parks and Recreation Department. This event that will take place on August 22, 2015, and it is the first year that Buccaneer Rampage has been provided these grant funds.

Recommended Action:

I recommend the City Council consider the following motion:

I move approval of awarding a grant in the amount of \$1,000 to City of Newport Parks and Recreation Department for assistance with marketing and advertising expansion for the 2015 Buccaneer Rampage.

Fiscal Effects:

\$20,000 is appropriated for the Tourism Marketing Grant applications.

Alternatives:

None recommended.

Respectfully submitted,

Spencer R. Nebel
City Manager



Agenda Item # VII.A.
Meeting Date 8-17-15

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Award for the Tourism Marketing Grant for Buccaneer Rampage

Prepared By : C. Breves Dept Head Approval:

City Mgr Approval:

Issue Before the Council: The issue before Council is consideration of a Tourism Marketing Grant application from the Buccaneer Rampage, in the amount of \$1,000, for assistance with extending marketing for the 2015 event.

Staff Recommendation: This is entirely a City Council decision, although the current procedure requires a review and recommendation by the Destination Newport Committee.

Proposed Motion: I move to approve the Tourism Marketing Grant Fund application, submitted by the City of Newport Parks and Recreation Department, for assistance with marketing and advertising expansion for the 2015 Buccaneer Rampage, in the amount of \$1,000.

Key Facts and Information Summary: Athletes and competitors from over the State will test their skill and endurance against our mud obstacle course. The course will be 3.5 miles of mud, dirt, gravel, and 15+ obstacles that will challenge even the top competitors. The organizer is focusing marketing efforts outside of Lincoln County to attract more participants from outside the county that will stay in Newport motels and hotels.

Other Alternatives Considered: None

City Council Goals: The request does not address a specific City Council goal.

Attachment List: Tourism Marketing Grant Fund Application submitted by the City of Newport Parks and Recreation Department.

Fiscal Notes: To date no events have been funded using these monies. If approved, this funding would come from TRT monies that have been set aside for this use. If this request is approved, the remaining balance would be \$14,000.

General Information:

Name of Applicant Organization: City of Newport Parks and Recreation Department

Mailing Address: 169 SW Coast Hwy.

City, State, Zip: Newport, OR, 97365

Telephone: (541) 574-5453 Fax: (541) 574-6596

E-Mail Address: M.Cavanaugh@NewportOregon.gov

Principal Contact (If different from Applicant): Michael Cavanaugh

Mailing Address (If different from Applicant): _____

City, State, Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Date(s) and Time(s) of Event: Saturday - August 22, 2015

Description of Event or Activity*: Buccaneer Rampage

Athletes and competitors from all over the state will converge on Newport to challenge

their skill and endurance against our mud obstacle course. The course will be 3.5 miles

of mud, dirt, gravel, and 15+ obstacles that will challenge even the top competitors.

Nature of Event or Activity:

Single Day Event Aug 22

Multi-night local lodging event _____ days

Extended calendar event. _____ days

Amount of Funding Requested: \$ 1000

Total Event/Activity Budget: \$ 6000

What specific marketing expenditures will the granted funds be used for?*

Statewide targeted marketing efforts including:

Placing adds in racing publications

Online advertising expenses.

Mailing materials to racing stores across the Northwest

List event/activity supporters or partners*: _____

Bigfoot Beverages, Les Schwab Tires and Road & Driveway will be sponsoring the race by offering

additional funding and/or in-kind product to help us make this event a huge success.

*Use additional sheets as necessary.

Applicant/organization must be a non-profit corporation. Attach a copy of the IRS determination letter.

Has applicant received funding in prior years from the city for this event/activity? If yes, when: No

Projected Event/Activity Impact:

Describe how the event/activity will affect the Newport economy (e.g., room nights, number of visitors/attendees, restaurant sales, retail sales, etc.): _____

We anticipate this event bringing around 300 visitors to town. Many participants in this type of activity have a family and disposable income. They will often travel to events with their spouse and children. This will provide business to local hotels, restaurants, stores, and tourist attractions.

Last year, many competitors came into town for the weekend. They competed in our race on Saturday and stayed in hotels Saturday night.

Financial Reporting Requirements:

Please provide a proposed budget of revenues and expenditures in a form similar to the following:

PROPOSED REVENUES			
Source #1	Participation fees	Amount	\$ 4000
Source #2	Sponsorships & Grants	Amount	\$ 3500
Source #3	_____	Amount	\$ _____
Source #4	_____	Amount	\$ _____
Source #5	_____	Amount	\$ _____
TOTAL REVENUES			\$ 7000

*Use additional sheets as necessary.

Here are the past numbers from the Buccaneer Rampage. The out of area racers are from outside the Waldport, Newport, Lincoln City, Siletz & Toledo area.

- 2013 Race: 35 out of area racers (total racers was 103)
- 2014 Race: 44 out of area racers (total racers was 128)

Thanks,

Mike Cavanaugh

Sports Coordinator

City of Newport Parks & Recreation

541-574-5453 (office)

541-574-6596 (fax)

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda#VII.B:
MeetingDate: 8/17/15

Agenda Item:

From Destination Newport Committee - Award of Tourism Marketing Grant for the Oyster Cloyster.

Background:

Annually the Council has been appropriating room tax funds for the promotion of events through Tourism Marketing Grants. \$20,000 was appropriated for this purpose in the current fiscal year. Grants are provided for up to a three year period, approved on an annual basis. The Destination Newport Committee is recommending that \$5,000 be appropriated for the 2015 Oyster Cloyster event, which is sponsored by the OCCC Foundation and the Oregon Coast Aquarium. This event that will take place on November 7, 2015, and it is the second year that Oyster Cloyster has been provided these grant funds.

Recommended Action:

I recommend the City Council consider the following motion:

I move approval of awarding a grant in the amount of \$5,000 to the OCCC Foundation and the Oregon Coast Aquarium for assistance with marketing and advertising expansion for the 2015 Oyster Cloyster.

Fiscal Effects:

\$20,000 is appropriated for the Tourism Marketing Grant applications.

Alternatives:

None recommended.

Respectfully submitted,

Spencer R. Nebel
City Manager



Agenda Item # VII.B
Meeting Date 8-17-15

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Award for the Tourism Marketing Grant for Oyster Cloyster

Prepared By : C. Breves Dept Head Approval:

City Mgr Approval:

Issue Before the Council: The issue before Council is consideration of a Tourism Marketing Grant application from the Oyster Cloyster, in the amount of \$5,000, for assistance with extending marketing for the 2015 event.

Staff Recommendation: This is entirely a City Council decision, although the current procedure requires a review and recommendation by the Destination Newport Committee.

Proposed Motion: I move to approve the Tourism Marketing Grant Fund application, submitted by the OCCC Foundation & Oregon Coast Aquarium, for assistance with marketing and advertising expansion for the 2015 Oyster Cloyster, in the amount of \$5,000.

Key Facts and Information Summary: The OCCC Foundation & Oregon Coast Aquarium requested \$5,000 to assist with marketing efforts and event promotion for the 2015 Oyster Cloyster. The Oyster Cloyster is a fundraiser for the Oregon Coast Aquarium and Oregon Coast Community College. The Oyster Cloyster is a culinary event featuring local and regional chefs who present their unique oyster dishes for guest to sample while strolling the Aquarium grounds. Beverages are provided by craft breweries and some of the region's foremost wineries. Last year's grant allowed the organizers to increase attendance by 35%. The Oyster Cloyster would like to continue to expand their marketing efforts focusing on Portland using several well-read travel magazines. The Destination Newport Committee discussed the request and is forwarding a positive recommendation.

Other Alternatives Considered: None

City Council Goals: The request does not address a specific City Council goal.

Attachment List: Tourism Marketing Grant Fund Application submitted by the OCCC Foundation & Oregon Coast Aquarium.

Fiscal Notes: To date no events have been funded using these monies. If approved, this funding would come from TRT monies that have been set aside for this use. If this request is approved, the remaining balance would be \$15,000.

General Information:

Name of Applicant Organization: OCCC Foundation & Oregon Coast Aquarium

Mailing Address: 400 SE College Way

City, State, Zip: Newport, OR 97366

Telephone: 541-867-8531 Fax: 541-265-3820

E-Mail Address: jodi.gann@occc.cc.or.us

Principal Contact (If different from Applicant): Jodi Gann

Mailing Address (If different from Applicant): _____

City, State, Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Date(s) and Time(s) of Event: 11/07/2015

Description of Event or Activity*: This fund-raiser for the Oregon Coast Community College Foundation and Oregon Coast

Aquarium is a culinary event featuring local and regional chefs who present their unique oyster dishes for guests to sample while

strolling the Aquarium grounds. Beverages are also provided by craft breweries and some of the region's foremost wineries. Entertainment

and Aquarium behind-the-scenes encounters provide guests with memorable interactive experiences befitting this unique coastal event.

Nature of Event or Activity:

Single Day Event X

Multi-night local lodging event _____ days

Extended calendar event. _____ days

Amount of Funding Requested: \$ 5,000

Total Event/Activity Budget: \$ 26,500

What specific marketing expenditures will the granted funds be used for?*

The tourism marketing grant from 2014, allowed Oyster Cloyster to extend marketing to the Willamette Valley. By showcasing

Oyster Cloyster as the premier seafood competition in the Pacific Northwest we targeted the ever growing foodie

demographic in Portland, Salem, Corvallis and Eugene. Our event numbers increased by 35%. For 2015, we will again target

Portland with banner ad space in the Portland Monthly Magazine's interactive bi-monthly Tripster email. Tripster is targeted to

individuals who have opted in for travel and getaway news through Portland Monthly. It has a subscriber base of 22K and an open rate of 35% with a

click rate of 37%. The Aquarium will leverage its buying history and non-profit status to command a discounted rate. Next we will use 1859 Magazine

to target affluent, informed, active and highly educated residents of Oregon. We will place several online banner ad buys and we also plan

to use funds to target foodies and travelers on FaceBook through newsfeed ads.

List event/activity supporters or partners*: _____

Past supporters include: Chinook Winds, Wilder, Georgia Pacific, Pacific Seafood,
Rogue Brewery, SunWest Honda, PacifiCorp, Newport News Times

Applicant/organization must be a non-profit corporation. Attach a copy of the IRS determination letter.

Has applicant received funding in prior years from the city for this event/activity? If yes, when:

Yes, in 2014

Projected Event/Activity Impact:

Describe how the event/activity will affect the Newport economy (e.g., room nights, number of visitors/attendees, restaurant sales, retail sales, etc.):

Although the Oyster Cloyster is in its 15th year, 2015 marks year three of the partnership between OCCC and the Aquarium. With the Aquarium's marketing help, the 2014

Oyster Cloyster saw a major increase in attendance with over 100 guests. By continuing the marketing into the Willamette Valley

for 2015 the Oregon Coast Community College Foundation and Oregon Coast Aquarium have a goal of 500 attendees

for the 2015 Oyster Cloyster. By seeking this additional attendance through non-Lincoln County residents,

the 2015 Oyster Cloyster is projecting close to 100 room nights at local Newport hotels. The Oyster Cloyster

is an evening event that involves alcohol so most non-residents stay the night. The event is on a Saturday

evening so we expect our audience will have an impact on restaurants by patronizing them before the event and again on

Sunday prior to leaving town. The long-standing event is also a great signature attraction to bring visitors to Newport during

the off season, introduce them to the area (and to the amazing cuisine), and entice them to return for visits throughout the year.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: OCT 17 2000

OREGON COAST COMMUNITY COLLEGE
FOUNDATION
332 SW COAST HWY
NEWPORT, OR 97365

Employer Identification Number:
93-1290953
DLN:
17053188013040
Contact Person:
ELIZABETH MARQUEZ ID# 95117
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
June 30
Form 990 Required:
Yes
Addendum Applies:
No

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in sections 509(a)(1) and 170(b)(1)(A)(iv).

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. In the case of an amendment to your organizational document or bylaws, please send us a copy of the amended document or bylaws. Also, you should inform us of all changes in your name or address.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more you pay to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, if you are involved in an excess benefit transaction, that transaction might be subject to the excise taxes of section 4958. Additionally, you are not automatically exempt from other federal excise taxes. If you have any questions about excise, employment, or other federal taxes, please contact your key district office.

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the

Letter 947 (DO/CG)



Agenda#:VIII.A.
MeetingDate: 8/17/15

Agenda Item:

A Master Plan Study for the Newport Municipal Airport.

Background:

The FAA is funding 90% of the cost for the City to proceed with an update of the Airport Master Plan. Our current Master Plan was dates back to 2004. The Airport Master Planning process will review all current operations, including compliance with existing grant assurances, review the needs of continuing with the Airport's current 139 Certification, and identify a list of future capital improvement projects that the FAA will fund and undertake in the future at the Airport and provides a long term framework for the development of property relating to the airport. The City Council has previously approved a contract with WH Pacific, contingent upon receiving this grant funding. As part of this process, the City is required to create a Planning Advisory Committee to provide input to our consultant regarding the long term planning for the airport. The committee will be made up of various stakeholders served by the Airport, such as local pilots, commercial air services and others, as well as various community stakeholders. The timing of Airport Master Plan is very appropriate since the Airport Committee is proceeding with a request for proposals that could change the operation of the Airport from operating as a City department to operating with private contractor.

Throughout the 18 month planning period, there are six meetings scheduled with the Planning Advisory Committee (PAC) with periodic reports being provided to the Airport Committee and to the City Council prior to completing this master plan. Please note that this planning process will follow the appropriate FAA guidelines since the FAA is paying 90% of these costs. It will be important to make sure that the Master Plan does reflect the community's needs and desires as well.

Recommended Action:

I recommend the City Council consider the following motion:

I move acceptance of the FAA Improvement Project Grant Agreement in the amount of \$457,200 to conduct an update of the Airport Master Plan originally completed in 2004.

Fiscal Effects:

The City's local costs will come from the Airport Capital Improvements Fund in the 2015-16 Fiscal Year, and the 2016-17 Fiscal Year, as provided in the current year's budget.

Alternatives:

None recommended.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Spencer R. Nebel
City Manager



Agenda Item # VIII.A.
Meeting Date August 17, 2015

CITY OF NEWPORT
AGENDA ITEM SUMMARY
City of Newport, Oregon

Issue/Agenda Title: Approval of Airport Improvement Projects Grant Agreement.

Prepared By: Melissa Román Dept Head Approval:

City Mgr Approval:

Issue Before the Council:

Approval of Airport Improvement Projects Grant Agreement.

Staff Recommendation:

Staff recommends accepting the FAA Airport Improvement Project Grant Agreement #23.

Proposed Motions:

I move to approve accepting the FAA Airport Improvement Project Grant Agreement for \$457,200.00.

Key Facts and Information Summary:

The Airport Master Plan update will overhaul our existing Airport Master Plan completed in 2004. The 2015 update was requested by the FAA and will include a complete grant assurance compliance review, review of current airport contracts, assessment of the needs and/or opportunities of maintaining our 139 Certification, and develop a list of future capital improvement projects. The planning consultant contract with WH Pacific was previously approved by council contingent on receiving this grant funding.

Other Alternatives Considered:

No other alternatives have been considered.

City Council Goals:

- Fiscal Year 14/15:
 - Coordinate with the Public Works Department on initiating amendments to the Airport Master Plan.

Attachment List:

Copy of grant agreement.

Fiscal Notes:

FAA AIP Grant #23 will finance 90% of the update cost; ten percent will come from the Airport Capital Improvements Fund.



U.S. Department
of Transportation
Federal Aviation
Administration

GRANT AGREEMENT

PART I – OFFER

Date of Offer	August 6, 2015
Airport/Planning Area	Newport Municipal Airport – Newport, Oregon
AIP Grant Number	3-41-0040-023-2015 (Contract Number: DOT-FA15NM-0025)
DUNS Number	030794671

TO: City of Newport, Oregon
(herein called the “Sponsor”)

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the “FAA”)

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated July 6, 2015, for a grant of Federal funds for a project at or associated with the Newport Municipal Airport – Newport, Oregon, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Newport Municipal Airport – Newport, Oregon (herein called the “Project”) consisting of the following:

Update Airport Master Plan Study;

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. 47101, et seq., (herein the AAIA grant statute is referred to as “the Act”), the representations contained in the Project Application, and in consideration of (a) the Sponsor’s adoption and ratification of the Grant Assurances dated April 3, 2014, and the Sponsor’s acceptance of this Offer, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$457,200.
 - A. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b), the following amounts are being specified for this purpose:
 1. \$457,200 for planning
 2. \$0 for airport development or noise program implementation
 3. \$0 for land acquisition
2. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
3. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.
5. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
6. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before August 28, 2015, or such subsequent date as may be prescribed in writing by the FAA.
7. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
8. **United States Not Liable for Damage or Injury.** The United States is not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
9. **System for Award Management (SAM) Registration And Universal Identifier.**
 - A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under

this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).

- B. Requirement for Data Universal Numbering System (DUNS) Numbers
 - 1. The Sponsor must notify potential subrecipient that it cannot receive a contract unless it has provided its DUNS number to the Sponsor. A subrecipient means a consultant, contractor, or other entity that enters into an agreement with the Sponsor to provide services or other work to further this project, and is accountable to the Sponsor for the use of the Federal funds provided by the agreement, which may be provided through any legal agreement, including a contract.
 - 2. The Sponsor may not make an award to a subrecipient unless the subrecipient has provided its DUNS number to the Sponsor.
 - 3. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-492-0280) or the Internet (currently at <http://fedgov.dnb.com/webform>).
- 10. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
- 11. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter to the Sponsor unilaterally reducing the maximum obligation. The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. If the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the FAA can issue a letter to the Sponsor amending the grant description.
 - A. By issuing an Informal Letter Amendment, the FAA has changed the grant amount or grant description to the amount or description in the letter.
- 12. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this grant.
- 13. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
- 14. **Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.
- 15. **Maximum Obligation Increase For Nonprimary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
 - A. May not be increased for a planning project;

- B. May be increased by not more than 15 percent for development projects;
 - C. May be increased by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.
- 16. Audits for Public Sponsors.** The Sponsor must provide for a Single Audit in accordance with 2 CFR Part 200. The Sponsor must submit the Single Audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse’s Internet Data Entry System at <http://harvester.census.gov/facweb/>. The Sponsor must also provide one copy of the completed 2 CFR Part 200 audit to the Airports District Office.
- 17. Suspension or Debarment.** The Sponsor must inform the FAA when the Sponsor suspends or debars a contractor, person, or entity.
- 18. Ban on Texting When Driving.**
- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
 - B. The Sponsor must insert the substance of this clause on banning texting when driving in all subgrants, contracts and subcontracts
- 19. Trafficking in Persons.**
- A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) that apply to any entity other than a State, local government, Indian tribe, or foreign public entity. This includes private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity) are:
 - 1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
 - 2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
 - 3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.
 - B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate this agreement, without penalty, if a private entity –
 - 1. Is determined to have violated the Prohibitions; or
 - 2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either—
 - a. Associated with performance under this agreement; or

- b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by the FAA at 49 CFR Part 29.
- 20. **Exhibit “A” Property Map Updated with Grant.** The existing Exhibit “A” Property Map dated July 24, 1986 is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.
- 21. **COORDINATION:** The Sponsor agrees to coordinate this master planning study with the metropolitan planning organizations, other local planning agencies, and with the State Airport System Plan prepared by the State’s Department of Transportation and consider any pertinent information, data, projections, and forecasts which are currently available or as will become available. The Sponsor agrees to consider any State Clearinghouse comments and to furnish a copy of the final report to the State’s Department of Transportation.
- 22. **COORDINATION:** The Sponsor has made available to (or will make available to) and has provided (or will provide) upon request to the metropolitan planning organization, if any, in the area in which the airport is located, a copy of the proposed airport layout plan or ALP amendment to depict the project and a copy of any airport master plan in which the project is described or depicted.
- 23. **FINANCIAL REPORTING REQUIREMENTS:** The Sponsor agrees to submit a **Federal Financial Report** (FAA Form SF-425) for all open grants to the Airports District Office within 90 days following the end of each Federal fiscal year and with each Final Project Closeout Report.

The Sponsor further agrees to submit an **Outlay Report and Request for Reimbursement** (FAA Form SF-271 for construction projects) or **Request for Advance or Reimbursement** (FAA Form SF-270 for non-construction projects) to the Airports District Office within 90 days following the end of each Federal fiscal year and with each Final Project Closeout Report.

- 24. **FINAL PAYMENT:** The Sponsor understands and agrees that in accordance with 49 USC 47111, no payments totaling more than 90 percent of United States Government’s share of the project’s estimated allowable cost may be made before the project is determined to be satisfactorily completed.
- 25. **SPONSOR PERFORMANCE REPORT:**
 - A. **For non-construction projects** – the Sponsor understands and agrees that in accordance with 49 CFR 18.40 the Sponsor shall submit a Quarterly Performance Report to the Airports District Office (ADO) within 30 calendar days from the end of the quarter, beginning in the quarter in which the project begins, and for each following quarter until the project is substantially complete. If a major project or schedule change occurs between Quarterly Performance Reports, the sponsor must submit an out of cycle performance report to the ADO. The performance report for non-construction projects shall include the following as a minimum:
 - 1. A comparison of proposed objectives to actual accomplishments.
 - 2. Reasons for any slippage or lack of accomplishment in a given area.
 - 3. Impacts on other AIP-funded projects.
 - 4. Impacts to projects funded by PFC, other FAA programs, or the sponsor.
 - 5. Identification and explanation of any anticipated cost overruns.
 - B. **For construction projects** – FAA Form 5370-1 Construction Progress and Inspection Report satisfies the performance reporting requirement. The sponsor must submit FAA Form 5370-1 to the ADO on a **weekly basis** during construction and at least quarterly when the project is in winter shutdown, until the project is substantially complete. Form 5370-1 requires the following information:
 - 1. Estimated percent completion to date of construction phases.
 - 2. Work completed or in progress during the period.

3. Brief Weather Summary during the period including approximate rainfall and period of below freezing temperature.
 4. Contract time: Number of days charged to date and last working day charged.
 5. Summary of laboratory and field testing during the period.
 6. Work anticipated by the contractor for the next period.
 7. Problem areas and other comments.
- 26. GRANT APPROVAL BASED UPON CERTIFICATION:** The FAA and the Sponsor agree that the FAA approval of this grant is based on the Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Sponsor Certifications received from the Sponsor for the work included in this grant are hereby incorporated into this grant agreement. The Sponsor understands that:
- A. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;
 - B. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements;
 - C. If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under AIP
- 27. AGIS Requirements:** Airports GIS requirements, as specified in Advisory Circular 150/5300-18, apply to the project included in this grant offer. Final construction as-built information or planning deliverables must be collected according to these specifications and submitted to the FAA. The submittal must be reviewed and accepted by the FAA before the grant can be administratively closed.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**



(Signature)

Joelle Briggs

Acting Manager, Seattle Airports District Office

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this _____ day of _____, _____.

(Name of Sponsor)

(Signature of Sponsor's Designated Official Representative)

By:

(Typed Name of Sponsor's Designated Official Representative)

Title:

(Title of Sponsor)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of _____. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ this _____ day of _____.

By _____
(Signature of Sponsor's Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES
AIRPORT SPONSORS

A. General.

- a. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
- b. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
- c. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

FEDERAL LEGISLATION

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1,2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- t. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- y. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management

- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice

FEDERAL REGULATIONS

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1, 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹

- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

FOOTNOTES TO ASSURANCE C.1.

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
- ⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy

of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title

49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be

required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
- 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
- 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
 - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service,

provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

- a.) Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- b.) Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- c.) Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- d.) It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- e.) In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- f.) The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- g.) The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft

rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
 - 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
 - a.) As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a

manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

- b.) Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. by gross weights of such aircraft) is in excess of five million pounds Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at

Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing:
 - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 - 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
 - a.) If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
 - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the

sponsor's programs and activities.

- 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a.) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

- b.) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was

notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated March 20, 2014 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure

nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



**FAA
Airports**

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

Updated: 2/11/2015

View the most current versions of these ACs and any associated changes at:
<http://www.faa.gov/airports/resources/advisorycirculars>

NUMBER	TITLE
70/7460-1K	Obstruction Marking and Lighting
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5070-6B Change 2	Airport Master Plans
150/5070-7 Change 1	The Airport System Planning Process
150/5100-13B	Development of State Standards for Nonprimary Airports
150/5200-28D	Notices to Airmen (NOTAMS) for Airport Operators
150/5200-30C Change 1	Airport Winter Safety And Operations
150/5200-31C Changes 1-2	Airport Emergency Plan
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-18A	Systems for Interactive Training of Airport Personnel

NUMBER	TITLE
150/5210-19A	Driver's Enhanced Vision System (DEVS) Ground Vehicle Operations on Airports
150/5220-10E	Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16D	Automated Weather Observing Systems (AWOS) for Non-Federal Applications
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20A	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26 Change 1	Airport Ground Vehicle Automatic Dependent Surveillance - Broadcast (ADS-B) Out Squitter Equipment
150/5300-7B	FAA Policy on Facility Relocations Occasioned by Airport Improvements of Changes
150/5300-13A Change 1	Airport Design
150/5300-14C	Design of Aircraft Deicing Facilities
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18B Change 1	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5D	Airport Drainage Design

NUMBER	TITLE
150/5320-6E	Airport Pavement Design and Evaluation
150/5320-12C Changes 1-8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management of Airport Industrial Waste
150/5235-4B	Runway Length Requirements for Airport Design
150/5335-5C	Standardized Method of Reporting Airport Pavement Strength - PCN
150/5340-1L	Standards for Airport Markings
150/5340-5D	Segmented Circle Airport Marker System
150/5340-18F	Standards for Airport Sign Systems
150/5340-26C	Maintenance of Airport Visual Aid Facilities
150/5340-30H	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specification for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7F	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10H	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specification For L-823 Plug and Receptacle, Cable Connectors
150/5345-27E	Specification for Wind Cone Assemblies
150/5345-28G	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retro reflective Markers
150/5345-42G	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories

NUMBER	TITLE
150/5345-43G	Specification for Obstruction Lighting Equipment
150/5345-44J	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures
150/5345-46D	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49C	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-12F	Airport Signing and Graphics
150/5360-13 Change 1	Planning and Design Guidelines for Airport Terminal Facilities
150/5360-14	Access to Airports By Individuals With Disabilities
150/5370-2F	Operational Safety on Airports During Construction
150/5370-10G	Standards for Specifying Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt

NUMBER	TITLE
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5380-7B	Airport Pavement Management Program
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness
150/5390-2C	Heliport Design
150/5395-1A	Seaplane Bases

THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY

Updated: 3/7/2014

NUMBER	TITLE
150/5100-14E	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-17 Changes 1 - 6	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5300-9B	Predesign, Prebid, and Preconstruction Conferences for Airport Grant Projects
150/5300-15A	Use of Value Engineering for Engineering Design of Airports Grant Projects
150/5320-17A	Airfield Pavement Surface Evaluation and Rating (PASER) Manuals
150/5370-6D	Construction Progress and Inspection Report – Airport Improvement Program (AIP)
150/5370-12A	Quality Control of Construction for Airport Grant Projects

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda#: VIII.B.
Meeting Date: 8/17/15

Agenda Item:

Update and Report on the Bicycle Pump Track Project

Background:

On June 1st, City Council authorized staff to make application to Lincoln County for the possible development of a bicycle pump track to be located near the Wilder Subdivision. At that time the City Council scheduled a public hearing to receive feedback on this project from effected property owners. At the public hearing, a number of concerns were expressed regarding this proposal including not being aware of what a bicycle pump track is. Concerns were expressed about parking, noise, dust, and other similar activities.

On July 16th, a meeting was held with the residents of the Wilder Subdivision, members of the Yaquina Wheels Bike Club, principals and land owners of Wilder Subdivision, the President of the Community College, Newport Police Chief, and Newport Community Development Director. The primary concerns expressed at this meeting related to parking, lack of restroom facilities, and management of trash. At the end of the meeting, the participants better understood what a bicycle pump track is. The majority of residents were supportive of proceeding with this project as long as parking, trash receptacles, and portable restroom be made available for park users. The developers of the Wilder Subdivision are willing to proceed with a license for proceeding with this development.

As you may recall, the property where this development will occur is currently located outside the city limits. As a result, we will be required to submit a plan for this facility to the County for their review. The permit application to the County will address an area for a gravel parking lot, portable restroom, and garbage receptacles at this location as was discussed with the neighboring property owners. In addition, we will need to obtain the appropriate license from the Wilder Subdivision for the use of the property for where the bicycle pump track will be built. Based on the previous authorization of the City Council to proceed with the permitting process it is our intent to move forward with this process as a result of the positive meeting that was held a Wilder Subdivision on this issue.

Please note that the cities three park facilities at Wilder Subdivision (the Dog Park, the Disc Golf Course, and, if this project proceeds, the bicycle pump track) will be located on Wilder land through a license agreement. These are facilities that can be relocated as the development needs at the Wilder Subdivision dictate. With these facilities being located under the power lines, the likelihood of development of these properties is a bit more remote.

Based on the motion by the City Council at the June 1st meeting, no further action is necessary in order to proceed with the permitting process with the County for this facility. Once a license agreement is obtained and a permit is obtained from the County, then this item will come back to the Council for formal approval. If the Council wishes pursue a different direction in regards to this project appropriate action could be taken at the City Council meeting on Monday, August 17th. Otherwise we are going to proceed as outlined in this report.

Recommended Action:

No action is required by the City Council.

Fiscal Effects:

This project is slated to be a volunteer build project with the city providing support, oversight, and some materials (i.e. perhaps road gravel and sand).

Alternatives:

The Council could redirect staff to take a different course on this action or as suggested by the City Council.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel".

Spencer R. Nebel
City Manager



CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Update and report on the Pump Track project

Prepared By: __Protiva_____ Dept. Head Approval: _JAP_ City Manager Approval:

Issue before the Council:

Update on the status of constructing a bicycle Pump Track

The current location for siting a pump track is within the Wilder Subdivision near the Dog Park and Frisbee Golf Course. This location is consistent with other recreational uses in the area and would share some of the same on street and off street gravel parking areas.

On July 16th 2015, staff held a neighborhood meeting with residents of the Wilder Subdivision, Members of the Yaquina Wheels Bike club, principals and landowners of Wild, the president of the Community College, the Newport Police Chief and Newport Community Development Director. There was much discussion about what a pump track actually is and the types and quantity of users this activity attracts. Many of the current conditions and future concerns were discussed with traffic and parking seemed to be the common denominator. There is also a concern about how fast things are developing in that area and a desire to keep the forest more of a forest.

The proposed location for a new pump track will be wholly or partially outside the City Limits of Newport but within the Urban Growth Boundary. The current site is over 1000 feet from any residents at present. Because of the other uses in the area, it was requested that a trash can and rest room be placed in a common area to minimize impacts.

At the end of the July 16th meeting, after everyone had opportunity to ask questions and state concerns, a straw poll was conducted with all the residents and land owners. The result was all but three people were ok with moving forward with construction of a pump track. The three that were not in favor were not against the project either, they said "Maybe" as long as it did not impact their quality of life.

At this point it appears to be reasonable to move forward with securing an agreement with Wilder and assembling a committee to formulate some basic usage rules for governance. This would include representation from Wilder neighbors and Yaquina Wheels Bike Club and the Parks and Recreation Advisory Committee. Once this is in place, we can start the volunteer build.

Staff Recommendation:

STAFF RECOMMENDS ALLOWING CITY MANAGER TO MAKE APPLICATION WITH LINCOLN COUNTY AND AUTHORIZE THE ADDITION OF A PUMP TRACK TO NEWPORT PARK SYSTEM IN THE WILDER SUBDIVISION.

Proposed Motion:

This report is informational

Key Facts and Information Summary:

The bicycling community has been working on obtaining a suitable piece of property for installation of the Pump Track for public use since March of 2014. Many different parcels and locations have been explored with various levels of issues or concerns stated by neighbors. While there is still considerable interest in the Harney and 7th street parcel, there is now a high level of agreement to move forward with Wilder subdivision in South Beach.

The search for an accessible location without immediate neighbors or impacts lead us to explore the Wilder Subdivision. That resulted in a favorable outcome with the principals at Wilder. They are very open to providing this opportunity under the same type of agreement as the Disc Golf Course. A preliminary location is being explored close to the Disc Golf Course and Dog Park. Staff have met with the closest neighbors during a meeting in Wilder Twin Park. They are in general support and would like to be involved with the project. . The Bike Club has agreed to construct and maintain the track moving forward. This location also appears to be ideal because of the location to the start/finish line of the Coast Hills Classic Mountain Bike Race that occurs every May.

Other Alternatives Considered:

Several other locations have been considered including property at the Airport and Big Creek Park. Those location appear to be adequate in size, but have challenges with access or competing uses. There may be an opportunity at 7th and Harney in the future, but Public Works is not ready to release that site at this time.

City Council Goals:

To provide meaningful opportunities and amenities within our park system

Attachment List:

Timeline of major points of discussion

Fiscal Notes:

The fiscal impacts will include staff time, equipment and fees

Timeline of major points and discussions about the Pump Track project

March 19th 2014, Biking community brought the Pump Track concept to the P&R advisory meeting

April 20th 2014, The City Council discussed the possibility of having a Pump Track in a park

September 17th 2014, The P&R board approved by motion Coast Park location for Pump Track

October 6th 2014, Council received comments on Coast Park location, some negative

October 22nd 2014, Held a meeting with Coast Park neighbors

December 17th 2014, P& R advisory discussion about looking for alternative sites

February 18th 2015, P&R advisory discussed several alternative sites for the Pump Track

March 18th 2015, Discussed the possibility of Wilder subdivision as potential site with P&R advisory

April 202015, City Council had discussion on Wilder location as potential Pump Track site

June 1 2015, City council authorized staff to make application to county for the Wilder Location

June 15th 2015, City Council held a public hearing to receive feedback on the Wilder Location

July 16th2015, City Staff held a neighborhood meeting at Wilder Twin Park

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda#: VIII.C.
Meeting Date: 8/17/15

Agenda Item:

Consideration of a Process for Awarding the Remainder of the Tourism Facility Grant Funds

Background:

In 2011, the City Council approved a resolution creating a Tourism Facilities Grant Review Task Force to appropriate \$1 million in funding that had been earmarked for an events center that was not constructed. Over the years \$974,000 of this \$1 million has been awarded to projects with the Performing Arts Center, The Oregon Coast Aquarium, Lincoln County Historical Society, OMSI, The Sea Lion Docks Foundation, and Pacific Communities Health District Foundation.

\$25,000 had been reserved for Salmon for Oregon, however that organization could not meet the requirements outlined in the grant guidelines in regards to the financial sustainability of the program. Salmon for Oregon has formally withdrawn their application in July of this year. In July the City Council discussed the possibility of doing a limited grant funding round allowing those organization who were previously funded to submit a request for the remaining \$26,000. Because of the small amount of funds that are remaining, it was suggested that this could be done administratively.

A second alternative would be to utilize the remaining \$26,000 for city owned tourism facilities project such as the Agate Beach Wayside or the Aquatic Center.

A third option would be to reconvene the Task Force for either a limited grant round allowing only those that have received funds in the past to reapply for funds or run through an open application process.

Recommended Action:

I recommend the City Council consider the following motion:

I move to authorize the City Manager the solicit applications from previous grantees of Tourism Facilities Grant Funds for an award of the remaining \$26,000 of Tourism Facility Grant Funds with administrative review and recommendations for funding being forwarded to the City Council for approval.

Fiscal Effects:

\$26,000 remains in this fund.

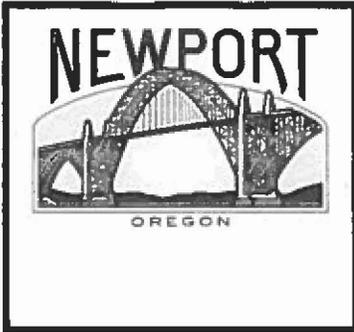
Alternatives:

Utilize this funding for a city tourism facility project, reconvene the Grant Review Task Force to conduct this work or as suggested by the City Council.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel".

Spencer R. Nebel
City Manager



Agenda Item # VIII.C.
Meeting Date 8/17/15

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Consideration of Process for Awarding the Remainder of the Tourism Facility Grant Funds

Prepared By: Peggy Hawker Dept Head Approval: ph City Manager Approval: _____

Issue Before the Council: The issue before Council is consideration of a process for awarding the remainder of the tourism facility grant funds in the amount of \$26,000.

Staff Recommendation: This is entirely a Council decision.

Proposed Motions: I move to authorize the City Manager to solicit applications, from previous grantees of tourism facility grant funds, for an award of some or all of the remaining \$26,000 of tourism facility grant funds.

I further move that the City Manager be authorized to award the grant(s) through an administrative process, and advise the City Council, at a City Council meeting, of the recipients, and amounts of award of the remaining grant funds.

Key Facts and Information Summary: The Tourism Facilities Grant Review Task Force was created by Resolution No. 3553 and charged with developing an application and recommending award(s) for a tourism facilities grant program. The source of this funding is the Room Tax Fund. This funding was created by a \$1,000,000 allocation that was initially earmarked for an event center that did not come to fruition. In previous years, the Task Force recommended funding totaling \$900,000, and Council allocated the remaining \$100,000 for funding tourism facilities in the 2014/2015 fiscal year budget. During the 2014/2015 fiscal year, the following four applications were received:

1. Sea Lion Docks Foundation. This request was for \$10,000 to cover a portion of the final \$25,000 cost of the sea lion dock replacement.
2. Salmon for Oregon. This request was for \$25,000 to purchase two new state-of-the-art ecologically friendly acclimation pens.
3. Lincoln County Historical Society. This request was for \$14,000, and will be matched dollar-for-dollar by a secured matching grant pledge to create a landmark, pedestrian-friendly community promenade on Bay Boulevard at the entrance of the Pacific Maritime and Heritage Center.
4. Pacific Communities Health District Foundation. This request was for \$50,000 to support construction of the Center for Health Education that is planned by the Foundation.

In September of 2014, the Tourism Facilities Grant Review Task Force recommended the following funding:

1. \$10,000 for the Sea Lion Docks Foundation;
2. \$14,000 for the Lincoln County Historical Society;
3. \$50,000 for the Pacific Communities Health District Foundation.

It did not recommend funding the \$25,000 request from Salmon for Oregon. Salmon for Oregon was allowed additional time, until the end of June 2015, to provide supplemental information that was requested by the City Council. Salmon for Oregon was unable to provide the requested information, and there is \$26,000 remaining of the \$1,000,000 originally earmarked for an event center.

If Council concurs with the recommendation to allow the City Manager to handle the distribution of the remaining funds administratively, and limit the application process to previous successful grantees, that list of grantees, along with previous awards, would include:

Performing Arts Center	\$250,000
Oregon Coast Aquarium	\$250,000
Lincoln County Historical Society	\$214,000
OMSI	\$150,000
Sea Lion Docks Foundation	\$ 60,000
Pacific Communities Health District Foundation	\$ 50,000

Other Alternatives Considered: None.

City Council Goals: None.

Attachment List: None.

Fiscal Notes: If Council authorizes award of the remaining monies earmarked for the event center, and the remaining funds of \$26,000 are awarded, there would be no additional tourism facility grant funds unless additional funds are appropriated by the City Council.

RESOLUTION NO. 3553

A RESOLUTION ESTABLISHING A
TOURISM FACILITIES GRANT REVIEW TASK FORCE
FOR THE CITY OF NEWPORT

FINDINGS:

1. The City of Newport has funds for tourism facilities for which the City Council desires to establish a grant program for distribution of the funds; and
2. The City of Newport recognizes the importance of allocating these funds to non-profit agencies for the improvement or construction of tourism facilities through a grant process.

NOW, THEREFORE, THE CITY OF NEWPORT RESOLVES:

Section 1. The City Council creates a Tourism Facilities Grant Review Task Force that will be comprised of seven members; two of which may be from outside the city with an interest in economic development.

Section 2. The Task Force will be responsible for developing criteria for distribution of tourism facilities funds.

Section 3. The Task Force will be responsible for reviewing grant applications for the tourism facilities funds.

Section 4. The Tourism Facilities Grant Review Task Force will be responsible for forwarding recommendations on the grant criteria and funding recommendations for tourism facilities funding to the City Council for approval.

Section 5. This resolution shall be effective immediately upon passage.

Adopted by the Newport City Council on July 18, 2011.

Signed on July 20, 2011.

CITY OF NEWPORT

Mark McConnell
Mark McConnell, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda#:VIII.D.
MeetingDate: 8/17/15

Agenda Item:

Report on August 31 Town Hall Meeting at Pacific Communities Health District Foundation Health Education Center

Background:

On Monday, August 31st, at 6:00 P.M., the City Council will be holding a town hall meeting focusing on City Center and the proposed Northside and McLean Point Urban Renewal plans. The town hall meeting will include a presentation and opportunity for public comment on the creation of a Northside Urban Renewal District as well as a district to deal with infrastructure needs on McLean Point. In addition, we will be scheduling an update on the hospital's efforts to construct a new hospital campus, and we will hear from the City Center Newport Association on various activities and concerns of that group.

Once the presentations are completed, an open house will be held at which participants will be asked to provide comments on various aspects of the developing urban renewal plans for the Northside and McLean Point. The format of the open house will include maps of individual areas on which attendees can provide written comments on the proposed Urban Renewal plans, i.e., City Center, Agate Beach, U.S. 20, and McLean Point. Creating individual stations where the public can leave comments proved to be a very effective tool during the planning states of the Agate Beach Wayside improvements that ODOT coordinated earlier this year. This effort allows everyone to participate at their own speed, and by providing handwritten comments, it is easier for the Urban Renewal Agency to thoughtfully review and discuss the various ideas and comments from participants in this process. Based on the earlier open house on these proposed plans, it was very evident that most participants had specific and different concerns depending on what part of the proposed urban renewal plan could affect their homes or businesses. By establishing individual stations, people will be able to clearly ask questions and provide comments focusing on the primary ideas which, in this case, can be quite local in nature. It is recommended that Council members divide up and rotate among the individual stations. Staff will compile the written comments for review by the Urban Renewal Agency at its meeting of September 8, 2015. The meeting will be noticed as a joint town hall meeting with the City Council and the Urban Renewal Advisory Committee since that committee will also be invited to participate in the evening's events.

This event will also provide a good opportunity for the Council and community to experience the new education center at the hospital.

Respectfully submitted,

Spencer R. Nebel, City Manager



AGENDA & Notice of Joint Town Hall Meeting of the City Council and the Urban Renewal Advisory Committee

The City Council, and the Urban Renewal Advisory Committee, of the City of Newport will hold a Town Hall Meeting on Monday, August 31, 2015, starting at 5:30 P.M. The Town Hall Meeting will be held at the Samaritan Health Education Center, located at 740 SW 9th Street, Newport Oregon 97365. A copy of the agenda follows. **The public is invited, and encouraged, to attend this meeting.**

A Town Hall meeting is a forum held in different geographic areas of the city. It is an opportunity for interested citizens to comment on issues affecting those neighborhoods.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder 541.574.0613.

The 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 Town Hall meeting.

TOWN HALL MEETING AGENDA

Monday, August 31, 2015 - 5:30 P.M.

Samaritan Pacific Health Education Center

- I. 5:30 P.M. - Self-Guided Tour of Samaritan Pacific Health Education Center
- II. 6:00 P.M. - Welcome by Mayor Roumagoux
- III. City Council and Staff Introductions
- IV. Update on the Samaritan Pacific Health Education Center
- V. Report on Status of Hospital District Bond Measure and New Hospital Planning

- VI. City Center Newport Association - Update on Activities
- VII. Public Comment on Agenda Items Above
- VIII. Presentation on Proposed Northside and McLean Point Urban Renewal Plans
- IX. Open House and Opportunity for Community to Provide Written Comment on Proposed Northside and McLean Point Urban Renewal Plans
- X. Adjournment

DRAFT

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda#:IX.B.
MeetingDate: 8/17/15

Agenda Item:

Approval of Task Order No. 9 with Civil West Engineering Services for the Highway 101 and Golf Course Road Infrastructure Improvements

Background:

The public works crews have been dealing with a series of water breaks over the last several years in the area of Golf Course Drive and Megginson Street. We have had three separate breaks this year which has required the water to be shut-off for a number of homes on these streets as well as on Highway 101. While there were plans to address this water main in the longer term future, it is becoming evident that this work needs to be moved ahead in order to facilitate an earlier replacement of this system. City Engineer Tim Gross has requested a Task Order from Civil West Engineering Services to begin the design for this water system. Task Order No. 9 is in the amount of \$236,584. It is likely that only the design work would be completed this year with the construction phase and support being required in the 2016-17 Fiscal Year. As a result, it would be necessary to appropriate \$120,000 in the current fiscal year in order to complete the design. Public Works Director Tim Gross is recommending that \$120,000 be shifted from the NE 3rd/Yaquina Heights Drive Water Line Installation, which is appropriated at \$250,000 for the current fiscal year. Like the Golf Course Drive improvements, it is unlikely that this project will utilize the full appropriated amount in the current fiscal year. Based on the pressing needs that are being created by the ongoing disintegration of the water line on Golf Course Drive we believe this project needs to be moved up as a priority so that it can be reconstructed next year.

Recommended Action:

I recommend the City Council consider the following motion:

I move approval of Task Order No. 9 with Civil West Engineering Services in the amount of \$236,584, for the design of the Highway 101 and Golf Course Drive Infrastructure Improvements and authorize the City Manager to execute the task order on behalf of the City of Newport.

I further move to appropriate \$120,000 from the NE 3rd/Yaquina Heights Drive Water Line Installation Project (2015-029) to the Highway 101 and Golf Course Drive Infrastructure Improvements Project to address expenses that will occur in the 2015-16 Fiscal Year.

Fiscal Effects:

\$250,000 is currently appropriated for the NE 3rd/Yaquina Heights Drive Water Line Installation Project. If the money is appropriated this appropriation would be reduced to \$130,000 with \$120,000 being used for Golf Course Drive design engineering. Please note that the balance of the engineering work will be completed in 2016-17 with

construction immediately following for the Golf Course Drive Improvement Project subject to appropriation in the 2016-17 Fiscal Year Budget.

Alternatives:

Do not proceed with this project at this time or as suggested by the City Council.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel".

Spencer R. Nebel
City Manager



Agenda Item # IX.B
Meeting Date August 17, 2015

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Approval of Task Order No. 9 with Civil West Engineering Services for the Highway 101 and Golf Course Road Infrastructure Improvements

Prepared By: TEG Dept Head Approval: TEG City Manager Approval:

Issue Before the Council:

Approval of Task Order No. 9 with Civil West Engineering Services for the Highway 101 and Golf Course Road Infrastructure Improvements

Staff Recommendation:

Approve the task order

Proposed Motion:

I move to approve Task Order No. 9 with Civil West Engineering Services in the amount of \$236,584 for the design of the Highway 101 and Golf Course Road Infrastructure Improvements and authorize the City Manager to execute the agreement on behalf of the City of Newport

Key Facts and Information Summary:

The water system in the area of Megginson Street and Golf Course Drive has been plagued by chronic water breaks over the last several years. The system is fed through a single 4" asbestos concrete (AC) water line fed from NE 56th Street and Highway 101 several blocks to the north. Depending upon the location of the break, to shut off water to the system involves putting all users on the east side of Highway 101 from NE 56th Street to NE 40th and all of the Megginson and Golf Course Drive out of water. This system is part of the old Agate Beach Water System that the City took over several decades ago. The AC pipe is so fragile that it sometimes breaks just from City Staff turning the water back on after a previous break. Because of the small size and fragility of the water mains in this area, the neighborhood currently has no fire protection.

This area is included as a model project in the Local Improvement District Technical Advisory Committee scope of work to revise the LID ordinance language in the City's code. The intent was to develop an example LID district using this project as a model which would then hopefully be used as the project was completed. It was the intent of Staff to begin the design on this project next year when the LID revisions were complete. Based upon the ever increasing frequency of water breaks in this area, City Staff is advising that the design process be moved to this fiscal year so that construction can begin at the beginning of the next fiscal year.

The scope of work involves designing a replacement water system and potentially addressing both the storm sewer and sanitary sewer systems as needed. It will also include extending the 12" water main from its current termination at NE 52nd south to NE 36th. This will provide sufficient fire flow and completes the main 12" water line between the north and south sides of Newport.

Other Alternatives Considered:

None

City Council Goals:

None

Attachment List:

- Highway 101 and Golf Course Road Infrastructure Improvements Scope of work and fee schedule from Civil West Engineering

Fiscal Notes:

This project was not budget in FY16 and will require a budget adjustment. Project number 2015-029 NE 3rd/Yaquina Heights Drive Water Line Install was appropriated in the FY16 budget at \$250,000. It is expected that only about \$120,000 of the Golf Course Drive proposed task order will be expended in FY16. It is Staff's recommendation to take half of the budgeted funds for the Yaquina Heights Drive project and use them for the design of the Golf Course Drive improvements. There should be sufficient funds remaining in the Yaquina Heights Drive project to compete design on that project as well, and both projects could be constructed in FY 17 as funds allow. This would need to be completed by a budget amendment later in the fiscal year.



Rogue Valley Office
10558 Hwy 62, Ste. D
Eagle Point, OR 97524
541-326-4828

Coos Bay Office
486 'E' Street
Coos Bay, OR 97420
541-266-8601

Albany Office
937-3 Geary Street
Albany, OR 97321
541-223-5130

Newport Office
609 SW Hubert Street
Newport, OR 97366
541-264-7040

ENGINEERING SCOPE OF SERVICES

Date: August 6, 2015

Work Order Number:

To: Mr. Tim Gross, PE, Public Works Director, City of Newport

From: Garrett Pallo, PE, President, Civil West Engineering Services, Inc.

RE: **City of Newport – Highway 101 and Golf Course Road Infrastructure Improvements**
Civil West Project Number: 2302-035

The purpose of this scope of services is to describe the proposed approach, costs, and schedule proposed by Civil West to complete a project to improve public infrastructure components on Highway 101 from 36th to Circle Way (NE 52nd Street) and on Golf Course Road.

Background Summary

The City of Newport owns and operates public infrastructure within the City that includes potable water, sewer, drainage, and transportation facilities.

The City's water master plan included a recommendation to upgrade waterlines on Highway 101 from 36th to NE 52nd Street as well as upsize the waterline serving Golf Course Road. The existing water system in this area is undersized and causes a "pinch point" in the system reducing fire flows in the area as well as limiting flows to the northern part of the City.

As part of this project, the City wishes to parallel additional improvements on Golf Course Road including new wastewater piping and new roadway improvements that will include new pavement and potentially curb and gutter systems. This may also include the necessity of drainage improvements on and around Golf Course Road as part of the roadway upgrades.

It is intended that the work on this project will be bid together and undertaken by a single contractor through a single bid and construction process.

Goal for the Project

To install new waterline along the stated sections of Highway 101 and Golf Course Road in order to improve fire flows and hydraulic performance and to upgrade other infrastructure elements on the Golf Course Road project including sanitary and storm sewer, street, and pedestrian improvements.

Part A: Scope of Work

The following tasks have been identified to track the project’s progress. Each task will be assigned a certain number of engineering hours for completion. While there may be many subtasks included within these major task areas, only the major tasks will be discussed below.

Proposed Scope of Services

1. **Task 1 – Project Management and Administration** – Under this task, we will provide the necessary project management and administrative services to conduct an orderly and well-managed project. This will include organizational issues, coordination, financial, and other administrative services.
2. **Task 2 – Kickoff Meeting and Data Collection** – Under this task, we will administer a kickoff meeting where we will review the preliminary plans with staff and walk the project sites and alignments to discuss details. We will review mapping and drawings of existing facilities and search the extensive human knowledge base in Newport by talking with staff who have worked and maintained the systems for many years. We will also confirm the scope of the project and discuss the City’s wishes for specific project improvements. This task will also include the completion of a detailed topographic survey of existing conditions and project features that will be used to setup the project base map.
3. **Task 3 – Water System Design Services** - Under this task, we will complete the design of the planned water system improvements. This will include the new waterlines on Highway 101 as well as the new line on Golf Course Road. We will evaluate the practicality and cost of closing a loop on Golf Course Road to avoid a hydraulic dead end. If it is determined to be practical and within the City’s budget, we will design the loop closure improvements that will likely include a directional drill installation to the line on NE 36th Street which is also a hydraulic dead end.
4. **Task 4 – Sanitary Sewer Design Services** – Under this task, we will complete the design of the wastewater (sanitary sewer) facilities on Golf Course Road. This will include new manholes, gravity sewer, and reconnection of laterals to the new sewer system.
5. **Task 5 – Transportation, Pedestrian, and Drainage Design Services** – Through this task, we will prepare designs for facilities that will provide drainage, pedestrian traffic (sidewalk or path), and roadway improvements. Once the underground improvements are completed, the project will be “finished” through the construction of surface improvements that may include curb, gutter, sidewalk, new pavement, and potentially, landscaping improvements. This task will include the design elements for these improvements.
6. **Task 6 – Preparation of Technical Specifications** – This task will include the preparation of all technical specifications for the project. The technical specifications will define and clarify the requirements for materials, workmanship, supply, installation, and other critical elements of the project. Technical specifications shall follow standard formats and shall include City Standards whenever possible.
7. **Task 7 – Project Documents** – Through this task, we will prepare the necessary contract and bidding documents to be used during the bid and construction phases for administration and management of the contractor and the project in general. The contract and bid documents will be bound together with technical specifications and plans to form the entire project document set.
8. **Task 8 – Bid Phase Support** – Through this task, we will provide bid support services to help the City secure a responsive contractor to complete the work. This will include assistance with the bid process,

bid opening, document review, recommendations, contract administration and notice to proceed. We will utilize the Civil West online bidding environment which provides the City, and potential bidders, instant access to bid information, plan holder lists, addenda, bid results, and other information. If desired, we will administer a pre-bid conference for the project and will assist the City in the bid opening and review. Finally, we will process the contract documents, obtain insurance and other documentation, and when ready, issue a notice to proceed to the contractor.

- 9. **Task 9 - Construction Phase Support** – Under this task, we will provide construction phase engineering support to manage the construction effort on behalf of the City and provide construction inspection/observation services to enforce the project contract conditions. Construction phase services will also include an initial construction stakeout, preconstruction conference, financial (payment, change order, etc.) processing, general coordination, and other necessary services to occur during construction.
- 10. **Task 10 – Project Closeout Services** – Under this task, we will provide closeout services for the project that will cover construction, financial, and records issues. We will participate in final punch lists and quality control to confirm the work is complete, and we will work with the contractor to finalize all payment issues, change orders, and financial issues. Finally, we will prepare a project album complete with construction photos, inspection reports, and as-built drawings.
- 11. **Task 11 – Project Reimbursables** – This task will include an allowance to cover costs associated with mileage, clerical, and reproductions, and other reimbursable items related to the project.

Part B: Project Fee Proposal

We have prepared a detailed fee proposal worksheet that we have attached to this proposal (see Exhibit A). The worksheet includes a summary of the proposed tasks and subtasks as described above along with estimates of hours for completion of the tasks and the associated billing rates for the individuals involved.

A summary of the engineering fee proposal is provided below:

Task	Summary of Proposed Engineering Budget:	Budget
1	Project Management and Administration	\$16,904.00
2	Kickoff Meeting and Data Gathering	\$9,072.00
3	Water System Design Services	\$21,780.00
4	Sanitary Sewer Design Services	\$21,780.00
5	Transportation, Pedestrian, and Drainage Design Services	\$33,460.00
6	Preparation of Technical Specifications	\$22,104.00
7	Preparation of Project Documents	\$7,992.00
8	Bid Phase Support	\$9,560.00
9	Construction Phase Support	\$73,860.00
10	Project Closeout Services	\$18,072.00
11	Project Reimbursables	\$2,000.00
Total Proposed Engineering Budget		\$236,584.00

The above budget is considered as a not-to-exceed maximum for the scope of work described and will be billed on a time and materials basis to a maximum. If budget funds go unused, the City will realize the savings.

Part C: Project Schedule

It is assumed that this project will be funded in the next budget cycle beginning July 1st. With that in mind, we have prepared the following preliminary project schedule with work beginning around July 1st. It should be noted, however, that we can begin this work immediately if the City so wishes. We could even work without sending in invoicing until after the beginning of the new fiscal year if that is desired.

- 1. Notice to proceed (assumed) by late August 2015
- 2. Kickoff meeting scheduled..... Early September 2015
- 3. Survey completed by Mid to late September 2015
- 4. 35% design submittal for comments by early November 2015
- 5. 65% design submittal for comments by mid- January 2016
- 6. Final plans submitted for approval for bid to begin by April 2016
- 7. Bid Phase May to June 2016
- 8. Contractor notice to proceed issued by early July 2016
- 9. Estimated contract length for project ~160 days (assumed)
- 10. Project completion estimated by late October 2016

The schedule above is a preliminary estimate only and can be modified to meet budgetary and scheduling constraints of the City and their other projects. If desired, this project could also be expedited significantly to fit into a more aggressive schedule. The kickoff meeting will include a discussion of the desired project schedule.

We are grateful for this opportunity to provide these services to the City of Newport. We are prepared to begin this work on this important project as soon as we are authorized to do so. Please let me know if you have any questions or if you wish to see any alterations to our proposed approach.

Sincerely,
Civil West Engineering Services, Inc.



J. Garrett Pallo, PE
President

Exhibit A

City of Newport
 Highway 101 and Golf Course Road Infrastructure Improvements
 March 18, 2015

		Engineering Fee Structure									
		Principal Engineer	Project Manager	Senior Project Engineer	Project Engineer	Engr Tech	Construction Inspection	Clerical	Subcontractor Support	Total Hours	Total Fee
		\$145.00	\$130.00	\$123.00	\$116.00	\$98.00	\$78.00	\$44.00	Lump Sum		
Tasks											
1	Project Management and Administration										
a	Admin, Coordination, Project Management	40	80					16		136	\$16,904.00
	Task Total	40	80	0	0	0	0	16	\$0.00	136	\$16,904.00
2	Kickoff Meeting and Data Gathering										
a	Project kickoff meeting and review of concept plan details	4	16		8					28	\$3,588.00
b	Collection of additional survey data if required (allowance)		4		4				\$4,500.00	8	\$5,484.00
	Task Total	4	20	0	12	0	0	0	\$4,500.00	36	\$9,072.00
3	Water System Design Services										
a	Water plan and profile designs	4	40		80					124	\$15,060.00
b	Water details, connections, and appurtenance design		16		40					56	\$6,720.00
	Task Total	4	56	0	120	0	0	0	\$0.00	180	\$21,780.00
4	Sanitary Sewer Design Services										
a	Sewer plan and profile design	4	40		80					124	\$15,060.00
b	Sewer details, connections and appurtenances		16		40					56	\$6,720.00
	Task Total	4	56	0	120	0	0	0	\$0.00	180	\$21,780.00
5	Transportation, Pedestrian, and Drainage Design Services										
a	Drainage planning and design for storm system improvements	4	80		60					144	\$17,940.00
b	Sidewalk/Ped path design services		24		40					64	\$7,760.00
c	Roadway, curb and gutter, design services		24		40					64	\$7,760.00
	Task Total	4	128	0	140	0	0	0	\$0.00	272	\$33,460.00
6	Preparation of Technical Specifications										
a	Technical Specifications	8	120		40			16		184	\$22,104.00
	Task Total	8	120	0	40	0	0	16	\$0.00	184	\$22,104.00
7	Preparation of Project Documents										
a	Development of contract docs and front ends	8	40		8			16		72	\$7,992.00
	Task Total	8	40	0	8	0	0	16	\$0.00	72	\$7,992.00
8	Bid Phase Support										
a	Bid administration, response to questions, addenda, pre-bid conf, etc	8	24		16			8		56	\$6,488.00
b	Participate in bid opening and bid reviews process		8		4			4		16	\$1,680.00
c	Administer contracts and issue notice to proceed		8					8		16	\$1,392.00
	Task Total	8	40	0	20	0	0	20	\$0.00	88	\$9,560.00
9	Construction Phase Support										
a	Coordination, management, and oversight	8	100						\$2,500.00	108	\$16,660.00
b	Process payment requests and change orders as needed		100							100	\$13,000.00
c	Construction inspection/observation services		40				500			540	\$44,200.00
	Task Total	8	240	0	0	0	500	0	\$2,500.00	748	\$73,860.00
10	Project Closeout Services										
a	Final inspections, punch lists, and physical closeout of work	8	40		40					88	\$11,000.00
b	Final payments, financials, warranty and other documentations		24					8		32	\$3,472.00
c	Completion of project album		8		16			16		40	\$3,600.00
	Task Total	8	72	0	56	0	0	24	\$0.00	160	\$18,072.00
11	Project Reimbursables										
a	Travel costs, mileage, meals, etc.									0	\$1,000.00
b	Clerical expense, copies, postage, etc.									0	\$1,000.00
	Task Total	0	0	0	0	0	0	0	\$0.00	0	\$2,000.00
Total		96	852	0	516	0	500	92	\$7,000.00	2056	\$236,584.00

Cindy Breves

From: Spencer Nebel
Sent: Thursday, August 13, 2015 2:58 PM
To: Cindy Breves
Subject: FW: Estimate of Golf Course Road Costs before July 1, 2016

Please include this with the appropriate item.

Spencer R. Nebel

City Manager
City of Newport, Oregon 97365
541-574-0601
s.nebel@newportoregon.gov

From: Tim Gross
Sent: Thursday, August 13, 2015 8:52 AM
To: Spencer Nebel <S.Nebel@NewportOregon.gov>
Subject: FW: Estimate of Golf Course Road Costs before July 1, 2016

You had asked me to forward a copy of the email from Civil West with the estimate of how much work will be done in on the Golf Course Drive Water Project FY 15-16. Pleases see below

Timothy Gross, PE
Public Works Director/City Engineer
City of Newport
169 SW Coast Highway
Newport, OR 97365
P 541-574-3369
F 541-265-3301
C 541-961-5313

From: Garrett Pallo [<mailto:gpallo@civilwest.net>]
Sent: Friday, August 07, 2015 7:55 AM
To: Tim Gross <T.Gross@NewportOregon.gov>
Subject: Estimate of Golf Course Road Costs before July 1, 2016

Tim:

I went back and reviewed the budget for the project on 101 and Golf Course Road. This project will include design of:

1. Waterlines on Hwy 101 and Golf Course Road
2. Sewer on Golf Course Road
3. Drainage and Roadway improvements

It is my assumption that, prior to July 1, 2016, we will complete:

1. All design activities
2. Prepare technical and contract documents
3. Complete the bid phase

4. And issue a notice to proceed to the contractor in June of 2016

This will allow construction to be completed next summer, but none of the construction costs will occur during the current 2015-16 budget cycle. All construction costs, and construction phase engineering support will occur after July 1, 2016.

Therefore, I estimate the costs to design, bid, and get a contract engaged will be around \$120k which will occur before the July 1, 2016 begin of the new budget year.

Let me know if you need anything else on this.

Thanks.

J. Garrett Pallo, PE – President
Civil West Engineering Services, Inc.
486 E Street • Coos Bay, OR • 97420

541-266-8601 • Fax 541-266-8681 • Cell 541-290-4055

609 SW Hurbert Street • Newport, OR • 97366

541-264-7040 • Fax 541-264-7041 • Cell 541-290-4055

10558 Hwy 62, Ste B-1 • Eagle Point, OR • 97524

541-326-4828 • Fax 541-326-4829 • Cell 541-290-4055

937-3 Geary Street • Albany, OR • 97322

541-223-5130 • Cell 541-290-4055

gpallo@civilwest.com

www.civilwest.com



Like us at: [Facebook](#) & [LinkedIn](#) to receive regular news and updates on Civil West

IMPORTANT NOTICE: This communication, including any attachment, contains information that may be confidential, privileged, and/or protected by law. Such laws prohibit you from making any further disclosure of such information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. All information is intended solely for the entity or individual to whom it is addressed. If you are not the intended recipient, you should contact the sender and delete the message. Any unauthorized disclosure, copying, or distribution of this message is strictly prohibited.

CITY MANAGER'S REPORT AND RECOMMENDATIONS



Agenda#:IX.C.
MeetingDate: 8/17/15

Agenda Item:

Approval of Amendment No. 1 to Task Order No. 14 - Brown and Caldwell, Inc. for Construction Phase Engineering Services Related to the Construction of the Big Creek Pump Station Project

Background:

On July 20, 2015, the City Council awarded the bid for the Big Creek Pump Station project to JW Fowler in the amount of \$2,618,037. This engineering amendment will provide the necessary hours for the consultant to review submittals, provide bid services, review proposals, provide construction inspection services, and address engineering related issues that come up during the construction phase of this project. The construction period will take up to one year for this work. At the July 20th meeting, I indicated in my report that an additional appropriation would be necessary for this project and that there are available funds from the bond that are unappropriated for the various wastewater projects that will be funded in the future through the State Revolving Fund. In order to address the appropriations for both the construction engineering as well the original bid, we are recommending that the appropriation for the Schooner Creek Pump Station be reduced by \$553,872 with those funds being added to the Big Creek Pump Station budget to bring that total up to \$2.9 million instead of appropriating new funding in this fiscal year from our State Revolving Funds commitment. This will provide sufficient funds for the bids, construction engineering, and contingency for this project. This will not increase the overall appropriations in Fund 403 which is our Proprietary Capital Outlay Projects Fund.

Recommended Action:

I recommend the City Council consider the following motion:

I move approval of Amendment No. 1 to Task Order No. 14 with Brown and Caldwell, Inc. in the amount of \$110,545, for construction phase engineering services related to the construction of the Big Creek Pump Station Project and hereby authorize the City Manager to execute the task order on behalf of the City of Newport.

I further move to re-appropriate \$553,872 from the Schooner Creek Pump Station Project (2014-009) and add \$553,872 to the Big Creek Pump Station Project (2012-025) to bring that total budget up to \$2,900,000.

Fiscal Effects:

Currently \$1,794,000 is appropriated for the Schooner Creek Pump Station. After the transfer \$1,228,000 will remain for that project. Based on the timing of the project, these funds will not be necessary in the 2015-16 Fiscal Year since the timing of the Schooner Creek project, these will extend into the 2016-17 Fiscal Year when the balance can be appropriated.

Alternatives:

None recommended.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "S. R. Nebel".

Spencer R. Nebel
City Manager



Agenda Item # IX.C
Meeting Date August 12, 2015

CITY COUNCIL AGENDA ITEM SUMMARY
City Of Newport, Oregon

Issue/Agenda Title: Approval of Amendment No. 1 to Task Order No. 14 - Brown and Caldwell, Inc. - Construction Engineering Services - Big Creek Pump Station Project

Prepared By: TEG Dept Head Approval: TEG City Manager Approval:

Issue Before the Council:

Approval of Amendment No. 1 to Task Order No. 9 with Brown and Caldwell, Inc., for construction phase engineering services related to the construction of the Big Creek Pump Station Project.

Staff Recommendation:

Approve the task order amendment.

Proposed Motion:

I move to approve Amendment No. 1 to Task Order No. 14 with Brown and Caldwell, Inc. in the amount of \$110,545, for construction phase engineering services related to the construction of the Big Creek Pump Station Project and hereby authorize the City Manager to execute the task order on behalf of the City of Newport.

Key Facts and Information Summary:

The Big Creek Pump Station Project is the second phase of a multiphase project to replace the Big Creek Pump Station, 48th Street Pump Station, the Schooner Creek Pump Station, and the associated force mains and gravity sewer, all of which comprise what is referred to as the Agate Beach Wastewater System. The force main was constructed for this pump station in 2014. The contract for the pump station was awarded to JW Fowler for \$2,618,037 at the July 20, 2015 Council Meeting.

This amendment provides hours for the consultant to review submittals, provide bid services, review proposals, and address engineering related issues that come up during the construction phase of this project. The construction of the pump station is expected to take up to one year, therefore the construction phase services for this project are higher than are typical for other projects.

Other Alternatives Considered:

None.

City Council Goals:

- Continue improvements to Agate Beach wastewater program.

Attachment List:

- Amendment No 1 to Task Order No 14 for Engineering Services, Brown and Caldwell, Inc.
- Exhibit A, Scope of Services
- Exhibit B, Cost Estimate

Fiscal Notes:

This project budget is being funded through a low interest Clean Water SRF Loan through the DEQ. This Amendment No 1 in the amount of \$110,545, increases the total Task Order No. 14 contract value to \$647,292. There are sufficient funds available in the SRF Loan to complete this work, however a budget adjustment will be necessary because the construction portion of the contract came in over budget. This budget adjustment will take later in the fiscal year.

Engineering Cost:	\$647,292
Construction Cost:	<u>\$2,618,037</u>
Total:	\$3,265,329

CITY OF NEWPORT

**TASK ORDER NO. 14
AMENDMENT NO. 1**

**TO ENGINEERING SERVICES AGREEMENT
(CONSULTANT OF RECORD)
FOR THE BIG CREEK PUMP STATION ENGINEERING DESIGN SERVICES**

This AMENDMENT NO. 1 to TASK ORDER NO. 14 to the Engineering Services Agreement dated April 12, 2010, hereinafter called Agreement, between the City of Newport, (CITY), and Brown and Caldwell, Inc., (ENGINEER).

A. SCOPE OF SERVICES

CITY agrees to utilize the services of ENGINEER and ENGINEER agrees to perform the services set forth in Attachment A.

B. CITY'S RESPONSIBILITIES

CITY to provide ENGINEER with the following information:

- Engineering services during bidding activities.
- Easement services during construction activities.

CITY shall provide timely review of submitted products (2-week turnaround or as otherwise agreed upon).

C. COMPENSATION

1. CITY shall pay ENGINEER according to the fee schedule set forth in Exhibit A to the Master Engineering Services Agreement.
2. CITY shall pay ENGINEER as complete compensation for the services as described in Attachment B, a fee not to exceed One hundred Ten thousand, Five hundred Forty-five Dollars **\$110,545**.

D. SCHEDULE

Upon receipt of Notice to Proceed, ENGINEER shall develop a detailed project schedule for submittal to CITY.

E. MISCELLANEOUS

All terms and conditions of the Agreement apply to this Amendment No. 1, along with Task Order No. 14 as though fully set forth therein. In the event of a conflict between this Amendment and the Agreement, the terms of this Amendment shall apply.

The parties do mutually agree to all mutual covenants and agreements contained within this Amendment No. 1

CITY OF NEWPORT:

By: _____

Title: _____

Date: _____

BROWN AND CALDWELL, INC.:

By: Ben K Paulsen

Title: Vice President

Date: 6-8-15

Attachment A

Scope of Services

Phase 4. Engineering Services During Bidding Activities

Objective: To provide engineering services in support of the bidding activities.

Activities: This task includes the following activities:

- Prepare responses to bidder questions as requested
- Prepare addenda
- Prepare pre-bid meeting agenda, attend the pre-bid meeting and prepare meeting minutes and a list of Contractor questions and responses
- Prepare conformed contract documents.

Deliverables: The deliverables included in this Task are summarized below:

- RFI responses (email)
- Addenda documents
- Conformed contract documents

Assumptions: The following assumptions were used in developing the scope and budget for Phase 4:

- 2 addendums will be issued

Phase 5. Engineering Services During Construction Activities

Objective: To provide engineering services in support of the construction activities.

Activities: This task includes the following activities:

- Attend pre-construction conference
- Attend field visits as needed or requested
- Review Contractor's submittals and provide responses.
- Prepare responses to Contractor questions.
- Prepare record drawings
- Prepare the operation and maintenance (O&M) manual

Deliverables: The deliverables included in this Task are summarized below:

- RFI responses (email)
- Submittal responses (email)
- Record drawings
- O&M manual

Assumptions: The following assumptions were used in developing the scope and budget for Phase 4:

- 80 submittals will be reviewed
- 2 addendums will be issued
- 3 field visits will be made
- 24 RFI's will be processed

Attachment B

Cost Estimate

City of Newport -- Newport Big Crk PS Design Services - Task Order No. 14 - Amend. No. 1

Council Meeting August 17, 2010

Phase Description	Johnson, Vanessa H	Hogan, Lisa J	Duren, Scott B	Harper, Jonathan F	Maisonville, Philip M	Persson, Douglas R	Hein, Aung	Bulman, Darrell L	Kingery, Randolph E	Presley, Kathleen M	Gallup, Mara E	Vasquez, Jesus E	Total Labor Hours	Total Labor Effort	APC	Lodging and Food	Other Travel	Architect	Total Expense Cost	Total Expense Effort	Total Effort
001 Project Management	40	24	20	0	0	0	0	0	0	0	0	24	108	\$12,392	\$864	\$0	\$0	\$0	\$0	\$864	\$13,256
002 Services During Bidding	20	0	12	3	6	24	4	2	3	0	13	0	87	\$11,066	\$696	\$0	\$160	\$500	\$660	\$1,381	\$12,447
003 Services During Construction	256	0	132	94	186	40	12	106	12	36	30	0	904	\$128,416	\$7,232	\$1,000	\$810	\$6,080	\$7,890	\$15,426	\$143,842
subtotal: \$169,545																					
Less remaining budget from pre-bid phase																				-\$59,000	
GRAND TOTAL	316	24	164	97	192	64	16	108	15	36	43	24	1,099	\$151,874	\$8,792	\$1,000	\$970	\$6,580	\$8,550	\$17,671	\$110,545